



Subject FSRA Foreign Funds Guideline: Regulatory Impact Assessment

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1. INTRODUCTION

The Foreign Schemes Guidelines, 2026, issued by the Financial Services Regulatory Authority (FSRA), constitute a significant regulatory reform in Eswatini's securities market, aimed at strengthening the governance, supervision, and investor protection framework applicable to foreign collective investment schemes offered within the Kingdom.

The increasing integration of Eswatini's financial system into global capital markets has resulted in a growing presence of offshore investment products marketed to domestic investors. Foreign collective investment schemes offer important benefits, including portfolio diversification, access to international markets, and exposure to a wider range of asset classes. However, these benefits are accompanied by heightened regulatory, legal, and consumer protection risks arising from cross-border operations, differing legal systems, and varying supervisory standards.

This Regulatory Impact Analysis (RIA) is prepared in line with FSRA's commitment to evidence-based regulation, transparency, and accountability. It serves as a structured assessment of the need for the Foreign Schemes Guidelines, 2026, and evaluates their anticipated legal, economic, administrative, social, and environmental impacts.

The RIA is intended to:

- a. assess the regulatory and market failures necessitating the Guidelines;
- b. articulate the policy objectives pursued by the Authority;
- c. evaluate regulatory options considered;
- d. ensure coherence and alignment with domestic legislation; and
- e. benchmark the regulatory approach against international best practices, particularly the principles of the International Organization of Securities Commissions (IOSCO).

2. PHASE I: LEGAL AUTHORITY FOR THE DEVELOPMENT OF THE GUIDELINES

The Foreign Schemes Guidelines, 2026 are issued under:

- a. Section 5 of the Securities Act, 2010, mandating the Registrar or the FSRA to regulate and supervise the securities market;
- b. Section 70(2)(f) of the Securities Act, empowering the Registrar to regulate foreign collective investment schemes; and
- c. Section 33 of the FSRA Act, 2010, authorising the issuance of binding guidelines.

The Guidelines operationalise these statutory provisions by prescribing substantive requirements for authorisation, governance, disclosure, reporting, enforcement, and market exit of foreign schemes.

3. PHASE II: DESCRIPTION OF THE PROBLEM

Foreign collective investment schemes have become a material component of Eswatini's investment landscape, often accessed through local asset managers, pension funds, and investment advisers. These schemes manage substantial volumes of domestic savings and are increasingly marketed to retail investors seeking international exposure.

Despite their growing significance, the regulatory framework governing foreign schemes has historically been limited. While the Securities Act, 2010 provides foundational authority for the regulation of collective investment schemes and recognises foreign schemes, it does not prescribe a detailed operational framework for their authorisation, supervision, ongoing compliance, or orderly exit.

- a. Fragmented Regulatory and Supervisory Framework: The absence of a dedicated guideline resulted in fragmented oversight, relying on general statutory provisions and *ad hoc* supervisory practices. Key regulatory elements such as eligibility criteria, disclosure expectations, local accountability, reporting obligations, and exit procedures were either undefined or inconsistently applied. This fragmentation creates legal uncertainty for market participants and constrained FSRA's ability to exercise effective, risk-based supervision in terms of its mandate.
- b. Inadequate Investor Protection: Investors in foreign schemes are frequently exposed to opaque fee structures, unfamiliar legal regimes, currency risk, redemption delays, and limited access to complaint resolution mechanisms. Disclosure documents were often drafted to meet foreign regulatory requirements without sufficient adaptation to the Eswatini market. The absence of specific advertising and disclosure rules heightened the risk of mis-selling, particularly to retail investors with limited experience of offshore investment products.
- c. Limited Supervisory Visibility and Redress Mechanisms: FSRA lacked reliable, standardised information on the scale, distribution, and risk exposure of foreign schemes operating in the market. There were no uniform reporting requirements, no mandatory maintenance of local investor registers, and no structured mechanism for notifying the Authority of material events such as suspension of dealings, regulatory enforcement in home jurisdictions, or scheme termination. Investors and executors faced significant practical barriers when seeking redress or accessing invested funds upon death or incapacity.
- d. Misalignment with Regional and International Practice: Regional comparator jurisdictions, including South Africa and Mauritius, have adopted comprehensive foreign CIS regimes grounded in IOSCO principles and regulatory equivalence tests. Eswatini's absence of a comparable framework risked regulatory arbitrage, investor harm, and diminished credibility within the regional financial ecosystem.

