

N O T I C E

To: INVESTMENT COMPANIES
FUND MANAGERS
FOREIGN COLLECTIVE INVESTMENT SCHEMES
FOREIGN COLLECTIVE INVESTMENT SCHEMES OPERATORS
OTHER ENTITIES DEALING WITH AN INVESTMENT COMPANY OR FOREIGN
COLLECTIVE INVESTMENT SCHEMES

Subject: REQUEST FOR COMMENTS ON THE EXPOSURE DRAFT OF THE
MEMORANDUM CIRCULAR ON
A. ADOPTION OF THE ASEAN SUSTAINABLE AND RESPONSIBLE
FUND STANDARDS (ASEAN SRFS); AND
B. ESTABLISHMENT OF RULES ON:
1. QUALIFICATION OF A LOCAL INVESTMENT COMPANY UNDER
THE ASEAN SRFS
2. RECOGNITION OF A FOREIGN COLLECTIVE INVESTMENT
SCHEME QUALIFIED UNDER THE ASEAN SRFS THAT SEEKS TO
OFFER IN THE PHILIPPINES UNDER THE ASEAN CIS FRAMEWORK

The Commission hereby requests comments and/or inputs on the attached draft *Memorandum Circular on (A) Adoption of the ASEAN Sustainable and Responsible Fund Standards (ASEAN SRFS); and (B) Establishment of Rules on: (1) Qualification of a Local Investment Company under the ASEAN SRFS; and (2) Recognition of a Foreign Collective Investment Scheme qualified under the ASEAN SRFS that seeks to offer in the Philippines under the ASEAN CIS Framework.*

The written comments on the exposure draft must be submitted to the Corporate Governance and Finance Department (CGFD) via electronic mail at cgfd_ld@sec.gov.ph on or before **Friday, 17 March 2023**.

Please use the attached template in submitting the comments, proposed revisions, and estimated cost/s to comply with the Memorandum Circular.

Issued on 7 March 2023.



SEC MEMORANDUM CIRCULAR NO. ____
Series of 2023

**TO : INVESTMENT COMPANIES
FUND MANAGERS
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**SUBJECT : A. ADOPTION OF THE ASEAN SUSTAINABLE AND
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B. ESTABLISHMENT OF RULES ON:
1. QUALIFICATION OF A LOCAL INVESTMENT COMPANY
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SEEKS TO OFFER IN THE PHILIPPINES UNDER THE ASEAN
CIS FRAMEWORK**

WHEREAS, the ASEAN Capital Market Forum was established in 2004 under the auspices of the ASEAN Finance Ministers, the primary responsibility of which is to develop a deep, liquid, and integrated regional capital market and is composed of a group of capital market regulators from ten ASEAN jurisdictions, namely Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Singapore, Thailand, Vietnam, and the Philippines;

WHEREAS, one of the initiatives of the ACMF is the Framework for Cross-Border Offering of ASEAN Collective Investment Schemes (ASEAN CIS Framework) which allows fund managers operating in a member jurisdiction to offer CIS, such as unit trust funds or mutual funds, constituted and authorised in that jurisdiction, in other member jurisdictions under a streamlined authorisation process;

WHEREAS, the supplemental memorandum of understanding (Supplemental MoU) to the existing MoU on Streamlined Authorisation Framework for Cross-border Public Offers of ASEAN Collective Investment Schemes was signed and entered into by and among Securities Commission Malaysia, Monetary Authority of Singapore, Securities and Exchange Commission of Thailand and Securities and Exchange Commission Philippines on 11 May 2021 to admit the Commission as the fourth signatory to the ASEAN CIS Framework;

WHEREAS, the Commission, on 16 August 2021, issued SEC Memorandum Circular No. 9, Series of 2021 on the Rules on Authorisation of an Investment Company as a Qualifying CIS and Recognition of a Foreign CIS under the ASEAN CIS Framework to assist Investment Companies and their Fund Managers to offer cross-border under the

ASEAN CIS Framework as well as the CIS Operators of foreign collective investment schemes;

WHEREAS, in line with the growing importance of sustainable finance in ASEAN and the actionable recommendations contained in the Roadmap for ASEAN Sustainable Capital Markets geared towards driving the ASEAN's sustainable agenda forward, the ACMF also developed the ASEAN Sustainable and Responsible Fund Standards (ASEAN SRFS) to provide the minimum disclosure and reporting requirements that can be consistently applied to collective investment schemes that seek to qualify under the ASEAN SRFS and to address the need for a comparable, uniform and transparent disclosure of information to mitigate the risk of greenwashing, among others;

WHEREAS, in line with its commitment to protect investors from greenwashing and assist them in making better-informed investment decisions, and to provide guidance on the disclosures and reporting of investment companies classified as Sustainable and Responsible Investment (SRI) Funds and their Fund Managers, the Commission, on 20 December 2022, issued SEC Memorandum Circular No. 11, Series of 2022 on the Rules on Sustainable and Responsible Investment Funds which was aligned with the ASEAN SRFS;

WHEREAS, Section 35(a) of Republic Act No. 2629, or the Investment Company Act, and Section 72 of Republic Act No. 8799, or the Securities Regulation Code, vest upon the Commission the authority to make, issue, amend, and rescind rules and regulations and orders, which are necessary or appropriate to the exercise of the powers conferred upon it in the ICA and the SRC;

WHEREAS, in order to formally adopt the ASEAN SRFS and issue rules to assist local investment companies and their fund managers that seek to offer either locally or on a cross-border basis to qualify under the ASEAN SRFS, as well as foreign CIS operators already qualified under the ASEAN SRFS that seek to offer in the Philippines, the Commission deems it necessary to issue to the subject Rules;

IN VIEW OF THE FOREGOING, the following rules are promulgated:

PART I. PRELIMINARY PROVISIONS

Section 1. Adoption of the ASEAN SRFS

The Commission hereby adopts the ASEAN SRFS (*Annex A*) which shall apply to Investment Companies, including sub-funds of umbrella funds, that seek to offer locally or on a cross-border basis as an ASEAN Sustainable and Responsible Fund.

