

Triodos Investment Management

Investment Triodos Fair Share Fund not held in custody in accordance with AIFMD

One of the investments of Triodos Fair Share Fund, a shareholding in Acleda Bank Plc. in Cambodia (Acleda Bank), is currently not held in custody as prescribed by the Alternative Investment Fund Managers Directive (AIFMD), and is therefore at the moment not held in conformity with the AIFMD.

This situation has emerged due to a change in capital strategy by Acleda Bank and not by any action taken by the Fund's manager Triodos Investment Management B.V. (Triodos IM) or BNP Paribas Securities Services S.C.A., depository of the Fund (BNP). Triodos IM was not in a position to prevent the change in capital strategy or the consequences thereof prior to the breach occurring. The Netherlands Authority for the Financial Markets (AFM) has been informed of the situation.

Background

Acleda Bank is one of the Fund's longstanding relationships and the Fund currently has a 2.16% participation in Acleda Bank. Earlier this year, Acleda Bank completed an Initial Public Offering (IPO) by issuing 1% of new, free floating shares on the Cambodian Stock Exchange (CSX). Although the shares held by the Fund in Acleda Bank are not part of these freely tradable shares, the share issue on the occasion of the IPO has had an impact on the custody requirements for the Acleda Bank shares under Cambodian law. The consequence of this is a change in the regulatory qualification of these shares under the AIFMD.

Due to this requirement by Cambodian law, all shareholders in Acleda Bank are required to deposit their shares on a trading account held with a depository in Cambodia connected to CSX (regardless of the fact whether their shares are available for public trading or not). Due to the lack of local Cambodian (sub-)custodians being connected to the international custodian networks, BNP has no connectivity to the Cambodian custodial infrastructure. In order to comply with local regulatory requirements, the Fund has had to open a securities account with a local custodian, Acleda Securities Plc., in order to maintain the shares in Acleda Bank in conformity with Cambodian law.

As a result of the requirement to have the shares in Acleda Bank deposited with a local custodian, the regulatory qualification of the shares in Acleda Bank has changed from 'other assets' to 'financial instruments that can be held in custody' as defined in article 21(8) AIFMD. The rules regarding the safekeeping of financial instruments under the AIFMD as well as the depository agreement regarding the Fund as entered into with BNP, stipulate that all financial instruments that can be held in custody must be kept in custody by the appointed fund depository. This is currently not the case, as described above, which means that the IPO of Acleda Bank has unfortunately resulted in the Acleda Bank shares not being held in custody in conformity with the AIFMD provisions and the depository agreement.

Impact

Investors should realise and are hereby informed that as a result of the above, BNP is currently not able to fulfill its safe-keeping functions as required by the AIFMD with regard to the shares in Acleda Bank. Alternate arrangements have been made between the local custodian and BNP in order to monitor the investment as well as possible.

In order to cover potential risks for investors emerging from and during this situation, Triodos IM, has provided an indemnity to BNP, which is backed by a suretyship by Triodos Bank N.V., to cover any loss of the Acleda Bank interest until a sustainable and permanent solution is found. Please note that the financial risks for investors as such have not increased due to the occurrence of this situation; the indemnity is provided for extra comfort to ascertain that if any loss of the Acleda Bank interest would occur prior to a solution being found this would be covered. The standard commercial risks related to the investment in Acleda Bank are out of scope of this arrangement.

Triodos IM and BNP are together making all efforts possible to solve this situation as soon as possible and are in close contact with the AFM. Given the complexity of the activities needed to come to a permanent solution, it is to be expected that this process will take at least until the end of the year.

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