

**REPORT OF THE COMMITTEE ON SUBSIDIARY
LEGISLATION ON THE UNIT TRUSTS AND MUTUAL
FUNDS REGULATIONS 2001, L.I. 1695**

1.0 INTRODUCTION

The Unit Trusts and Mutual Funds Regulations were laid before the House and referred to the Committee on Subsidiary Legislation on Wednesday, 14th November 2001 pursuant to Article 11(7) of the Constitution and Standing Order 166.

2.0 REFERENCES

In considering the Regulations the Committee looked at the following documents and enactments:

- (i) The Standing Orders of Parliament
- (ii) The Constitution of the Republic of Ghana
- (iii) The Securities Industry Law 1995, PNDCL 333
- (iv) The Securities Industry (Amendment) Act, 2000 Act 590
- (v) The Unit Trusts and Mutual Funds Regulations 2001, L.I. 1695.

3.0 BACKGROUND

The Minister of Finance derives his authority to make these Regulations from section 141 of the Securities Industry Law 1993 (PNDCL 333) as amended by the Securities Industry

(Amendment) Act, 2000, Act 590 which provide among other things as follows:

- (1) The Secretary may on the recommendation of the Commission by legislative instrument make regulations prescribing all matters required or permitted by this Law to be prescribed, and for carrying out or giving effect to this Law.
- (2) Without prejudice to sub section (1) regulations may provide for –
 - (a) the forms to be used for the purposes of this Law;
 - (b) the publication of advertisements offering the services of dealers or investment advisers or offering securities for purchase or sale, and the form and content of those advertisements;
 - (c) the form of balance sheets and profit and loss accounts required by this Law to be prepared by dealers;

- (d) the furnishing to the Commission of information in addition to or in variation of, the information contained in a prescribed form lodged with it;
- (e) the times within which information required to be furnished the Commission under this Law shall be furnished;
- (f) procedures under which and conditions on which a public company may appeal to the Commission against a refusal of a stock exchange to list its securities;
- (g) form and contents of trust deeds of unit trusts and regulations of mutual funds;
- (h) matters relating to content of scheme particulars of unit trusts and prospectus of mutual funds;
- (i) pricing, valuation and dealing in units and shares;
- (j) reports to unit holders or shareholders in unit trusts and mutual funds;

- (k) matters relating to criteria for identification, licensing and administration of collective investment schemes other than unit trusts and Mutual Funds;
- (l) matters relating to the content of invitations to the public and the examination and approval of invitations;
- (m) matters relating to the continuing disclosure of information and forms, content, frequency and standards of financial reporting by issuers of securities;
- (n) matters relating to stock exchange and stock markets; and
- (o) generally on the management of unit trusts and mutual funds.”

4.0 **DELIBERATIONS**

The Committee was assisted in its deliberations by the Director-General of the Securities and Exchange Commission and his technical team as well as officials of both the Ministry of Finance and the Attorney-General’s Department and representatives of the major financial institutions. The Commission also organized a seminar for members of the

Committee on the concept and operations of Unit Trusts and Mutual Funds.

5.0 **OBSERVATION**

The L.I. 1695 seeks to make provision for the management of funds on behalf of investors by professional Money Managers as well as the provision of a mechanism whereby the interest and aspiration of investors are protected through licensing, enforcement, surveillance and supervision as well as imposition of sanctions.

It was observed by the Committee that, enough consultations were made with the various stakeholders and that consensus was reached before the L.I was laid before Parliament.

It also came to the notice of the Committee that, though no regulator can protect an investor from market risk, regulations have been established to help ensure that the money invested in these funds is handled professionally.

For example, the mutual fund/unit trusts assets must be held separately by a custodian/trustee. Again an independent auditor reviews and reports on the finances and practices of the funds each year.


It was also revealed that, the dealers who handle mutual fund/unit trust transactions for clients are also subject to

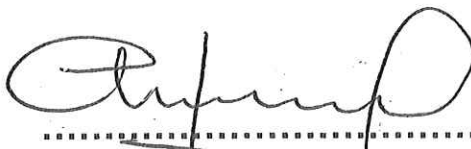
detailed rules governing their conduct. These rules are designed, among other things, to ensure that the clients are dealt with fairly and honestly in the event that the dealer becomes insolvent.

It again came to the notice of the Committee that, the Commission has a Surveillance and Monitoring unit whose responsibility is to monitor the activities of directors and the operations of the scheme so as to protect the interest of investors.

6.0 **RECOMMENDATION/CONCLUSION**

The Committee finds L.I. 1695 consistent with the Parent Act and the Constitution and accordingly recommends that, Parliament allows it to come into force with the effluxion of time.


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HON. AMOS L. BUERTEY
CHAIRMAN, COMMITTEE ON
SUBSIDIARY LEGISLATION


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ROSEMARY ARTHUR
CLERK TO THE COMMITTEE