

## **GUIDANCE NOTES FOR INTERNATIONAL TRUSTEE SERVICES PROVIDERS**

The International Corporate Service Providers Act, 2003 and the International Trust Act, 1994 lay down the standards which need to be complied with upon application and post application. These Guidance Notes are designed to assist persons holding, or applying for, a licence under the Act to provide international trustee services.

Failure to comply with these Guidance Notes will not automatically make an international trustee service provider (ITSP) liable to sanctions. However the Authority will take into account any breach of these guidance notes, which is relevant to any decision being made relating to the ITSP.

These Guidance Notes may be amended or altered from time to time.

(NOTE: "ITSPs means the International Trustee Services Providers)

### **1. Integrity**

The ITSPs shall observe the utmost good faith and act with due diligence, care, prudence and to the best of its ability and skill.

### **2. Beneficiaries' best interests**

ITSPs shall act in the best interest of the beneficiaries .

ITSPs should:

1. effectively managed and where appropriate invest or distribute trust assets subject to the trust deed and applicable laws.
2. hold custody of trust assets responsibly.
3. effectively disseminate adequate and relevant information to clients to which they are entitled to about a trust.
4. have in place a proper structures which will allow the assets of different trusts to be clearly identifiable and separate from the assets of other trusts and the assets of the ITSP.
5. establish a clear payment structure before agreeing to take on any trust.
6. inform clients that the ITSP is licenced and regulated by SIBA.
7. avoid participating in trusts where the settler expects the trustee to follow his or her instructions.
8. attend in a professionally and timely manner to the requests of the beneficiaries.

### **3. Fitness, properness and competence**

The ITSP needs to be aware of their duties, general powers and liabilities as laid down under PART IV, V and VI respectively of the International Trusts Act, 1994.

In determining the fitness and properness the following core elements will be used referencing:-

1. Honesty, integrity and reputation
2. Competence
3. Financial soundness

Under 1. and 2:-

- a) the ITSPs needs to have a clear understanding and appreciation of what is required of them as trustees and discharge their fiduciary duties in a professional manner.
- b) ensure that before a trust is set up, that the settler has been given proper legal advise and that the trust is the appropriate vehicle to meet the settlor's needs/objectives.
- c) always act in the best interests of the beneficiaries.
- d) keep all the relevant records pertaining to the trusts.
- e) ensure compliance with the provisions of the Anti-Money Laundering Act, 2006 and the Combating of the Financing of Terrorism Act.
- e) to display competency and effective management.
- f) ensure that the responsibilities of each staff are clearly defined and that the management as well as the staff have the relevant experience and qualifications, including the relevant technical skills in trusts management. This will avoid any liability incurring upon themselves, which will indirectly affect the reputation of Seychelles trusts business.
- g) have in place proper training plans.
- h) have a disaster recovery plan.

### **4. Financial soundness**

ITSPs should maintain and demonstrate, at all times, adequate financial standings so as to be able to safeguard the interests of their clients, including a suitable level of professional indemnity insurance cover, which should be of adequate level according to size of the trust(s) which the trustee ITSP is handling.

The ITSP needs to be equally solvent and in a position to meet all its liabilities they may face, including claims from clients.

*The Authority will consider arrangements under group policies or, where the ITSP or its parent or ultimate parent is of sufficient stature, for self-insurance.*