

THE PORTFOLIO MANAGER BY-LAWS, 2021¹

PART I

PRELIMINARY

Citation	1.	These By-laws may be cited as the Portfolio Manager By-laws, 2021.
Interpretation	2.	In these By-laws: a. “the Act” means the Securities Act, Chapter 83:02; and b. “the General By-laws” means the Securities (General) By-laws, 2015.
Fees schedule	3.	The fees payable under these By-laws are those set forth in Schedule I of these By-laws
Relationship to Act; By-laws	4.	The requirements set out in these By-laws apply in addition to any other requirements contained in the Act, any other By-laws or any other Guidelines.
Definitions	5.	For the purposes of these By-laws: <u>“custodian” means a person that provides custody or safekeeping of securities but does not include a sub-custodian;</u> “discretionary authority” means the general permission given to the portfolio manager to manage a portfolio of client assets, in accordance with the investment management documents, without obtaining client approval before each transaction; “independent director” means an individual who has no material relationship with the person or an entity related to the person; “investment management documents” means the investment management agreement, investment policy statement and any other document which governs how a portfolio of client assets is managed; “material relationship” means, for the purposes of the definition of independent director, a relationship which could reasonably be perceived to interfere with the exercise of a person’s independent judgment and shall be deemed to include an individual who:

¹ NOTE – For ease of reference, the additions and amendments made since the issue of the Draft Portfolio Manager By-Laws in June 2020 are shown in bold & underlined in this 2021 Draft of the By-Laws. Deletions are not shown.

		<ul style="list-style-type: none">i. has been an employee of the company within the last three years;ii. is a current employee of the company;iii. is a relative of a senior officer of the company;iv. is a senior officer of:<ul style="list-style-type: none">a. an affiliate of the company; orb. any person who beneficially owns, directly or indirectly, or exercises control or direction over voting securities of the company, or a combination of both, carrying more than ten (10) percent of the votes attached to all voting securities of the company outstanding;v. beneficially owns, directly or indirectly, or exercises control or direction over, voting securities of the company, or a combination of both, carrying ten (10) percent or more of the votes attached to all voting securities of the company outstanding; andvi. has served on the Board of the company for more than nine years from the date of their first election; <p>“non-discretionary authority” means the portfolio manager must manage a portfolio of client assets in accordance with the directions of the client and obtaining approval before each transaction;</p> <p>“portfolio manager” means a person who, pursuant to a contract or arrangement with a client, advises, directs or undertakes on behalf of the client, with or without discretionary authority, the management of a portfolio of client assets but does not include any one or combination of the following activities:</p> <ul style="list-style-type: none">a. the execution of trades on a securities market on behalf of clients; orb. the management of assets belonging to a collective investment scheme. <p>“related party” means,</p> <ul style="list-style-type: none">a. any person who–<ul style="list-style-type: none">i. beneficially owns, or exercises control or direction over, securities, which constitute in the aggregate more than thirty per cent of the
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		<p>outstanding securities of any class or series of voting securities of the registrant; or</p> <ul style="list-style-type: none">ii. would, upon the conversion or exchange of any security or the exercise of any right to convert or exchange securities into voting securities or to acquire voting securities or securities convertible or exchangeable into voting securities, beneficially own or exercise control or direction over, securities, which constitute in the aggregate more than thirty per cent of the outstanding securities of any class or series of voting securities of the registrant; or <p>b. any entity in which–</p> <ul style="list-style-type: none">i. the registrant beneficially owns, or exercises control or direction over, outstanding securities which constitute in the aggregate more than thirty per cent of the outstanding securities of any class or series of voting securities of the person; orii. the registrant, upon the conversion or exchange of any security or the exercise of any right to convert or exchange securities into voting securities or to acquire voting securities or securities convertible or exchangeable into voting securities, would beneficially own or exercise control or direction over, securities, which constitute in the aggregate more than thirty per cent of the outstanding securities of any class or series of voting securities of the person. <p>“restricted broker-dealer (portfolio manager)” means a broker-dealer registered under the Act and these By-laws, the business of which is restricted to acting as a portfolio manager;</p> <p>“soft commission” means any economic benefit that a portfolio manager receives as a result of financial transactions executed by a third-party for a portfolio of client assets managed by the portfolio manager.</p>
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PART II