Section 2. Definition of Terms

ACMF means the ASEAN Capital Markets Forum

ASEAN CIS Framework means the streamlined authorization framework for the cross-border offer of ASEAN collective investment schemes developed pursuant to the ACMF's Implementation Plan endorsed at the 13th ASEAN Finance Ministers' Meeting

ASEAN SRFS means the ASEAN Sustainable and Responsible Fund Standards as applicable and as revised from time to time

ASEAN Sustainable and Responsible Fund (ASEAN SRF) means a local Investment Company or a Foreign CIS which complies with the ASEAN SRFS

CIS Operator means a person or entity which is: (a) licensed or registered with; or (b) approved by, the securities regulator in the ASEAN jurisdiction to operate or manage CIS that may be offered in that jurisdiction

Commission means the Securities and Exchange Commission Philippines

ESG means environmental, social and governance, or some combination thereof

Foreign CIS means a Qualifying CIS under the ASEAN CIS Framework constituted in a Member Jurisdiction other than the Philippines and is permitted/authorized to be offered to the general public of that Member Jurisdiction

Foreign SRF means a Foreign CIS that has also been qualified as an ASEAN SRF in a Member Jurisdiction other than the Philippines

Fund Manager means a registered entity with an Investment Company Adviser license that is engaged in the business of managing the daily operations of an Investment Company in the investment, administration, and accounting of fund assets

Home Jurisdiction means the jurisdiction in which the Qualifying CIS is constituted or established, and approved by the competent securities regulator of that jurisdiction for offer to the public in that jurisdiction

Home Regulator means the securities regulator of the Home Jurisdiction

Host Jurisdiction means a jurisdiction (other than the Home Jurisdiction) in which the Qualifying CIS is offered or to be offered to the public in that jurisdiction

Host Regulator means the securities regulator of the Host Jurisdiction

Local SRIF Rules means SEC Memorandum Circular No. 11, Series of 2022 on Sustainable and Responsible Investment Funds and any amendments thereto

Member Jurisdiction means the jurisdiction of an ACMF Member which is a signatory to the Memorandum of Understanding on Streamlined Authorisation Framework for Cross-Border Public Offers of ASEAN Collective Investment Schemes, and collectively, the "Member Jurisdictions"

Qualifying CIS means a CIS constituted or established in its Home Jurisdiction which has been approved by its Home Regulator for offer to the public in the Home Jurisdiction and assessed by its Home Regulator as suitable to apply to a Host Regulator for its shares/units to be offered to the public cross-border in the Host Jurisdiction pursuant to the ASEAN CIS Framework

SRI Fund means a Sustainable and Responsible Investment (SRI) Fund, as qualified under the Local SRIF Rules, which adopts sustainability considerations or ESG factors as its key investment focus

Standard Letter means the letter issued by a Home Regulator to an ASEAN SRF which seeks to offer under the ASEAN CIS Framework upon qualification as such, in the format as may be prescribed in the ASEAN Green Lane Guidebook, or equivalent document

Section 3. Coverage – These rules shall apply to the following:

- a. Investment companies, including sub-fund/s of an umbrella fund, and Fund Managers that seek to qualify under the ASEAN SRFS and want to either offer locally or on a cross-border basis under the ASEAN CIS Framework; and
- b. CIS Operators and Foreign SRF that seek to offer in the Philippines under the ASEAN CIS Framework.

PART II. Investment Companies

Section 4. Requirements for Investment Companies seeking to qualify under the ASEAN SRFS

An Investment Company, including any sub-fund of an umbrella fund, may qualify as an ASEAN SRF and make offers locally upon satisfactory showing of compliance with the following:

1. Registration under ICA and SRC

The Investment Company is incorporated under the laws of the Philippines which is licensed as an Investment Company and authorized to issue shares and/or units of participation to the public under the Investment Company Act (ICA) and Securities Regulation Code (SRC) and their respective Implementing Rules and Regulations (IRR).

2. Compliance with the Local SRIF Rules

The Investment Company, including any sub-fund of an umbrella fund, must demonstrate compliance with the Local SRIF Rules and any amendments thereto.

3. Compliance with the ASEAN SRFS

The Investment Company, including any sub-fund of an umbrella fund, must demonstrate compliance with the ASEAN SRFS and any amendments thereto.

An application to the Commission for Qualification of an existing Investment Company, including any sub-fund of an umbrella fund, as an ASEAN SRF must be made by the Investment Company by submitting a duly notarized and completed SEC ASEAN SRF Form (*Annex B*) signed by at least the majority of the Board of Directors of the Investment Company and Fund Manager.

The application shall be subject to the payment of a fee in the amount of Ten Thousand Pesos (Php10,000.00) plus 1% Legal Research Fee (LRF).

An application is deemed incomplete if the fee is not paid.

If the Commission is satisfied that the Investment Company, including any sub-fund of an umbrella fund, meets the applicable requirements stated in this Section, the Commission will issue a letter qualifying the Investment Company or the sub-fund as an ASEAN SRF.

The Commission shall further cause the publication of the name of the Investment Company as an ASEAN SRF in the SEC website/microsite dedicated for investment companies, as well as in the ACMF microsite dedicated for the ASEAN SRFS.

Section 5. Requirements for local Investment Companies qualified under the ASEAN SRFS to make offers under the ASEAN CIS Framework

If an Investment Company, or any sub-fund under an umbrella fund, that has been qualified or is applying to qualify as an ASEAN SRF seeks to offer its shares on a cross-border basis under the ASEAN CIS Framework, it must comply with SEC Memorandum Circular No. 9 Series of 2021 on the Rules on Authorization of an Investment Company as a Qualifying CIS and Recognition of a Foreign CIS under the ASEAN CIS Framework (SEC MC 9), in addition to the requirements in the preceding Section.

If the Commission is satisfied that the Investment Company, including any sub-fund of an umbrella fund, meets the applicable requirements for an ASEAN SRF to offer under the ASEAN CIS Framework under this Section, the Commission will issue a Standard Letter recognizing it as such.

Guidance: In seeking to make cross-border offers as an ASEAN SRF, the Investment Company, including any sub-fund of an umbrella fund, and its Fund Manager will be required to comply with other Member Jurisdictions' applicable laws, rules, and regulations on sustainable or ESG Funds.

