

**Who
we
are...**

**What
we
do...**



SECURITIES & EXCHANGE COMMISSION

1. INTRODUCTION - THE SEC

The primary mission of the Ghana Securities and Exchange Commission (SEC) is to protect investors and maintain the integrity of the securities market. As more and more first-time investors begin to look upon the securities market as an alternative investment opportunity and as a means of securing their futures, paying for homes, and educating children, these goals are more compelling than ever.

The world of investing is fascinating, complex, and can be very fruitful. However, it must be borne in mind that shares, bonds and other securities can lose value. There are no guarantees. That is why investors have to take proactive steps to protect the money they put into the securities markets by monitoring their investments and asking questions.

Our Mission

The mission of the SEC is the promotion of the orderly growth and development of an efficient, fair and transparent securities market in which investors and the integrity of the market are protected through the proactive implementation of the securities laws. It involves ongoing supervision and regulation of the market and the securities industry, the education of market professionals, issuers of securities and investors on their respective rights and obligations.

2. DISCLOSURE RULE

The laws and rules that govern the securities industry in Ghana seek to implement the simple and straightforward concepts of disclosure and equitable treatment. All investors, whether large institutions or private individuals, should have access to certain basic facts about an investment prior to buying it.

To achieve this, the listing rules of the Ghana Stock Exchange require public companies issuing and listing securities to disclose meaningful financial and other information to the public. This information in turn provides a common pool of knowledge for all investors to use to judge for themselves if a company's securities are a good investment.

Disclosure Based Regulation

Investor protection is fundamental to the growth of a securities market. Protection is not to be conceived of as a system that guarantees to an investor that his investment will not diminish in value or that his return will remain assured for all time.

An investor who enters the securities market, and particularly the equity market must understand that there are risks which are inherent in the very nature of the market and that if he or she wishes to secure the benefits provided by the market he or she must accept the risks as well. But investor protection demands that potential investors be provided with all the information necessary to make an informed decision. Adequacy of disclosure, is therefore, the cornerstone of healthy capital market development.

It is only through the steady flow of timely, comprehensive and accurate information can people make sound investment decisions.

The SEC also oversees other key participants in the securities industry, including stock exchanges, broker-dealers, investment advisors, mutual funds and unit trusts and their managers, custodians or trustees with the focus of the oversight being on promoting disclosure of important information, enforcing the securities laws, and protecting investors who interact with these organisations and individuals.

Crucial to the SEC's effectiveness is its enforcement authority and the powers vested in it by the law to sanction fraudulent actions such as insider trading, market manipulation, market rigging and providing false or misleading information about securities and the companies that issue them.

3. THE CREATION OF THE SEC

The SEC was created by the Securities Industry Law 1993 (PNDCL 333) as a statutory body corporate as part of Ghana's reforms towards a market economy. Its creation followed upon the establishment of a formalised securities market in Ghana with the opening of the Ghana Stock Exchange in 1990. The functions, of implementing the provisions of the Securities Industry Law, were initially carried out by the Bank of Ghana until the formal inauguration of the SEC in September 1998.

The Securities and Exchange Commission was admitted as a full member of the International Organisation of Securities Commissions (IOSCO) in May 2000, just 18 months after it commenced independent operations. This was no doubt a tribute to what the Commission had been able to achieve in a short space of time and a recognition of the quality of development of the regulatory framework prevailing in Ghana.

4. THE ORGANIZATION OF THE SEC

The Securities Industry Law provides that the Board of the SEC shall comprise of a maximum of 11 persons. This includes the Director General who is the chief executive of the SEC, and his two deputies. All members of the Commission including the Chairman, Director General and Deputy Director General are appointed by the President Of Ghana.

5. THE COMMISSIONERS AND SENIOR MANAGEMENT OF THE SEC

The Commissioners of the SEC hold office for a period of 3 years. To ensure wide consultation in the discharge of its functions the Securities Industry Law has provided for the membership of the SEC to include representatives from the Bank of Ghana, the

Judiciary, the Ministry of Finance, the Registrar General's Department and persons who by reason of their ability, experience or specialist knowledge of securities and investment matters or on account of their business or professional attainments are capable of making useful contributions to the work of the Commission.

The Commissioners, Senior Management and staff of the SEC are drawn from a variety of disciplines and include economists lawyers, accountants, financial analysts, information technology professionals, business administrators and marketing professionals.

The Commission currently comprises eight Commissioners and is chaired by a Justice of the Court of Appeal of Ghana.