GENERAL

Fiduciary Duty	6.	<p>A portfolio manager, its senior officers, employees and persons acting on its behalf shall–</p> <ol style="list-style-type: none"> a. act honestly and exercise the degree of care and diligence that a reasonably prudent person would exercise in performance of its functions; b. exercise at least the same degree of care as it exercises with respect to its own property of a similar kind, if this is a higher degree of care than that referred to in paragraph (a); c. act in the best interests of clients and, <u>give priority to the interests of clients</u> if there is a conflict between interests of clients and: <ol style="list-style-type: none"> i. its own interests, ii. <u>interests of a related party of the portfolio manager, or</u> iii. <u>interests of a person affiliated with the portfolio manager;</u> and d. comply with any other duty or obligation as may be stated under its investment management documents, the Act, the General By-laws, these By-laws and any other relevant law.
Provision of information	7.	<p>The portfolio manager shall submit or make available to the Commission any statement, document, book, record and other information relating to its portfolio management activities as may be requested by the Commission from time to time.</p>

PART III

REGISTRATION

Registration requirements	8.	<p>1. No person shall carry on business of, or hold himself out as, a portfolio manager unless the person:</p>
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for portfolio managers		<ul style="list-style-type: none"> a. is registered, or deemed to be registered, in a category of registration permitted to carry on such activities, or is otherwise exempted from registration in accordance with the Act or these By-laws; and b. where deemed registered or exempted from registration, has received written notice of the exemption from the Commission. <p>2. The categories of registration permitted to carry on the business of a portfolio manager are:</p> <ul style="list-style-type: none"> a. broker-dealer registered under the Act and approved under these By-laws; and b. restricted broker-dealer (portfolio manager), registered under the Act and these By-laws. <p>3. A broker-dealer registered under the Act may engage in or hold itself out as engaging in the business of a portfolio manager provided that the broker-dealer:</p> <ul style="list-style-type: none"> a. also meets the criteria for registration as a restricted broker-dealer (portfolio manager) as set out in By-law 11 (3)(e) to (k); and b. has been granted approval under By-law 9. <p>4. The registration of a restricted broker-dealer (portfolio manager) shall be valid for a period of one year from the date of registration or such other period as the Commission may determine.</p> <p>5. Unless otherwise specified in these By-laws, all requirements placed on a broker-dealer in the Act or General By-laws shall apply to a restricted broker-dealer (portfolio manager).</p>
Registration by the Commission	9.	<p>1. Where a broker-dealer registered under the Act, is considered by the Commission to meet the requirements set out in By-law 11(3)(e) to (j), the Commission shall approve the broker-dealer to conduct the business of a portfolio manager.</p> <p>2. Where an applicant for registration, renewal or reinstatement as a restricted broker-dealer (portfolio manager)-</p> <ul style="list-style-type: none"> a. is considered by the Commission to be fit and proper; and b. complies with the requirements of By-law 11,

		<p>the Commission shall approve the registration, renewal or reinstatement of the applicant and may in its discretion impose such terms and conditions as it thinks necessary.</p> <p>3. Notwithstanding paragraph (1) and (2), the Commission <u>shall not</u> refuse to:</p> <ul style="list-style-type: none"> a. approve the broker-dealer or restricted broker-dealer (portfolio manager) to conduct the business of a portfolio manager; or b. register, renew or reinstate the registration of an applicant, <p><u>without giving the applicant an opportunity to be heard and where the Commission refuses to register, renew or reinstate the registration of an applicant, it shall notify the applicant in writing of the reasons for so doing.</u></p>
Ongoing authorisation requirements	10.	A broker-dealer approved to conduct business as a portfolio manager or a restricted broker-dealer (portfolio manager) shall continue to meet all eligibility requirements at all times.

**PART IV
ELIGIBILITY REQUIREMENTS**

Eligibility requirements for Portfolio Managers	11.	<p>1. A broker-dealer registered under the Act who is seeking to conduct business as a portfolio manager shall:</p> <ul style="list-style-type: none"> a. meet the requirements set out in paragraph (3)(c) to (k) and apply in such form as may be determined by the Commission; and b. maintain a minimum capital requirement which is the higher of the prescribed amounts for its registerable business activities, or such other amount as the Commission may determine from time to time. <p>2. The capital requirement for a restricted broker-dealer (portfolio manager) shall be:</p> <ul style="list-style-type: none"> a. seventy-five thousand dollars, where a portfolio manager performs non-discretionary portfolio management activities; and b. one hundred and twenty-five thousand dollars where a portfolio manager performs discretionary portfolio management activities only or both discretionary and non-discretionary portfolio management activities.
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	<p>3. Every applicant for registration, renewal or reinstatement of registration as a restricted broker-dealer (portfolio manager) shall:</p> <ul style="list-style-type: none">a. be a company incorporated in Trinidad and Tobago, or incorporated in any other designated foreign jurisdiction and registered in Trinidad and Tobago as an external company under the Companies Act;b. have as its primary business an activity for which registration is required under By-law 10 of these By-laws;c. not have direct or indirect interests which may conflict with, or be likely to affect the conduct and integrity of its business as a portfolio manager;d. maintain at all times minimum capital as prescribed in paragraph (2) or satisfy such other capital requirements as the Commission may determine from time to time;e. have at least two brokering representatives in its employ who shall:<ul style="list-style-type: none">i. have a minimum of three years portfolio management-related work experience; andii. be registered with the Commission in accordance with the General By-Laws.f. establish and maintain risk management systems and controls to enable it to identify, assess, mitigate, control and monitor risks in relation to each portfolio of client assets it manages;g. have adequate and appropriate systems, procedures and processes to undertake the activities of a portfolio manager in a proper and efficient manner;h. have appropriate policies and procedures to manage any conflicts of interest which may arise;i. <u>be fit and proper;</u>j. pay such fee as may be prescribed; andk. meet such other requirements as the Commission may determine. <p>4. An application for registration under paragraph (3) shall be made on the approved form.</p> <p>5. The directors of the portfolio manager shall meet the fit and proper requirements set out in the General By-laws and possess the necessary experience for the performance of their duties.</p>
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		6. The Board of Directors of the portfolio manager shall consist of not less than one-third independent directors at all times.
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PART V
PORTFOLIO MANAGEMENT ACTIVITIES