In case the sustainable or ESG Fund rules of the Home and Host Jurisdiction prescribe differing requirements, the stricter requirement/s shall be complied with.

PART III. Foreign Collective Investment Schemes

Section 6. Requirements for Foreign SRFS to be recognized in the Philippines

Foreign SRFS may be offered in the Philippines under the ASEAN CIS Framework upon satisfactory showing of compliance with the following:

1. Compliance with SEC MC 9

The Foreign SRF and CIS Operator must demonstrate compliance with SEC MC 9, and any amendments thereto, with respect to the approval and recognition of Foreign CIS to be offered in the Philippines.

2. Proof of qualification as an ASEAN SRF

The Foreign SRF/CIS Operator must submit the Standard Letter issued by its Home Regulator as proof that it has qualified as an ASEAN SRF.

3. Submission of SEC ASEAN SRF Form

The Foreign SRF/CIS Operator must submit a duly accomplished SEC ASEAN SRF Form (*Annex B*).

4. Payment of application fee

The Foreign SRF shall be subject to an application fee of Eighty Thousand Pesos (Php80,000.00) plus 1% Legal Research Fee (LRF).

5. Additional requirements under the Local SRIF Rules

The Foreign SRF must comply with the following additional requirements under the Local SRIF Rules:

I. Name of the Foreign SRF

The name of the Foreign SRF must accurately and fairly reflect the sustainability or ESG factors set out in its investment objective and/or strategy.

The Foreign SRF/CIS Operator must submit to the Commission an explanation as to how its name is proportionate to the ESG features of the Foreign SRF as a whole, and will neither mislead investors as to the role of ESG in its overall investment objective and strategy nor overemphasize or overstate the Foreign SRF's ESG features.

II. Incorporate the following additional disclosure requirements in their prospectus:

a. Notification to the public on the Qualification as an ASEAN SRF

A statement on the cover page that the Foreign SRF has qualified under the ASEAN SRFS, as well as a disclaimer that would read as follows:

"The Philippine Securities and Exchange Commission does not guarantee the ESG performance or effectiveness of the investment selection process, procedures, criteria, and strategies disclosed in the Prospectus to achieve the sustainable investment objective of the Foreign SRF."

b. Asset Allocation

Estimated proportion or percentage of the Foreign SRF's NAV that will be devoted to non-ESG investments, if any.

c. Sustainable Investment Strategy

Disclosure of the strategy that is most reflective of the Foreign SRF's sustainable investment strategies, if several are adopted.

d. Sustainable Investment Strategy-related risks

i. A list in the order of importance and a description of existing and emerging risks associated with the Foreign SRF's sustainable investment objective, including unique risks arising from the investment being sustainability-related, an explanation on how the risk may impact the investment of the investor, and the corresponding risk management measures and procedures for each identified risk;

ii. Provide an overall risk management framework for the assets managed by the CIS Operator/Foreign SRF; and

iii. Description of the risks or limitations associated with the sustainable investment strategies of the Foreign SRF, (e.g., subjective judgment in investment selection, reliance on third-party sources, the concentration of investments).

e. Policies and procedures on inconsistency with sustainable investment objective

Procedures shall include specific processes to divest existing investments that were initially compliant but subsequently became ineligible.

f. Any other information

A disclosure of other initiatives or activities of the Foreign SRF to promote adherence to internationally recognized sustainability standards and practices or any additional information considered necessary by the Foreign SRF, such as the use of a third-party certification or fund label, if any.

In the event that third-party verifiers or fund labeling agencies are appointed, the verification report, which must include the pertinent credentials and experience of the third-party verifier or fund labeling agency, must be uploaded in the Foreign SRF's website.

Guidance: In case a third-party verifier or fund labeling agency is appointed to review the Foreign SRF's underlying investments to reflect the particular sustainable investment objective which the fund represents, investment selection and ongoing monitoring process, the Prospectus shall include the following statement:

"The Philippine Securities and Exchange Commission does not license or regulate local or foreign third-party verifiers or fund labeling agencies. Further, the Philippine Securities and Exchange Commission does not verify or endorse reliance on the contents of any report or finding made by such third-party verifier or fund labeling agency."

Section 7. Procedure for recognition of Foreign SRF to be offered locally in the Philippines under the ASEAN CIS Framework

An application to the Commission for Recognition as a Foreign SRF to be offered in the Philippines under the ASEAN CIS Framework must be made by the Foreign SRF/CIS

Operator or appointed local representative, as required under SEC MC 9, by submitting a duly completed SEC ASEAN SRF Form (*Annex B*).

A. Submission of the application must be addressed to:

The Chairperson
Securities and Exchange Commission Philippines
(Attention: Director, Corporate Governance and Finance Department)
The SEC Headquarters
7907 Makati Avenue, Salcedo Village,
Barangay Bel-Air, Makati City, 1209

- B. Submission of applications can be made on a business day in the Philippines between 8:00 a.m. to 5:00 p.m. Philippine time. Any submission received by the Commission after 5:00 p.m. will be deemed to have been received on the following business day.
- C. The application for recognition of Foreign SRF and other relevant documents shall be submitted to the Commission in the form of hard (physical) copies as well as via electronic form (soft copies).

The hard copy must be placed in an envelope with the following label on top: *“ASEAN SRF” – Corporate Governance and Finance Department.*

The electronic version shall be sent to the following email addresses: cgfd@sec.gov.ph and cgfd_ld@sec.gov.ph or any other email as may be specified by the Commission.

Guidance: The submission via electronic form is for information purposes only. The application shall be deemed to have been acquired by the Commission on the date the hard copies were received.

All forms and documents shall be completed in the English language. In addition, where a person submits to the Commission a document which is not in English, the person shall also submit to the Commission, as the case may be, an accurate translation thereof in the English language.

D. The Foreign SRF must submit the following:

- I. A copy of the prospectus reflecting the additional disclosure requirements stated in Part III Section 6 (5) (II) of these Rules.
- II. Such other relevant documents that may be required.