4. PHASE III: POLICY OBJECTIVES

The Foreign Schemes Guidelines, 2026 are designed to address the structural and supervisory deficiencies identified above through the following policy objectives:

Strengthening Legal and Regulatory Certainty: To establish a coherent, transparent, and enforceable framework governing the entry, operation, supervision, and exit of foreign collective investment schemes in Eswatini.

- a. Enhancing Investor Protection and Market Integrity: To ensure that investors in foreign schemes receive protections equivalent to those available under domestic collective investment scheme regulation, including transparent disclosures, fair marketing practices, and accessible local representation.
- b. Improving Supervisory Effectiveness: To equip FSRA with ongoing supervisory tools, including reporting, notification, and enforcement mechanisms, enabling proactive oversight and early regulatory intervention.
- c. Alignment with International Standards: To align Eswatini's regulatory framework with IOSCO principles on cross-border collective investment regulation and regulatory cooperation, thereby enhancing international credibility and facilitating supervisory collaboration.

5. PHASE IV: ASSESSED OPTIONS AND EVALUATION

Option 1: Maintain the Status Quo: Maintaining the existing framework would preserve regulatory gaps, inconsistent investor protection, and limited supervisory visibility. Investors would remain exposed to cross-border risks without effective safeguards, and FSRA's statutory mandate would remain constrained. This option was rejected as inadequate and unsustainable.

Option 2: Enactment of the Foreign Schemes Guidelines, 2026 (Preferred Option): This option introduces a comprehensive, enforceable regulatory framework tailored to the risks posed by foreign schemes. It consolidates fragmented provisions, establishes clear authorisation and conduct standards, and introduces structured reporting and exit mechanisms. This option was adopted as it best achieves the stated policy objectives proportionately and effectively.

6. PHASE V: GROUPS LIKELY TO BE AFFECTED

The Guidelines will affect:

- a. Foreign collective investment schemes and their managers;
- b. Local representatives appointed in Eswatini;
- c. Licensed investment advisers and asset managers distributing foreign schemes;
- d. Investors (retail and institutional);
- e. The Financial Services Regulatory Authority (FSRA) as the Regulator of Non-Bank Financial Services Providers.

7. PHASE VI: ENFORCEMENT STRATEGY

The Authority will implement a risk-based enforcement strategy designed to promote compliance, deter misconduct, and protect the integrity and stability of the regulated sector. This approach recognises that not all regulated entities pose the same level of risk and therefore applies supervisory and enforcement measures proportionately, according to the nature, scale, complexity, and risk profile of each entity.

Enforcement will begin at the point of market entry through robust pre-authorisation scrutiny. Prior to granting approval, the Authority will carefully assess applications to ensure that prospective entities meet all legal, prudential, and governance requirements. This will include evaluating the fitness and probity of key persons, the adequacy of financial resources, and the effectiveness of proposed governance and risk management structures. Where potential risks are identified, the Authority may impose conditions, require enhanced controls, or decline authorisation in order to prevent unsuitable or high-risk entities from entering the market.

Once authorised, entities will be subject to ongoing reporting and monitoring. The Authority will require regular submission of regulatory returns, financial information, and compliance reports, which will be analysed to identify emerging risks or patterns of non-compliance. Monitoring outcomes will inform the Authority's risk assessment and determine the level of supervisory engagement required. This continuous oversight enables early intervention where weaknesses or deteriorating conditions are detected.

In addition to routine reporting, regulated entities will be required to notify the Authority promptly of any material or significant events that may affect their risk profile or regulatory standing. Such events may include changes in ownership or management, significant operational or financial incidents, or breaches of regulatory requirements. The Authority will assess each notification to determine its impact and may respond with targeted supervisory actions or enforcement measures where necessary.

Supervision will be conducted through a combination of offsite and onsite activities. Offsite supervision will involve the review and analysis of submitted data, policies, and reports, while onsite inspections will allow the Authority to assess actual practices, governance arrangements, and compliance with regulatory obligations. Onsite visits will be prioritised based on risk assessments, thematic concerns, or specific determination, with findings communicated clearly and accompanied by required remedial actions and timelines.

Where non-compliance is identified, the Authority will employ a graduated range of administrative enforcement measures that are proportionate to the seriousness and frequency of the breach. These measures may include directives, warnings, administrative penalties, restrictions on business activities, or cancellation of licences. Enforcement actions will be applied consistently and in accordance with due process, with escalation occurring in cases of persistent, serious, or wilful misconduct.