Portfolio Management Activities	12.	<p>The permitted portfolio management activities of a portfolio manager shall include:</p> <ol style="list-style-type: none">1. In relation to the management of a portfolio of client assets, the:<ol style="list-style-type: none">i. setting the objectives of the portfolio and the associated risks;ii. determining the asset mix;iii. portfolio strategy formulation;iv. securities selection;v. monitoring <u>of the portfolio; and</u>vi. rebalancing of portfolio;2. Making investment decisions relating to the management of a portfolio of client assets;3. Providing investment advice relating to the management of a portfolio of client assets;4. Instructing a local or foreign broker-dealer to execute transactions on behalf of the client;5. Any act, instruction or conduct that is directly or indirectly in furtherance of the management of that portfolio of client assets; or6. Any other activity that the Commission may determine from time to time.
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PART VI
INTERNAL CONTROLS AND COMPLIANCE FUNCTION

<p><u>Risk management, internal controls and compliance function</u></p>	<p>13.</p>	<p>1. A portfolio manager shall establish, maintain and implement <u>a risk management function and a</u> system of controls and supervision sufficient to:</p> <ul style="list-style-type: none"> a. provide reasonable assurance that it and each individual acting on its behalf, complies with the investment management documents, the Act, the General By-laws and these By-laws; and b. manage the risks associated with its business in accordance with prudent business practices. <p>2. The system of controls required under paragraph (1) shall <u>be documented in the form of written policies and procedures; and shall include, but not be limited to:</u></p> <ul style="list-style-type: none"> a. processes to assess client suitability and the frequency in which the assessment is updated; b. risk management <u>processes</u> to enable it to identify, assess, mitigate, control and monitor risks in relation to its business activities; and c. sound liquidity risk management processes taking into account normal and stressed market conditions. <p>3. A portfolio manager shall establish a compliance function that shall be responsible for:</p> <ul style="list-style-type: none"> a. <u>ensuring the development, maintenance and review of</u> compliance procedures <u>and internal controls</u> for each area of the operations of the portfolio manager; b. establishing and maintaining policies and procedures for assessing compliance by the portfolio manager, and individuals acting on its behalf, with the investment management documents, the Act, the General By-laws and these By-laws; c. monitoring and assessing compliance by the portfolio manager, and individuals acting on its behalf, with the investment management documents, the Act, the General By-laws and these By-laws; d. preparing compliance reports which detail <u>any</u> compliance issues relating to each area of the operations of the portfolio manager;
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	<ol style="list-style-type: none">4. <u>Compliance reports</u> referred to in paragraph (3)(d) shall be <u>submitted to</u> the Board of Directors <u>or its relevant sub-committee.</u>5. <u>Where findings in the compliance reports identify material non-compliance with any of the investment management documents, the Act, the General By-laws or these By-laws, the portfolio manager shall notify the Commission within seven days of becoming aware of the material non-compliance.</u>6. <u>The notification required in paragraph (5) shall include:</u><ol style="list-style-type: none">a. <u>A description of the material non-compliance;</u>b. <u>The date on which the material non-compliance occurred;</u>c. <u>The date on which the portfolio manager became aware of the material non-compliance; and</u>d. <u>The corrective actions taken or to be taken, including timeframes.</u>7. <u>The compliance function referred to in paragraph (3) may be carried out by a suitably qualified:</u><ol style="list-style-type: none">a. <u>senior officer;</u>b. <u>employee or combination of employees; or</u>c. <u>third-party, whether an individual or an entity.</u>8. <u>Subject to paragraph (9), the portfolio manager shall determine and document the relevant criteria used to assess whether a person identified in paragraph (7) is suitably qualified.</u>9. <u>The Commission may in writing require the portfolio manager to amend the criteria used to assess suitability of the persons identified in paragraph (7) within such time as it may specify.</u>10. <u>A portfolio manager that is required to amend the criteria for suitability of the persons identified in paragraph (7) shall –</u><ol style="list-style-type: none">a. <u>amend these requirements within the time specified by the Commission; and</u>b. <u>where necessary, ensure that suitable persons meeting the amended criteria perform the compliance function.</u>
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Internal controls audit	14.	<p>1. <u>A portfolio manager may have its internal controls and processes assessed and verified by an auditor in such frequency as determined by the portfolio manager after considering, <i>inter alia</i>, the scale and scope of its operation.</u></p> <p>2. The assessment required in paragraph (1) shall:</p> <ol style="list-style-type: none"> a. be commensurate with the <u>size</u>, nature and scope of operations of the portfolio manager; b. allow the auditor to report on the adequacy, effectiveness and efficiency of the management, operations, risk management and internal controls of the portfolio manager; and c. be performed by an internal auditor or external auditor.
	15.	<p>Where the assessment required in By-law 14 is performed by an internal auditor of the portfolio manager, that function, <i>inter alia</i>, shall:</p> <ol style="list-style-type: none"> a. be free from operating responsibilities, with a direct line of communication to the Board of Directors or the audit committee of the Board, as applicable; b. follow clearly defined terms of the internal audit framework which sets out the scope, objectives, approach and reporting requirements; c. adequately plan, control and record all audit work performed, and record the findings, conclusions and recommendations; and d. highlight matters of concern in the audit report to the Board of Directors, or <u>its relevant sub-committee</u>, which shall be resolved satisfactorily in a timely manner.
Functional separation – <u>Group companies</u>	16.	<p>Where a portfolio manager is part of a group of companies which undertake other financial activities, such as advising on corporate finance, banking or brokering, or carries on one or more of these activities itself, it shall <u>as far as possible</u> ensure that there is an effective system of functional and physical barriers in place to prevent the flow of confidential or price sensitive information between the different areas of operations.</p>
<u>Functional separation - Internal</u>	17.	<p>1. <u>A portfolio manager shall ensure that key activities are appropriately segregated and carried out by different staff with separate reporting lines.</u></p> <p>2. <u>For the purposes of paragraph (1):</u></p>