If the Commission is satisfied that the Foreign SRF meets the requirements under this Section, the Commission shall issue a letter recognizing the Foreign SRF.

Section 8. Marketing Materials and Website Disclosures - The following guidelines shall apply to all information regarding the Foreign SRF to be included in the marketing materials, advertisements, publications, and communications, including website content, which targets existing or potential Philippine investors:

- a. It must present a fair, balanced, and consistent description of the Foreign SRF;
- b. Sustainability aspects mentioned should be consistent with regulatory documents filed with the Commission; and
- c. Should not include untrue statements of material facts, or false or misleading statements (e.g., website of the Foreign SRF showing it has high ESG ratings when in fact it does not; claims that a negative screening is used to exclude those entities involved in oil and gas but the portfolio in fact holds securities of such companies; identifies real-world sustainability aims that are aligned with several of the United Nations Sustainable Development Goals, but does not provide quantifiable evidence of how, and how well the product is meeting those aims)

Section 9. Reportorial Requirements - The following information must be included in the annual or interim reports of a Foreign SRF to be submitted to the Commission in compliance with SEC MC 9:

- a. Description of how the Foreign SRF has attained its sustainable investment objective during the reporting period, including a brief description of actual non-ESG investments and their percentage of the Foreign SRF's NAV
- b. Description of the strategy that is most reflective of the Foreign SRF's sustainable investment strategies, if multiple strategies are used; and
- c. Description of divested investments to rectify any breach of the threshold or inconsistency/ies in the investment policies and strategies made during the reporting period and their percentage out of the Foreign SRF's NAV, where applicable

Section 10. Reporting and rectification of a breach of ESG investment threshold or inconsistency with sustainable investment objective

The Foreign SRF/CIS Operator or its local representative shall inform the Commission within five (5) business days after it becomes aware of any of the following:

- a. A breach of the ESG investment threshold where the Foreign SRF's investments in ESG account for less than two-thirds (2/3) of the NAV of the Foreign SRF, including a description of the actions taken or to be taken to rectify the breach; or
- b. Inconsistency of an underlying investment/s with the Foreign SRF's stated sustainable investment objective, including any divestments made or any other action taken or to be taken to rectify the inconsistency.

The Foreign SRF/CIS Operator shall rectify such breach or inconsistency as soon as practicable, but shall not be more than thirty (30) business days from the date of discovery. The failure of the CIS Operator to rectify the breach or inconsistency within the said period may cause the suspension or revocation of the Foreign SRF's recognition as an ASEAN SRF and the removal of its name in the SEC website/microsite dedicated for investment companies.

The Foreign SRF/CIS Operator or its local representative must also notify the Commission via a Current Report (SEC Form 17-C) within five (5) business days from rectifying the breach or inconsistency, the completeness of such rectification, together

with a presentation of investments vis-a-vis sustainable investment objective of the Foreign SRF to be made in accordance with the template provided in Annex C of these Rules.

PART IV. Administrative Actions of the Commission

Section 11. Suspension or Revocation of the qualification as an ASEAN SRF/ recognition of a Foreign SRF

The Commission may suspend or revoke the qualification of an Investment Company, including any sub-fund of an umbrella fund, as an ASEAN SRF if it is no longer compliant with the Local SRIF Rules and/or the ASEAN SRFS.

The Commission may suspend or revoke the recognition of a Foreign SRF if:

- A. It is no longer compliant with these Rules;
- B. Its qualification as an ASEAN SRF has been revoked by its Home Regulator;
- C. It fails to comply with Part III, Section 10 of these Rules on the reporting and rectification of a breach of ESG investment threshold or inconsistency with the sustainable investment objective;
- D. Its authorization as Qualifying CIS has been suspended or revoked by its Home Regulator; and
- E. The approval or recognition for the sale or offering of units of the Foreign CIS in the Philippines has been suspended or revoked by the Commission.

The suspension or revocation of the qualification of an Investment Company or a Foreign SRF's recognition as an ASEAN SRF shall be cause for the removal of its name in the SEC website/microsite dedicated for investment companies as an ASEAN SRF. The suspension or revocation of the qualification of an Investment Company as an ASEAN SRF shall likewise be cause for the removal of its name from the list of ASEAN SRF in the ACMF microsite dedicated for the ASEAN SRFS.

Section 12. Requalification or Re-recognition as an ASEAN SRF

An Investment Company, including any sub-fund of an umbrella fund, or a Foreign CIS whose qualification or recognition as an ASEAN SRF has been revoked by the Commission may re-qualify or be recognized anew and be reinstated in the list of ASEAN SRF in the SEC microsite dedicated for investment companies, subject to the following:

- A. A letter request to requalify/be recognized anew as an ASEAN SRF has been filed with the Commission which states, among others, the reasons why the disqualified/derecognized Investment Company, sub-fund of an umbrella fund, or Foreign SRF should be reinstated;
- B. All outstanding monetary penalties have been paid;

- C. The requirements under Sections 4 and 5 in case of Investment Companies, including any sub-fund of an umbrella fund, and Section 6, in case of Foreign CIS, have been complied with, including observance of the proper procedure in the submission of applications; and
- D. There has been compliance with any other directive(s) of the Commission.

Section 13. Voluntary withdrawal of qualification as an ASEAN SRF or recognition of a Foreign SRF

An Investment Company, including a sub-fund of an umbrella fund that has been qualified as an ASEAN SRF, or a Foreign SRF that has been recognized as an ASEAN SRF, that intends to voluntarily withdraw its qualification/recognition must notify the Commission in writing within five (5) days after approval of its Board of Directors, or in the case of a Foreign SRF, its equivalent officers, of such intention which shall include information on the timeline and procedures to implement such withdrawal.

The Investment Company, including a sub-fund of an umbrella fund, or the Foreign SRF shall comply with any and all subsequent orders of the Commission relative to its voluntary withdrawal.

Section 14. Administrative Sanctions

Violation of any of these Rules shall subject the Investment Company and/or its Fund Manager to the same sanctions provided under the Local SRIF Rules, aside from the removal of its name in the SEC and ACMF microsite dedicated for ASEAN SRFS, as may be applicable.