6. MEETINGS OF THE COMMISSION

The Commission meets as a body on an average of once every other month to discuss and resolve a variety of issues brought to its attention by the executive staff. Matters discussed at these meetings include issues pertaining to regulatory and market development policy, the interpretation and implementation of securities laws, the modification and enhancement of existing rules and regulations, the enforcement of securities laws, investor protection and market development. A written record is maintained of all deliberations that take place at these meetings.

Meetings of the Commission are usually presided over by the Chairman of the SEC or in his absence one of the other members. The quorum for any meeting is five members and must include the Director General or in his absence his deputy.

7. THE SECRETARIAT OF THE SEC

The Commission operates through a secretariat, which is organized on a departmental structure and at present has a staff of 18 persons. The organization chart of the Commission reflects the basic functions it is called upon to perform under the Law. The departments include Legal and Enforcement, Market Surveillance, Accounting, Corporate Finance and Investment Management, Market Development and Research, Information Technology and Administration.

8. CORPORATE FINANCE

The SEC is responsible for overseeing the disclosure of material information to the investing public by companies, including securities that are to be listed on the Ghana Stock Exchange.

A company issuing securities which are to be either listed on a stock exchange or publicly traded must make available all information, whether it is positive or negative, that might be relevant to an investor's decision to buy, sell, or hold the security issued.

Information must be made available not only at the stage of initial listing and sale of the security but even thereafter on a continuing and periodic basis. The information usually pertains to the company's financial condition and business practices and helps investors make informed investment decisions.

The staff of the SEC engage in a review process aimed at ascertaining if the information disclosed by the company conforms to the disclosure requirements and standards imposed by the securities laws with a view to rectifying anomalies and improving the quality of the disclosure.

Pursuant to the Amendments to the Securities Industry Law the SEC, is required to examine and approve all invitations to the public to invest in securities. It will also routinely examine financial reports of companies to ensure adherence with accounting standards and disclosure provisions of the companies and securities laws and listing rules of the stock exchange. Performing post prospectus checks on the utilization of funds collected through public subscriptions is another function of the SEC.

The SEC also has responsibility to supervise mergers and acquisitions offers and has initiated work regarding the formulation and application of accounting standards and financial disclosure requirements.

9. MARKET SURVEILLANCE

Ensuring the maintenance of fair, orderly, and efficient operation of the securities markets in Ghana is another function of the SEC.

The SEC discharges this function by regulating the activities of the major institutions and participants in the market, including the Ghana Stock Exchange and securities dealers, investment advisers who operate on the exchange and their representatives and agents.

The SEC is responsible for ensuring that these institutions, organizations and persons comply with the securities laws, regulations and procedures.

The key mechanisms utilized by the SEC in this aspect of its functions include

?? Licensing dealers, investment advisers and their representatives,

?? Supervising and monitoring the financial and systemic stability and integrity of the securities industry,

?? Implementing a program for the routine and non routine inspections of institutions in the industry with the aim of fostering compliance with and detecting violations of the securities laws and any systemic shortcomings in the operations of these entities,

?? Handling investor complaints against these entities,

?? Overseeing the operations of the stock exchange including the examination of trading and trading patterns on an ongoing basis to ascertain any market manipulations, rigging, insider trading, front running and other breaches of the securities laws.

10. INVESTMENT MANAGEMENT

The SEC is responsible for overseeing and regulating the fund management industry in Ghana and administering the securities laws affecting collective investment schemes such as unit trusts and mutual funds.

The key functions in this area include -

?? the licensing of all collective investment schemes, their managers, trustees and custodians,

?? the supervision of the activities of these schemes,

?? regular inspections of the systems and financial status of these schemes,

?? formulating policy regarding the management, operation and accounting of these schemes,

?? vetting advertisements and all documentation issued by or on behalf of these schemes to the public,

?? reviewing the systemic and financial stability of these schemes,

?? the supervision and regulation of any conflicts of interest,

?? the detection of any breaches of the fiduciary relationships between the operators of the schemes and investors,

?? examining the systemic and financial stability of the manager, trustee and custodian of these schemes,

?? regular review of the investing and trading patterns of the scheme in order to ascertain any breaches of fiduciary duties or conflicts of interest.

The SEC also has responsibility for providing companies and the general public with guidance in interpreting the provisions of the securities laws, rules and regulations on the subject of listing of securities and handling any investor complaints in this area of operation.

11. ENFORCEMENT

One of the primary responsibilities of the SEC is Law enforcement. SEC is responsible for investigating any breaches of the securities laws and the Companies Code. All SEC investigations will be conducted in strict confidence initially. Facts will be developed to the fullest extent possible through informal inquiry, interviewing witnesses, examining brokerage records, reviewing trading data, and other methods. This may include procuring the attendance of witnesses to testify and produce books, records, and other relevant documents.