		<p>a. <u>“key activities” shall include, but are not limited to:</u></p> <ul style="list-style-type: none"> i. <u>risk management and compliance functions;</u> ii. <u>internal audit function;</u> iii. <u>portfolio management activities;</u> iv. <u>activities related to the management of the client relationship, the administration of the portfolio of client assets or its equivalent;</u> v. <u>activities related to the execution, clearing or settlement of trades; or</u> vi. <u>such other activities as determined by the Commission;</u> <p>b. <u>In assessing whether the key activities are appropriately segregated the portfolio manager shall consider, among other things, whether there is-</u></p> <ul style="list-style-type: none"> i. <u>functional separation;</u> ii. <u>hierarchical separation; and</u> iii. <u>physical separation, where applicable.</u>
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**PART VII
CONTINUOUS DISCLOSURE**

Maintenance of financial statements	18.	The financial statement requirements in the Act and General By-laws for a registrant registered under section 51 (1) of the Act shall apply to a restricted broker-dealer (portfolio manager).
	19.	A portfolio manager shall ensure that its financial records and the records for any portfolio of client assets are available for inspection by the auditor and the Commission upon request.
Filing of material filed abroad	20.	<p>1. The portfolio manager shall file with the Commission all other information or documents regarding a portfolio of client assets that is filed with, or delivered to:</p> <ul style="list-style-type: none"> a. a government of another jurisdiction; b. a financial regulator of another jurisdiction; or c. a securities exchange of another jurisdiction,

		<p>in accordance with that jurisdiction’s applicable law or the rules or regulations of that securities exchange, if such information has not otherwise been required to be filed with the Commission under the Act or these By-laws.</p> <p>2. Any document or information required to be filed under paragraph (1) shall be filed with the Commission forthwith after the portfolio manager sends the information referred to in paragraph (1) to the foreign government, regulator or stock exchange.</p> <p>3. Information that is filed with the Commission pursuant to this By-law and that has been filed on a confidential basis in all other jurisdictions in which it was filed, shall be kept confidential so long as it remains confidential in all those other jurisdictions.</p>
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**PART VIII
BOOKS AND RECORDS**