The CIS Operator/Foreign SRF shall be subject to the following penalties for violation of these Rules:

Section	Description	Person Liable	First Offense	Second Offense	Third Offense
Part III, Sec. 6 (5) (I)	Overemphasizing sustainability or ESG features in any communication or advertising materials	CIS Operator, Foreign SRF	Reprimand	P20,000 plus P400 per day of continuing violation	P40,000 plus P800 per day of continuing violation
Part III, Section 10	Failure to report or delay in reporting a breach of recited ESG investment threshold, or inconsistency with sustainable	CIS Operator, Foreign SRF	Reprimand	P20,000 plus P400 per day of continuing violation	P40,000 plus P800 per day of continuing violation

	investment objective of the ASEAN SRF within five (5) business days from discovery				
Part III, Section 10	Failure to rectify or delay in rectifying a breach of recited ESG investment threshold or inconsistency with sustainable investment objective of the ASEAN SRF within thirty (30) business days from discovery	CIS Operator, Foreign SRF	Reprimand	P100,000 plus P600 per day of continuing violation	P200,000 plus P1,200 per day of continuing violation

The foregoing penalties shall be without prejudice to any other actions and sanctions that may be taken or imposed by the Commission under the ICA, SRC, and their respective IRRs, the Revised Corporation Code, all other laws that may subsequently be implemented by the Commission, and all other rules and regulations that the Commission may issue in the exercise of its mandates.

Section 15. Applicability of SRC, ICA, and Other Rules

The provisions of the SRC, ICA, their respective IRRs, and any other laws and rules implemented by the Commission insofar as these rules are not inconsistent herewith shall apply suppletorily.

Section 16. Separability Clause

If for any reason, any provision of these Rules or any portion thereof or application of such provision or portion thereof to any person, group, or circumstance is declared invalid or unconstitutional, the remainder of these Rules shall not be affected by such decision.

Section 17. Effectivity

These rules shall take effect immediately after publication in two (2) newspapers of general circulation in the Philippines.

Makati City, Philippines, _____ 2023.

For the Commission:

EMILIO B. AQUINO

Chairperson



ACMF



ASEAN Sustainable and Responsible Fund Standards



ASEAN **SUSTAINABLE AND RESPONSIBLE FUND** STANDARDS

Issued: October 2022

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INTRODUCTION

The ASEAN Capital Markets Forum¹ (ACMF) is a forum which comprises capital market regulators from ASEAN countries whose primary task is to promote greater integration and connectivity of regional capital markets.

In line with the growing importance of sustainable finance in ASEAN, in November 2017, the ACMF had launched the *ASEAN Green Bond Standards*, its first sustainable finance initiative. This was followed by the *ASEAN Social Bond Standards* and *ASEAN Sustainability Bond Standards* in October 2018, creating a suite of sustainable bond standards for the region.

The *Roadmap for ASEAN Sustainable Capital Markets* (Roadmap), which contains actionable recommendations to provide strategic direction and guide ACMF and its members in developing action plans and initiatives across the region to drive ASEAN's sustainable agenda forward, was released in May 2020. In line with the Roadmap's recommendation on catalysing products and enabling access to under-served areas, the ACMF has now developed the *ASEAN Sustainable and Responsible Fund Standards* (ASEAN SRFS) to further expand the sustainable asset class in ASEAN that comprises equity, bonds and funds.

The ASEAN SRFS aims to provide the minimum disclosure and reporting requirements that can be consistently applied to collective investment schemes (CIS) that seek to qualify under the ASEAN SRFS, considering the rise of CIS with ESG investment focus and the need for a comparable, uniform and transparent disclosure of information to mitigate the risk of greenwashing. In this regard, CIS or CIS operators, as the case may be, must demonstrate compliance with the ASEAN SRFS which will assist investors in making more informed decisions while guiding the CIS or CIS operators, as the case may be, on the disclosure of information.

¹ About ACMF – <https://www.theacmf.org/about/about-acmf>.

DEFINITIONS

In these standards, the following terms shall have the following meanings, unless the context otherwise requires:

ACMF	means ASEAN Capital Markets Forum
ASEAN	means Association of Southeast Asian Nations
ASEAN SRFS	means the <i>ASEAN Sustainable and Responsible Fund Standards</i> as applicable and as revised from time to time
ASEAN Sustainable and Responsible Fund	means a CIS which complies with the ASEAN SRFS
CIS	means collective investment scheme
CIS operator	means a person or entity which is: (a) licensed or registered with; or (b) approved by, the securities regulator in the ASEAN jurisdiction to operate or manage CIS that may be offered in that jurisdiction
ESG	means environmental, social and governance, or some combination thereof
Fund manager	means a person who is responsible for making investment decisions, or part thereof, for an ASEAN Sustainable and Responsible Fund
NAV	means net asset value

Qualified CIS	means a CIS which complies with the ASEAN SRFS
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

1.0 SCOPE OF THE ASEAN SUSTAINABLE AND RESPONSIBLE FUND STANDARDS

- 1.1 The ASEAN SRFS shall apply to any new or existing CIS that seek to qualify under the ASEAN SRFS.
- 1.2 The ASEAN SRFS applies to CIS constituted or established, and are permitted to be offered by the securities regulators, in the respective ASEAN jurisdiction.
- 1.3 The ASEAN SRFS and the relevant securities laws, rules and regulations governing CIS in the respective ASEAN jurisdiction should be read together and complied with.
- 1.4 In the case of an umbrella fund structure, the ASEAN SRFS will only apply to a sub-fund of the umbrella fund that wishes to be qualified under the ASEAN SRFS.

2.0 OBJECTIVE OF THE ASEAN SUSTAINABLE AND RESPONSIBLE FUND STANDARDS

The ASEAN SRFS is intended to provide the minimum disclosure and reporting requirements that can be consistently applied to CIS that seek to qualify under the ASEAN SRFS, to enhance the transparency and uniformity of qualified CIS under the ASEAN SRFS.

3.0 GUIDANCE ON THE ASEAN SUSTAINABLE AND RESPONSIBLE FUND STANDARDS DISCLOSURE REQUIREMENTS

An ASEAN Sustainable and Responsible Fund must provide detailed description of the information as required under this chapter of the ASEAN SRFS in its offering documents, as well as those required by the relevant securities laws, rules and regulations governing CIS in the respective ASEAN jurisdiction.