The SEC may act on information and evidence received of possible violations of the securities laws from many sources, including its own surveillance activities, the stock exchange and other securities industry sources, press reports, and investor complaints.

At the end of each investigation a report will be prepared and the Commission will review the report to ascertain if any breaches of the securities laws have been revealed. In the event a breach of law is noted the Commission will initially endeavour to deal with the matter through the mechanism of the Administrative Hearings Committee established under the Securities Industry Law. Further action to be taken by the Commission on the matter will depend on the decision of this Committee.

The Securities Industry Law decrees that all breaches of the Law amount to offences and that the prosecution of these offences shall be carried out by the Attorney General.

In the circumstances the SEC may refer detected breaches of the Law for prosecution as mentioned above or having regard to the circumstances in which the breach occurred without referring the matter to prosecution demand that the offender pay the fine arising from the commission of the offence.

The Administrative Hearings Committee of the SEC was established by an amendment to the Securities Industry Law (Act 590) 2000. The Committee is composed of the Chairman of the Commission and four other members of the Commission.

The functions of the Committee are to examine and determine complaints and disputes related to matters arising under the Law.

12 .LEGAL ISSUES

The SEC, being a regulatory body charged with the implementation of the law, deals with legal issues arising with regard to the administration and implementation of the Securities Industry Law on a daily basis.

The SEC is also required to propose changes to securities legislation and recommend the enactment of regulations as required by the law.

13. MARKET DEVELOPMENT AND TRAINING

Market development and training are integral segments of the overall functions of the SEC. The SEC is aware that creating the appropriate atmosphere for the orderly growth, development and sustenance of the market is one of the primary objectives of its regulatory functions. Consequently, the SEC is responsible for formulating and implementing in association with the securities industry, strategies in respect of market development, investor education and the training of securities market personnel. Advising the Government on the securities industry on a regular basis is another key market developmental function of the SEC. It is the intention of the SEC to ensure that its media relations are coordinated and to harness the media in the task of educating investors and keeping the general public apprised of issues related to the SEC and the securities market.

14. HOW THE RULEMAKING PROCESS WORKS UNDER THE SECURITIES INDUSTRY LAW

The Securities Industry Law authorizes the Minister of Finance on the recommendation of the SEC to make regulations by legislative instrument on a variety of matters arising under the Law. These regulations facilitate the implementation of the objectives and principles of the Law and provide the framework for the SEC's oversight of the securities markets. The power to initiate the making of regulations is one of the methods by which the SEC will keep abreast of the securities markets evolving technologically, expanding in size and offering new products and services.

The SEC is also empowered by the Securities Industry Law to issue Statements of Principle with regard to the financial standing and business conduct of persons licensed by it. A breach of these principles whilst not amounting to breaches of the Securities Industry Law may expose the offender to disciplinary action and other strictures that may even result in the revocation of an offender's licence to operate.

15. VIOLATIONS OF THE LAW

Common violations that may lead to SEC investigations include:

- ?? insider trading: buying or selling a security in breach of a relationship of trust and confidence while in possession of material, non-public information about the security;
- ?? misrepresentation or omission of important information about securities;
- ?? manipulating the market prices of securities;
- ?? stealing customers' funds or securities;
- ?? violating dealers' responsibility to treat customers fairly; and
- ?? operating without a license

16. OFFENCES UNDER THE SECURITIES INDUSTRY LAW

Offences under the Securities Industry Law such as Insider Dealing, False Trading and Market Rigging, Stock Market Manipulation and the issuing or making of False or Misleading Statements regarding securities carry stringent punishments upon conviction. The punishments may include fines and imprisonment, or both

17. INTERNATIONAL AND DOMESTIC COOPERATION

Considering the increasing globalization and integration being witnessed in securities markets and within the securities industry the SEC is required to work closely with other domestic and international securities market regulators. The principal results of this cooperation domestically, will be a coordinated and cohesive approach to regulation and market development. In the international arena, it will assist the SEC in keeping the Ghanaian securities market abreast of global regulatory developments and in the transfer of technology and expertise that will be fundamental to the process.

The SEC intends achieving its objectives in this aspect of its functions by active participation in membership of bodies such as the International Organization of Securities Commissions (IOSCO) which is committed to promoting cooperation and assistance among securities regulators with a view to encouraging the adoption of high regulatory standards worldwide.

Though it is the primary overseer and regulator of the Ghanaian securities markets, the SEC works closely with many other institutions, including the Ministry of Finance, the Bank of Ghana, the Registrar General's Department, the Attorney General's

Department and the Ghana Stock Exchange in the discharge of its obligations and functions.

Key Staff of the SEC

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