General obligation	21.	<p>A portfolio manager shall maintain records to:</p> <ul style="list-style-type: none"> a. accurately record its business activities, financial affairs, client transactions; b. demonstrate compliance with investment management documents, the Act, the General By-laws and these By-laws; and c. demonstrate compliance with the suite of anti-money laundering, combatting of terrorist financing and proliferation financing legislation.
Portfolio manager records	22.	<p>1. In addition to the record-keeping requirements set out in the Act and General By-laws for broker-dealers, a portfolio manager shall maintain such records:</p> <ul style="list-style-type: none"> a. as are necessary to enable a complete and accurate view of a portfolio of client assets; b. as are necessary to enable a complete and accurate view of the portfolio manager’s operations and financial position; and c. in a manner that permits it to be provided promptly to the Commission. <p>2. The records to be maintained by a portfolio manager for each portfolio of client assets shall:</p>

		<ul style="list-style-type: none">a. demonstrate compliance with its policies and procedures, including internal control procedures regarding its portfolio management activities;b. permit the identification and segregation of client assets of all kinds;c. identify all transactions conducted on behalf of each client, including the parties to the transaction and the terms of purchase or sale;d. provide an audit trail for:<ul style="list-style-type: none">i. instructions and orders; andii. each trade transmitted or executed for the portfolio of client assets or the portfolio manager;e. permit the creation of activity reports for each portfolio of client assets;f. demonstrate compliance with client account opening requirements;g. document correspondence and other communication with clients;h. document compliance and supervisory actions taken by the portfolio manager;i. demonstrate compliance with the portfolio manager's obligations under the Act, the General By-laws and these By-laws; andj. demonstrate compliance with the portfolio manager's obligations under the suite of anti-money laundering, counter terrorism financing and proliferation financing legislation.
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**PART IX
CONFLICTS OF INTEREST**

<p>General duties regarding conflicts</p>	<p>23.</p>	<p>1. A portfolio manager shall establish, maintain and implement written policies and procedures to identify, avoid, mitigate and manage conflicts of interest.</p> <p>2. Where a conflict cannot be avoided and if interests of clients can be sufficiently protected, the conflict shall be disclosed, managed and minimised by appropriate safeguards.</p> <p>3. The policies and procedures required by paragraph 2 shall include, but are not limited to:</p> <ul style="list-style-type: none"> a. personal dealing in securities by managing directors and employees (employee trading); b. company’s sale of own products; c. warranty of cash or non-cash benefits; d. equal access to all suitable investment opportunities for all clients; e. collaboration with closely associated parties; f. allocating the cost of errors between the portfolio manager and clients; g. performance-related remuneration of managers, employees and agents; h. insider information; i. inducements; and j. disclosure to clients.
	<p>24.</p>	<p>1. A portfolio manager shall ensure that <u>its interests, or the interests of any related party of portfolio manager,</u> do not supersede the interests of clients.</p> <p>2. Due care shall be exercised in selecting brokers, bankers or other parties to ensure that they are suitably qualified in the circumstances.</p>
	<p>25.</p>	<p>The requirements relating to the conflict of interest rules statement in the General By-laws for a registrant registered under section 51 (1) of the Act shall apply to a restricted broker-dealer (portfolio manager).</p>
<p>General disclosure obligations</p>	<p>26.</p>	<p>1. A portfolio manager shall disclose its policies on dealing with conflict of interest situations and the safeguards that are in place to protect interests of clients.</p>

		<p>2. The disclosure required in paragraph (1) shall be included in the onboarding package for clients.</p>
<p><u>Proprietary trading and trading by officers and agents of the portfolio manager</u></p>	<p>27.</p>	<p>1. <u>A portfolio manager shall establish, implement and maintain policies and procedures for:</u></p> <p>a. <u>its proprietary trading in securities; and</u></p> <p>b. <u>for personal trading by its senior officers, agents and employees.</u></p> <p>2. <u>With regard to paragraph 1(b), such policies and procedures shall include:</u></p> <p>a. <u>requirements to disclose all direct and indirect interests in securities, other assets including alternative products or any interests in a special purpose vehicle arrangement at the time of joining the portfolio manager;</u></p> <p>b. <u>requirements to notify the portfolio manager of any change to their interests in securities within five (5) days of the change;</u></p> <p>c. <u>suitable requirements for pre-clearance of personal trades.</u></p> <p>d. <u>requirements to maintain records of the disclosures made by persons under this by-law.</u></p> <p>3. <u>Indirect interests in securities refer to those securities which are beneficially owned by a person referred to in paragraph 1(b) and include those held through nominees or by relatives of individuals referred to in paragraph 1(b).</u></p> <p>4. <u>The records maintained under this by-law shall be made available for inspection by the Commission on request.</u></p>
<p>Recusal</p>	<p>28.</p>	<p>Members of the board of directors, or its relevant sub-committee, of the portfolio manager shall recuse themselves from meetings where their participation may raise a conflict or potential conflict of interest issue/s.</p>
<p>Rebates and soft commission</p>	<p>29.</p>	<p>1. A portfolio manager shall maintain a register of the details of any soft commission accepted or received.</p> <p>2. A portfolio manager shall disclose to the respective client, the value of any soft commission received as soon as practicable upon accepting or receiving the soft commission.</p>