3.1 Name of Fund

- 3.1.1 The name of an ASEAN Sustainable and Responsible Fund should accurately and proportionately reflect the sustainability features of the CIS, as set out in the sustainable investment strategies or objectives of the CIS.

- 3.1.2 The name of an ASEAN Sustainable and Responsible Fund should not overstate or overemphasise the sustainability features of the CIS or be misleading.

Guidance to paragraphs 3.1.1 and 3.1.2

For avoidance of doubt, any reference to ESG features in the name of the ASEAN Sustainable and Responsible Fund should correspond to the sustainability features against other features of the CIS.

- 3.1.3 The offering documents of an ASEAN Sustainable and Responsible Fund must include a statement on the cover page, or first page (where there is no cover page), that the CIS is a qualified CIS under the ASEAN SRFS.

3.2 Sustainable Investment Objectives and Strategies

- 3.2.1 Description on the ASEAN Sustainable and Responsible Fund's sustainable investment objectives and strategies, including the selection, retention and realisation of its investments, and how they will be continuously implemented in the investment process, must be disclosed. The ASEAN Sustainable and Responsible Fund should primarily invest in securities which are in accordance with its sustainable investment objectives and strategies, with a minimum asset allocation of at least two-thirds ($\frac{2}{3}$) of its NAV, at all times.
- 3.2.2 Disclosures must be made on the sustainability principles adopted by the ASEAN Sustainable and Responsible Fund to achieve its sustainable investment objectives. Examples of these sustainability principles include, but are not limited to:
- (i) Sustainable Development Goals (SDGs);
 - (ii) UNGC Principles; and
 - (iii) Other ESG or sustainability considerations practiced nationally or globally.

3.2.3 Disclosures must also be made on the sustainable investment strategies which may be adopted by the ASEAN Sustainable and Responsible Fund, to achieve its sustainable investment objectives. Examples of these sustainable investment strategies include, but are not limited to:

- (i) Active ownership;
- (ii) ESG integration;
- (iii) Ethical and faith-based investing;
- (iv) Impact investing;
- (v) Negative screening;
- (vi) Positive screening;
- (vii) Thematic investing; and
- (viii) Other sustainable investment strategies practiced nationally or globally.

Guidance to paragraph 3.2.3

Active ownership: Involves engagement with investee companies, voting at meetings regarding sustainability or ESG matters, issues or influence in the investee's behavior, policies, and practices relative to sustainability or ESG.

ESG integration: The systematic and explicit inclusion by CIS, CIS operators, or fund managers, as the case may be, of environmental, social and governance factors into financial analysis.

Ethical and faith-based investing: Investing in line with certain principles, usually using negative screening to avoid investing in companies whose products and services are deemed morally objectionable by the investor or certain religions, international declarations, conventions or voluntary agreements, (e.g. by applying Shariah screening methodologies).

Impact investing: Investments made with the intention to generate positive, measurable social and environmental impact alongside a financial return. An ASEAN Sustainable and Responsible Fund with an impact investing strategy are required to clearly state the positive impacts that it aims to achieve, and the impact measurement methodology used.

Negative screening: Excluding certain sectors, companies or projects for their poor ESG performance relative to industry peers or based on specific ESG criteria (e.g. avoiding particular products, services or business practices).

Positive screening: Investing in sectors, companies or projects selected for their positive ESG performance relative to industry peers.

Thematic investing: The identification and allocation of capital to themes or assets related to certain environmental or social outcomes, (e.g. clean energy, energy efficiency, sustainable agriculture, healthcare, social inclusion).

- 3.2.4 For clarity, CIS which merely adopts the ESG integration strategy or negative screening strategy to seek financial returns without having a sustainable investment objective, would not be able to qualify under the ASEAN SRFS.

3.3 Policies and Procedures to Ensure Compliance with the ASEAN Sustainable and Responsible Fund Standards

- 3.3.1 The CIS, CIS operator, or fund manager, as the case may be, must continuously monitor and evaluate the underlying investments to ensure that the ASEAN Sustainable and Responsible Fund continues to comply with the requirements under the ASEAN SRFS throughout its lifecycle.
- 3.3.2 Disclosures must be made on how the sustainable investment objectives and strategies are being measured and monitored throughout the lifecycle of the ASEAN Sustainable and Responsible Fund and the due diligence carried out to ensure the underlying investment's compliance with the ASEAN Sustainable and Responsible Fund's sustainable investment objectives and strategies.

- 3.3.3 The ASEAN Sustainable and Responsible Fund's stewardship policies i.e. proxy voting and shareholder engagement, and how these policies take into account the ASEAN Sustainable and Responsible Fund's sustainable investment objectives and strategies should also be disclosed.
- 3.3.4 Description on the ASEAN Sustainable and Responsible Fund's policies and processes to deal with such events where the fund has breached the minimum asset allocation threshold or where the fund's investments become inconsistent with its investment objectives and strategies.
- 3.3.5 The ASEAN Sustainable and Responsible Fund should also disclose measures to be taken to ensure that the overall impact of its investments is not inconsistent with any other sustainability considerations.
- 3.3.6 Other relevant policies and procedures to ensure compliance with the ASEAN SRFS should also be disclosed, if available.
- 3.3.7 In the event that the investment management function of the ASEAN Sustainable and Responsible Fund has been delegated, the CIS operator must remain responsible for any delegated functions and the CIS operator must have in place suitable processes to monitor and control the activities of the delegate and evaluate the performance of the delegate. The duty for the disclosure and reporting of the CIS to be in accordance with the ASEAN SRFS would fall on the CIS operator and the appropriate arrangement needs to be established between the CIS operator and the delegate to ensure compliance to the ASEAN SRFS.
- 3.3.8 The CIS or CIS operator, as the case may be, must use its best efforts to provide, without prior request, as soon as reasonably practicable, the relevant information which may include but is not limited to any material event that could adversely impact the CIS' ability to comply with the ASEAN SRFS, to the securities regulator in the respective ASEAN jurisdiction.
- 3.3.9 When an ASEAN Sustainable and Responsible Fund is found to be no longer in compliance with the ASEAN SRFS, the securities regulator in the respective ASEAN jurisdiction may revoke the ASEAN SRFS qualification of the CIS.