In circumstances where an entity exits the market voluntarily or as a result of regulatory action, the Authority will oversee a supervised and orderly market exit process in terms of the FSRA Act. Entities will be required to implement approved winding down or exit plans that ensure the protection of consumers, the settlement of outstanding obligations, and the proper retention of records. The Authority will monitor these processes to minimise disruption and prevent harm to affected stakeholders. It must be pointed out that the Authority has developed Curatorship and Liquidation rules that will be used in the event of exit or winding-up of entities.

Overall, the enforcement strategy is intended to be preventative, responsive, and deterrent in nature. By combining early intervention, ongoing supervision, and proportionate enforcement measures, the Authority aims to foster a culture of compliance while safeguarding the stability, integrity, and orderly functioning of the regulated market.

8. PHASE VII: IMPACT ANALYSIS BY THE AUTHORITY – LEASE ANALYSIS:

The Foreign Schemes Guidelines, 2026 constitute a significant regulatory reform in Eswatini's securities market, particularly in the oversight of cross-border collective investment activity. By introducing a structured framework for the authorization, offering, supervision, and orderly exit of foreign collective investment schemes, the Guidelines are expected to generate wide-ranging impacts across legal, economic, administrative, social, and environmental dimensions. This section provides a detailed assessment of those impacts, taking into account both the regulatory benefits and the implementation considerations associated with the Guidelines.

8.1. Legal Impact

The legal impact of the Foreign Schemes Guidelines, 2026 is substantial and foundational. The Guidelines give practical and operational effect to the powers conferred upon the Financial Services Regulatory Authority by sections 5 and 70 of FSRA Act and the Securities Act, respectively. While the Acts (especially Section 70 of the Securities Act) recognise foreign collective investment schemes and subjects them to authorization, it does not prescribe the conditions, processes, or standards applicable to such schemes. The Guidelines fill this legal gap by establishing enforceable rules that clarify the regulatory status of foreign schemes operating or being offered in Eswatini.

By codifying authorization requirements, eligibility criteria, and ongoing obligations, the Guidelines strengthen legal certainty for foreign managers, local representatives, investment advisers, and investors. Market participants now have clear guidance on what constitutes lawful offering of a foreign scheme, the documentation required, and the conditions under which approval may be granted, suspended, or cancelled. This reduces ambiguity, limits discretionary interpretation, and lowers the risk of regulatory arbitrage.

The mandatory appointment of a local representative introduces a critical legal nexus between foreign schemes and the Eswatini legal system. This enhances enforceability by ensuring that there is a locally accountable entity capable of accepting service of legal process, facilitating dispute resolution, and discharging investor-related obligations such as estate administration. In doing so, the Guidelines improve access to justice and strengthen investor rights in cross-border investment arrangements.

Furthermore, the Guidelines are aligned with international legal norms through their reliance on IOSCO principles, regulatory equivalence assessments and/or benchmarking with foreign regulators. This alignment improves the legal credibility of Eswatini's regulatory framework and supports cross-border supervisory cooperation. Overall, the legal impact of the Guidelines

is strongly positive, as they close long-standing regulatory gaps and place foreign schemes on a clear, enforceable legal footing.

8.2. Economic Impact

The Foreign Schemes Guidelines, 2026 are expected to have mixed but ultimately positive economic effects on the securities market and the broader financial system. In the short term, foreign schemes and their local representatives will incur compliance costs associated with authorization fees, levies, reporting obligations, disclosure enhancements, and governance arrangements. These costs may marginally increase the operational expense of offering foreign schemes in Eswatini and may discourage marginal or poorly regulated schemes from entering the market.

However, these costs are proportionate and serve an important economic function. By filtering out inadequately regulated or financially unsound foreign schemes, the Guidelines reduce the risk of investor loss, misleading product offerings, and market instability. This contributes to long-term financial stability and protects household savings, particularly where foreign schemes are used for retirement planning, education savings, or institutional investment.

The Guidelines enhance economic efficiency by improving information quality through standardized disclosures, clear reporting requirements, and transparent valuation practices. Investors are better positioned to assess risk, compare products, and allocate capital efficiently. Improved confidence in regulatory oversight is likely to increase participation in regulated investment products, which supports capital market deepening and mobilisation of domestic savings.