Underwriting	30.	<u>In managing a portfolio of client assets, a portfolio manager shall not invest in a primary issue of a security, where any related party of the portfolio manager is the underwriter of that security, unless prior written consent has been obtained from the client.</u>
Transactions with any <u>related party of</u> a portfolio manager - general duty	31.	<ol style="list-style-type: none"> 1. Any transaction, trade, investment, or appointment with any <u>related party of</u> the portfolio manager shall be made on terms which are the <u>best available at that time</u> for the portfolio manager’s clients and which are no less favourable to the clients than an arm’s length transaction between independent parties. 2. Without limiting the generality of paragraph (1), all transactions with a related party that are: <ol style="list-style-type: none"> a. brokerage transactions, shall take place at a commission rate no higher than <u>the ordinarily applicable rate for such transactions;</u> and b. cash deposits, shall receive interest at a rate not lower than the prevailing commercial rate for a deposit of that size and term.
	32.	<ol style="list-style-type: none"> 1. Where in the management of a portfolio of client assets, a portfolio manager proposes to engage in a transaction with any related party, it shall obtain prior written consent of the client. 2. For the purpose of paragraph (1), the portfolio manager shall disclose to the client: <ol style="list-style-type: none"> a. the identity of the related party; b. the relationship of the related party to portfolio manager; c. the purpose of the transaction; d. any ongoing commitment to the related party; and e. the basis on which any compensation to the related party was calculated. 3. <u>Every portfolio manager shall prepare and file annually with the Commission, a report detailing the</u> nature of transactions referred to in paragraph (1) and the total compensation and other quantifiable benefits received by such related <u>parties.</u> 4. <u>The report specified in paragraph (3) shall:</u> <ol style="list-style-type: none"> a. <u>contain the information set out in paragraph (2) for the financial year of the portfolio manager; and</u> b. <u>be filed with the Commission at the time that it files its audited financial statements.</u>

**PART X
CONDUCT OF BUSINESS**

Duty of care	33.	<p>A portfolio manager shall, in the conduct of its business:</p> <ol style="list-style-type: none"> a. individually and independently manage a portfolio of client assets in accordance with the investment management document; b. render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment; and c. observe high standards of integrity and fairness in all dealings with clients and other portfolio managers.
	34.	<p>1. A portfolio manager shall:</p> <ol style="list-style-type: none"> a. ensure that clients are provided with true and adequate information without making any misleading or exaggerated claims and are made aware of attendant risks before any investment decision is taken by them; b. render the best possible advice to the client having regard to the client's needs and the environment, and his own professional skills; and c. ensure that all professional dealings are effected in a prompt, efficient and cost effective manner.
Segregation of client assets	35.	<p>Every portfolio manager shall ensure that each portfolio of client assets is segregated and kept separately from the portfolio manager's own funds and securities.</p>
Use of <u>independent</u> custodian	36.	<ol style="list-style-type: none"> 1. <u>Client securities managed by a portfolio manager shall be held by one or more independent custodians in:</u> <ol style="list-style-type: none"> a. <u>a separate account for each client under the name of the client; or</u> b. <u>in an account that only contains client securities under the name of the portfolio manager as agent or trustee for its clients.</u> 2. <u>Where a foreign jurisdiction allows the security to be held in the name of the custodian or sub-custodian, the security shall be permitted to be held in that manner.</u> 3. <u>Where client securities are held as described in paragraph (1)(b), the investment management agreement shall contain the</u>

		<p><u>necessary authorisation to permit the portfolio manager to act as agent or trustee of the client.</u></p> <p>4. <u>A portfolio manager shall, at minimum on a monthly basis, perform reconciliations of its records for a portfolio of client assets against custodian records of the client holdings.</u></p> <p>5. <u>In assessing independence for the purposes of this By-law, the Commission shall consider, among other things:</u></p> <p>a. <u>the group and corporate structure of the custodian and the portfolio manager;</u></p> <p>b. <u>where the portfolio manager and custodian are bodies corporate having the same ultimate holding company, whether:</u></p> <p>i. <u>the ultimate holding company is a company regulated by a securities regulator, banking regulator or financial services regulator or its equivalent in Trinidad and Tobago or any other designated foreign jurisdiction;</u></p> <p>ii. <u>any of the companies is a subsidiary of the other;</u></p> <p>iii. <u>any person is a senior officer of more than one of the companies;</u></p> <p>iv. <u>the custodian functions are performed by personnel who act independently from personnel at the portfolio manager;</u></p> <p>v. <u>there are systems and controls in place at each company to ensure the independence of personnel carrying out custodian functions from those carrying out the functions of the portfolio manager; and</u></p> <p>vi. <u>the custodian and portfolio manager have delivered to the Commission a signed undertaking that they will act independently of each other in their dealings with the client;</u> <u>and</u></p> <p>c. <u>such other conditions as the Commission may determine.</u></p>
Investments within portfolio mandates	37.	A portfolio manager shall have reasonable and adequate basis in setting the investment policy, making investment recommendations and facilitating transactions for a portfolio of client assets.