3.4 Reference Benchmarks and Indices

- 3.4.1 In the event that an index is designated as a reference benchmark for the purpose of attaining the ESG focus of the ASEAN Sustainable and Responsible Fund, the following information should be disclosed in the relevant offering documents:
- (i) Where the ASEAN Sustainable and Responsible Fund is tracking an ESG benchmark (e.g. an index fund), details of the benchmark being tracked including the characteristics and general composition of the benchmark; or
 - (ii) Where the ASEAN Sustainable and Responsible Fund seeks to measure its ESG focus against a designated reference benchmark, an explanation of how the designated reference benchmark is relevant to the fund.
- 3.4.2 In the event that a benchmark index is used only for the purpose of measuring the financial performance of the ASEAN Sustainable and Responsible Fund, the CIS would be required to disclose as such.

3.5 Sustainability Risk Considerations

- 3.5.1 Disclosures should be made on the ASEAN Sustainable and Responsible Fund's risks and limitations associated with its sustainable investment objectives and strategies, including how these risks or limitations will be managed, as well as its mitigation policies.

3.6 Use of Third-Party Verification

- 3.6.1 The CIS or CIS operator, as the case may be, may appoint a third-party verifier on a voluntary basis, to verify the ASEAN Sustainable and Responsible Fund's investments are aligned with its sustainable investment objectives and strategies. In the event that third-party verifiers are required by the relevant securities laws, rules and regulations that form the regulatory frameworks governing CIS in the respective ASEAN jurisdiction, these requirements are to be complied with by the CIS.
- 3.6.2 Where the CIS or CIS operator, as the case may be, appoints a third-party verifier, the verification report must be made publicly available on a publicly available designated website. Disclosures on the third-party verifier's relevant credentials and expertise must also be made in the report produced.

4.0 GUIDANCE ON THE ASEAN SUSTAINABLE AND RESPONSIBLE FUND STANDARDS REPORTING REQUIREMENTS

- 4.1 ASEAN Sustainable and Responsible Funds must provide detailed description of the information as required under this chapter of the ASEAN SRFS in their annual or interim reports, where applicable:
- (i) A statement that the ASEAN Sustainable and Responsible Fund has complied with the ASEAN SRFS within the reporting period;
 - (ii) Descriptions on sustainability considerations that has been adopted in the sustainable investment objectives and strategies employed; and
 - (iii) Description on how the ASEAN Sustainable and Responsible Fund has attained its sustainable investment objectives and strategies during the reporting period. These may include, but are not limited to:
 - (a) A review on sustainability considerations of the ASEAN Sustainable and Responsible Fund's portfolio;
 - (b) The proportion of underlying investments that are consistent with the ASEAN Sustainable and Responsible Fund's sustainable investment objectives and strategies;
 - (c) In the event that the ASEAN Sustainable and Responsible Fund's underlying investments are inconsistent with its investment objectives and strategies, descriptions on steps undertaken to rectify the inconsistency;
 - (d) Descriptions on the actions taken in attaining the CIS' sustainable investment objectives and strategies;
 - (e) A comparison of the ASEAN Sustainable and Responsible Fund's performance against the designated reference benchmark, in the case of paragraph 3.4.1, if available;
 - (f) Descriptions on sustainability risk considerations and the inclusion of such risks in the ASEAN Sustainable and Responsible Fund's investment decision-making process; and

- (g) Any other information, considered necessary and relevant by the CIS, CIS operator or the fund manager, as the case may be.
 - (iv) In the event that the ASEAN Sustainable and Responsible Fund has provided previous periodic assessments, a comparison between the current and at least the previous assessment period.
- 4.2 The annual or interim reporting, where applicable, must be made publicly available on a website designated by the CIS or CIS operator, as the case may be.
- 4.3 In the case of an ASEAN Sustainable and Responsible Fund with an impact investing strategy, the CIS or CIS operator, as the case may be, should publish the ASEAN Sustainable and Responsible Fund's impact reporting on an annual basis and provide a comparison to the results of previous reporting periods for transparency and comparability purposes.

Guidance to paragraph 4.3

For avoidance of doubt, the ASEAN Sustainable and Responsible Fund's impact reporting may be integrated in the CIS's annual report or prepared as a separate reporting, as deemed appropriate.

5.0 DEDICATED ASEAN SUSTAINABLE AND RESPONSIBLE FUND WEBPAGE

To enhance the visibility of ASEAN Sustainable and Responsible Funds, a list of qualified ASEAN Sustainable and Responsible Funds or sub-funds will be uploaded and updated regularly on the ACMF microsite dedicated for the ASEAN SRFS. An ASEAN Sustainable and Responsible Fund that no longer qualifies under the requirements of the ASEAN SRFS and any subsequent amendments will be removed from the list accordingly.



SEC FORM - ASEAN SRF

**Application for Qualification of an Investment Company under the ASEAN SRFs/
Recognition of a Foreign Collective Investment Scheme Qualified as
an ASEAN SRF that seeks to offer in the Philippines under the ASEAN CIS Framework**

NAME OF APPLICANT: _____

TYPE OF APPLICANT:

☐ **Existing Investment Company (IC)**
(already in operation)

☐ **Newly Formed IC**
(with Primary License only)

☐ **Umbrella Fund**
Sub Fund: _____

☐ **Foreign SRF (QCIS + ASEAN SRF)**

Home Regulator _____
Local Representative _____

☐ **Others:** _____

TYPE OF APPLICATION/S:

For Local ICs, Sub-Fund of an Umbrella Fund

- ☐ ASEAN SRF
☐ Requalification as an ASEAN SRF

For Foreign SRF:

- ☐ Recognition as an ASEAN SRF under SEC MC **XX**
☐ Re-recognition as an ASEAN SRF under SEC MC **XX**