The levy framework introduced under the Guidelines also supports sustainable regulation by providing the Authority with resources necessary to conduct ongoing supervision, without imposing a fiscal burden on the State. Over time, the presence of a robust and credible foreign schemes regime is expected to enhance Eswatini's attractiveness as an investment destination and facilitate orderly integration into regional and global capital markets.

8.3. Administrative Impact

From an administrative perspective, the Guidelines introduce new responsibilities for both the FSRA and regulated entities, particularly foreign managers and local representatives. The authorization process requires the submission and assessment of detailed documentation relating to regulatory status, governance structures, valuation policies, financial statements, and local representation agreements. This represents a more resource-intensive process than what existed previously.

For the Authority, the Guidelines necessitate the development of internal approval workflows, supervisory tools, reporting templates, and compliance monitoring mechanisms tailored to foreign schemes. There will likely be an initial increase in workload as existing foreign schemes are assessed for compliance and new applications are processed. Staff training and supervisory capacity building may be required to ensure effective implementation.

Nevertheless, these administrative burdens are transitional and are offset by efficiency gains over the medium to long term. Standardized procedures replace ad hoc approvals and reactive supervision, allowing the Authority to adopt a more predictable, risk-based regulatory approach. The requirement for a single local representative per foreign scheme simplifies communication, reduces fragmentation, and centralises compliance obligations.

For regulated entities, while administrative requirements increase, clarity and predictability in regulatory expectations reduce uncertainty and compliance risk. Over time, improved administrative discipline is expected to enhance operational resilience and professional standards within the market.

8.4. Social Impact

The social impact of the Foreign Schemes Guidelines is predominantly positive and closely linked to enhanced investor protection and public confidence in the financial system. By introducing clear disclosure standards, advertising controls, and local support mechanisms, the Guidelines improve the quality of information available to investors and reduce the risk of mis-selling, particularly to retail and less financially sophisticated consumers.

The mandatory appointment of a local representative has an important social dimension. It ensures that investors, beneficiaries, and executors have access to local assistance when dealing with redemptions, complaints, or estate claims. This is particularly significant in circumstances involving deceased estates, where delays and cross-border procedural complexity can cause financial hardship and distress.

Minimum subscription requirements and suitability-focused provisions help protect vulnerable investors from excessive exposure to complex or high-risk foreign products. At the same time, the Guidelines preserve access to international investment opportunities for investors with the appropriate financial capacity and risk appetite, thereby balancing protection with inclusion. By strengthening transparency, accountability, and fairness, the Guidelines contribute to broader trust in regulated financial institutions and support the development of a savings and investment culture aligned with long-term financial security.

8.5. Environmental Impact

The Foreign Schemes Guidelines, 2026 do not have direct environmental impacts, as they regulate financial market conduct rather than physical activities. However, there may be indirect environmental implications through the types of foreign schemes permitted to operate and the investment strategies they pursue. Foreign schemes that invest heavily in carbon-intensive industries, such as coal-based power generation, heavy manufacturing, or large-scale mining operations, may indirectly contribute to environmental degradation and greenhouse gas emissions. Conversely, schemes focused on environmentally sustainable or green investments may have positive indirect environmental impacts. These include funds investing in renewable energy, clean technology, water management, sustainable agriculture, or climate-resilient infrastructure. By enabling access to such schemes, the regulatory framework may indirectly support global environmental sustainability objectives.

9. PHASE VIII: CONSULTATION WITH INDUSTRY

The Authority will engage stakeholders through written consultations, workshops, and targeted engagements. Relevant feedback will be considered and incorporated as-is where appropriate prior to final implementation.

10. CONCLUSION AND WAY FORWARD

The Foreign Schemes Guidelines, 2026 represent a necessary and proportionate regulatory reform. They address longstanding structural weaknesses, enhance investor protection, strengthen supervisory capacity, and align Eswatini with regional and international regulatory practice. Transitional arrangements will ensure orderly implementation and market stability.

11. Annexure: IMPACT ANALYSIS

Stakeholders are required to use this framework to assess the impact of the provisions on the conduct of their business, including how the Bill will influence their regulatory environment. The Authority uses this framework (LEASE) to demarcate the factors for consideration in the impact assessment.

Legal, Economic, Administrative, Social & Environmental Analysis

Name of Company or individual Commenting	Factor	Assessment
	LEGAL	
	ECONOMIC	
	ADMINISTRATIVE	

	SOCIAL	
	ENVIRONMENTAL	