	38.	A portfolio manager shall not recommend securities for a portfolio of client assets, if the portfolio manager does not understand the structure, pricing mechanism and nature of the underlying assets, as applicable, of such products.
	39.	A portfolio manager shall ensure that the investment recommendations and transactions are consistent with objectives, limitations, restrictions stated in the investment management documents between the client and the portfolio manager.
Best execution	40.	All transactions facilitated on behalf of a client shall be at arm's length terms and executed on the best available terms.
	41.	A portfolio manager must comply with all requirements relating to client monies set out in the Act and General By-laws.
<u>Proprietary trading by portfolio manager</u>	42.	1. A portfolio manager, in its proprietary account, shall not execute any trade against the interest of the clients.
Order allocation	43.	A portfolio manager shall implement and maintain policies and procedures which: <ul style="list-style-type: none"> a. ensure that all orders on behalf of portfolios of client assets are allocated fairly; b. require that the intended basis of allocation is recorded before a transaction is effected; c. ensure that an executed transaction is allocated promptly in accordance with the intended allocation; and d. where the portfolio manager is unable to facilitate the intended allocation in paragraph (c): <ul style="list-style-type: none"> i. require clearly documented reasons for the re-allocation; and ii. ensure that the revised allocation does not handicap the portfolio of client assets.
Investment restrictions	44.	1. A portfolio manager shall comply with the client's investment management documents in the management of a portfolio of client assets. 2. In addition to paragraph (1), a portfolio manager shall comply with such other requirements that the Commission may impose on portfolio managers as it may determine from time to time.

Investment management agreement	45.	The portfolio manager shall, before managing for a portfolio of client assets, enter into an agreement in writing with such client clearly defining the <i>inter se</i> relationship, and setting out their mutual rights, liabilities and obligations and contain the details as specified in By-law 46.
	46.	<p>1. The agreement between the portfolio manager and the client shall, <i>inter alia</i>, <u>include information related to:</u></p> <ul style="list-style-type: none"> a. the investment objectives and the services to be provided; b. areas of investment and restrictions, if any, imposed by the client with regard to the investment in a particular company or industry; c. type of instruments and proportion of exposure; d. tenure of portfolio investments; e. terms for early withdrawal of cash or securities by the clients; f. attendant risks involved in managing the portfolio client assets; g. period of the contract and provision for early termination, if any; h. amount to be invested subject to the restrictions provided under these regulations; i. procedure of settling a portfolio of client assets including the form of repayment on maturity or early termination of contract; j. fees payable to the portfolio manager; k. the quantum and manner of fees payable by the client for each activity for which service is rendered by the portfolio manager directly or indirectly (where such service is out sourced); l. custodian of securities; <u>m. the discretion the portfolio manager has over the portfolio of client assets and any associated restrictions in the exercise of such discretion;</u> <u>n. the authority or approval of the portfolio manager to maintain client securities or client funds in an account at a custodian in the name of the portfolio manager as agent or trustee of the client;</u> o. in the case of a portfolio manager with discretionary authority, a condition that the liability of a client shall not exceed his investment managed by the portfolio manager; p. the terms of accounts and audit as well as the furnishing of the reports to the clients as per the provisions of these regulations; <p>and</p>

		<p>q. other terms of portfolio investment subject to these regulations.</p> <p>2. <u>Notwithstanding paragraph (1) above, it is permissible for the portfolio manager to include, where applicable, paragraphs 1(a) to 1(h) in an investment portfolio statement or its equivalent.</u></p> <p>3. <u>The investment portfolio statement or its equivalent shall form part of the agreement mentioned paragraph (1).</u></p>
Fees payable by clients	47.	<p>Provided that no up-front fees are charged by the portfolio manager directly or in-directly while handling the portfolio of client assets:</p> <p>a. the portfolio manager shall charge the client an agreed fee for performing portfolio management activities without guaranteeing or assuring, either directly or indirectly, any return; and</p> <p>b. the fee, referred to in paragraph (1)(a), may be a fixed fee or a return-based fee or a combination of both.</p>
	48.	<p>The portfolio manager shall ensure that the terms and conditions set out in the written agreement required in By-law 46 are:</p> <p>a. in compliance with the requirements of the Act, the General By-laws and these By-laws; and</p> <p>b. include such information and terms as the Commission may require.</p>
Use of undue influence	49.	<p>The portfolio manager shall not use its status as any other registered intermediary to unduly influence the investment decision of the clients while performing portfolio management activities.</p>