EXISTING QUALIFICATION / LICENSES

☐ **Licensed as an IC under the Investment Company Act (ICA)**

☐ Date approved: _____ ☐ Date suspended: _____

☐ **Permit to Sell under the Securities Regulation Code (SRC)**

of securities registered:

☐ Shares _____ Latest registration date: _____

☐ Units _____ Latest registration date: _____

☐ Date suspended: _____

☐ **Local SRI Fund**

☐ Date qualified: _____ ☐ Date suspended: _____

☐ **ASEAN SRF**

☐ Date qualified: _____ ☐ Date suspended: _____

☐ **Qualifying CIS**

☐ Date qualified: _____ ☐ Date suspended: _____

PENDING APPLICATION/S

☐ License as an IC under ICA
Date Filed: _____

☐ Recognition as a Foreign Qualifying CIS
under SEC MC 09
Date Filed: _____

☐ Permit to Sell under SRC
Date Filed: _____

☐ Local SRI Fund under SEC MC 11
Date Filed: _____

☐ Qualifying CIS under SEC MC 09
Date Filed: _____

CERTIFICATIONS/AFFIRMATIONS

We, the undersigned directors of:

☐ IC _____
(Name)

- ☐ Fund Manager (FM) _____
(Name)
- ☐ CIS/CIS Operator _____
(Name)

that currently manages/operates _____ hereby:
(Name of Fund)

1. Affirm that the information/statements given above are true and correct to the best of our knowledge;
2. Affirm that we shall continuously comply with all the relevant laws, rules, and regulations implemented by the Commission; and
3. Further undertake to notify the Commission within five (5) days after approval of its Board of Directors/equivalent officers of its intention to voluntarily withdraw its qualification/recognition as an ASEAN SRF and comply with any subsequent orders of the Commission relative to our voluntary withdrawal.

(ADDITIONAL AFFIRMATIONS FOR FOREIGN SRF ONLY)

4. We assume full responsibility for the information contained in our application documents and undertake to comply in good faith with the SEC Philippines' requirements and ensure adequate protection of our Philippine investors in the event of withdrawal, revocation, or termination of our cross-border offering within the Philippines.
5. We affirm all obligations under the ASEAN CIS, including, but not limited to, the undertaking to submit to the non-exclusive jurisdiction of the Host Jurisdiction courts, in respect of any action/ legal proceeding against us in connection with the Qualifying CIS.
6. We affirm our undertaking to fully coordinate and cooperate with the Commission relative to any administrative actions that may be taken against us, and prompt settlement of any fines and penalties that may be imposed upon us.
7. We affirm that the CIS/CIS Operator is not currently the subject of any administrative action relative to the operations of its business by the relevant securities regulator/s.

We have hereunto affixed our signatures this ____ day of _____, 20__ in _____.

Guidance: This form shall be signed and certified by at least a majority of the directors of the Applicant and its Fund Manager or equivalent officers of the CIS/CIS Operator. Use another page, if necessary.

(signature)

Name: _____
Title/Position: _____
Date Signed: _____

(signature)

Name: _____
Title/Position: _____
Date Signed: _____

(signature)

Name: _____
Title/Position: _____
Date Signed: _____

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Title/Position: _____
Date Signed: _____

(signature)
Name: _____
Title/Position: _____
Date Signed: _____

Notary Public

ANNEX C

Presentation of Investments relative to the Sustainable Investment Objective of the Foreign SRF

For the period ended _____

Investment	CURRENT YEAR			PRIOR YEAR		
	Amount	% over NAV	% over ESG portfolio	Amount	% over NAV	% over ESG portfolio
Sustainable Investment Objective A <ul style="list-style-type: none"> Company X Company Y Company Z 						
Sub-Total						
Sustainable Investment Objective B <ul style="list-style-type: none"> Company E Company F 						
Sub-Total						
Total ESG Investments		*(should be at least 2/3 of NAV)			*(should be at least 2/3 of NAV)	
Non-ESG			N/A			N/A
GRAND TOTAL						

COMMENTS ON THE DRAFT MEMORANDUM CIRCULAR ON (A) ADOPTION OF THE ASEAN SUSTAINABLE AND RESPONSIBLE FUND STANDARDS (ASEAN SRFS); AND (B) ESTABLISHMENT OF RULES ON: (1) QUALIFICATION OF A LOCAL INVESTMENT COMPANY UNDER THE ASEAN SRFS; AND (2) RECOGNITION OF A FOREIGN COLLECTIVE INVESTMENT SCHEME QUALIFIED UNDER THE ASEAN SRFS THAT SEEKS TO OFFER IN THE PHILIPPINES UNDER THE ASEAN CIS FRAMEWORK

Name: _____

Company: _____

Provisions on the Draft Circular	Comments	Proposed Revision	Estimated Cost to Comply with the Memorandum Circular¹
Sec. 1. Adoption of the ASEAN SRFS			
Sec. 2. Definition of Terms			
Sec. 3. Coverage			
Sec. 4. Requirements for Investment Companies seeking to qualify under the ASEAN SRFS			
Sec. 5. Requirements for local Investment Companies qualified under the ASEAN SRFS to make offers under the ASEAN CIS Framework			
Sec. 6. Requirements for Foreign SRFs to be recognized in the Philippines			
Sec. 7. Procedure for recognition of Foreign SRF to be offered locally in the Philippines under the ASEAN CIS Framework			
Sec. 8. Marketing Materials and Website Disclosures			
Sec. 9. Reportorial Requirements			

¹ Please indicate the specific expense or item and the estimated amount, e.g., Cost of printing Prospectus – P500.00.

Sec. 10. Reporting and rectification of a breach of ESG investment threshold or inconsistency with sustainable investment objective			
Sec. 11. Suspension or Revocation of the qualification as an ASEAN SRF/ recognition of a Foreign SRF			
Sec. 12. Requalification or Re-recognition as an ASEAN SRF			
Sec. 13. Voluntary withdrawal of qualification as an ASEAN SRF or recognition of a Foreign SRF			
Sec. 14. Administrative Sanctions			
Sec. 15. Applicability of SRC, ICA, and Other Rules			
Sec. 16. Separability Clause			
Sec. 17. Effectivity			