**PART XI
OUTSOURCING**

Outsourcing of functions	50.	<p>1. A portfolio manager may outsource any of its activities to a third party provided that the portfolio manager complies <u>with</u> requirements in this Part.</p> <p>2. Notwithstanding paragraph (1), a portfolio manager is prohibited from outsourcing any activity involved in:</p> <p>a. making, or the process of making, investment decisions relating to the management or administration of a portfolio of client assets; or,</p>
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	<p>51.</p>	<ol style="list-style-type: none"> 1. Outsourcing to third parties does not relieve the portfolio manager from the responsibility for proper conduct of the outsourced activities. 2. A portfolio manager shall be responsible for the actions and omissions of its service provider as though they were its own actions and omissions.

Disclosure of outsourcing to clients	52.	A portfolio manager shall disclose the identity and status of third parties acting on its behalf in the clients’ investment management documents.
	53.	<p>A portfolio manager shall have adequate policies and procedures in place to:</p> <ol style="list-style-type: none"> a. ensure the accuracy of information received from the third party; b. ensure that the function outsourced is performed in a proper and efficient manner; c. monitor and manage any conflict of interest that may arise with the third party to which functions are outsourced; d. ensure compliance with the offering and constituent documents, the Act, the General By-laws and these By-laws; e. ensure it can provide any statement, document, book, record or other information relating to portfolio of client assets requested by the Commission under By-law 7 including instances where the requested information is to be provided by a third party; and f. monitor the conduct, service delivery, performance reliability and processing capacity of the third party, including but not limited to the following: <ol style="list-style-type: none"> i. periodic review and update of the service level agreement; and ii. holding regular meetings to discuss performance of the service provider, sub-contractor and regulatory matters.
Due care	54.	A portfolio manager shall always act in the interest of the clients in appointing a third-party service provider.
Due diligence on selection	55.	<p>A portfolio manager that intends to outsource any function to third parties shall ensure that the third party:</p> <ol style="list-style-type: none"> a. is duly licensed or authorised by a regulatory authority where such licensing or authorisation is required to carry on the third party’s activities; b. has adequate financial resources to conduct the function; c. has sufficient experience in the performance of the function; d. has adequate and appropriate human resources, systems, procedures and processes to carry out the function

		<p>including compliance with applicable requirements and policies and procedures on internal controls;</p> <p>e. has suitable policies and procedures for preventing abuse of confidential information of clients;</p> <p>f. has suitable policies and procedures in place to manage any conflict of interest;</p> <p>g. has no present or potential litigation proceedings that may have a potential impact on its performance of the outsourced function;</p> <p>h. has a suitable business continuity plan; and</p> <p>i. meets such other criteria that the Commission may determine.</p>
<u>Content of third-party service agreements</u>	56.	<p>The service agreement between a portfolio manager and a third party shall:</p> <p>a. address the requirements set out in By-law 53 and 55;</p> <p>b. include provisions granting the portfolio manager powers of examination and/or inspection to ensure that the third party is in compliance with the applicable requirements of the service documents of the portfolio manager, the Act, the General By-laws and these By-laws;</p> <p>c. include provisions requiring the third party to provide any relevant statement, document, book, record or other information relating to the service provided by the third party so that the portfolio manager may satisfy a request made by the Commission under By-law 7; and</p> <p>d. include such other information and terms as the Commission may determine.</p>
Performance assessment	57.	<p>1. A portfolio manager shall perform an annual assessment of the performance of each respective third-party detailing:</p> <p>a. the adherence by the third party to the criteria specified under By-law 53 and 55; and</p> <p>b. any new risk arising from the outsourcing arrangement and strategies for managing such risk.</p> <p>2. A report on the assessment referred to in paragraph (1) shall be submitted to the Board of Directors of the portfolio manager.</p> <p>3. Upon request by the Commission, any report referred to in paragraph (2) shall be submitted to the Commission.</p>

Date of issue – 22nd March 2021

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SCHEDULE I
FEE SCHEDULE

<i>Registration and Renewal Fees for Registrants</i>		
	Initial	Renewal
Broker-Dealer also conducting business of a portfolio manager	\$30,000	\$30,000
Broker-Dealer also conducting business of a portfolio manager and an Underwriter	\$30,000	\$30,000
Restricted Broker-Dealer (Portfolio Manager)	\$20,000	\$20,000
Brokering Representative (Portfolio Manager) – per individual	\$2,000	\$2,000