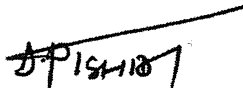


BOARD NOTICE 42 OF 2014**FINANCIAL SERVICES BOARD****COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002****CONDITIONS FOR THE WINDING UP OF A COLLECTIVE INVESTMENT
SCHEME IN PROPERTY UNDER CERTAIN CIRCUMSTANCES**

Under section 114(4)(b) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002) ("the Act"), I, Dube P Tshidi, Registrar of Collective Investment Schemes, hereby determine in the Schedule to this Notice, the conditions in terms of section 102(1) of the Act, which a manager of a collective investment scheme in property must comply with in order to implement a conversion scheme as defined in the Schedule to this Notice and pursuant to which a collective investment scheme in property managed by it will be voluntarily wound up.

**D P TSHIDI****REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES**

SCHEDULE

1 DEFINITIONS

In this Schedule, **"the Act"** means the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), as amended or substituted from time to time. Any word or expression to which meaning is assigned in the Act shall have that meaning, and unless the context otherwise indicates-

"the Circular" means the circular to be issued to PI holders with a view to approving the conversion and to wind up the CISP, which circular shall comply with the provisions of paragraph 3(6) of this Schedule;

"CISP" means a collective investment scheme in property managed by a manager registered in terms of the Act which is the subject of a conversion scheme, and, should the context otherwise require, includes the underlying investment portfolio held on behalf of PI holders;

"Companies Act" means the Companies Act, 2008 (Act 71 of 2008), as amended or substituted from time to time;

"conversion" means the transfer of the conversion scheme assets and liabilities to a Corporate REIT, in exchange for shares or linked units in the Corporate REIT, on the basis that those shares or linked units will be issued on behalf of the CISP to the PI holders, after which the CISP shall be voluntarily wound up;

"controlled company" means a company that is a subsidiary, as defined in International Financial Reporting Standards, of the CISP;

"conversion scheme" means a scheme or transaction regulating a conversion and governing the reciprocal rights and obligations of the parties to the conversion;

"conversion scheme assets and liabilities" means the assets and liabilities of the CISP other than the excluded assets and liabilities;

"Corporate REIT" means a REIT which is a company the issued shares or linked units of which are listed or to be listed on the JSE and shall, in the case of the conversion, mean the company which is to acquire directly, and/or indirectly through the acquisition of one or more controlled companies of the CISP, the conversion scheme assets and liabilities, as provided in the conversion scheme;

"Deed" means the trust deed between the trustee and the manager as amended by supplemental deed thereto, governing the CISP;

"excluded assets and liabilities" means those assets and liabilities of the CISP that are not transferred in terms of the conversion to the Corporate REIT on the basis that the relevant assets will be used to settle any debts incurred by the CISP in the ordinary course of its trade, should this be necessary or desirable, and as disclosed in the Circular;

"General Meeting" means the general meeting of PI holders convened to consider and if deemed fit, pass, with or without amendment, the Resolutions, as provided in 3(2)(c) of this Schedule;

"Income Tax Act" means the Income Tax Act, 1962 (Act No. 71 of 1962), as amended or substituted from time to time;

"JSE" means the JSE Limited, which operates a licensed exchange under the Financial Markets Act, 2012 (Act No 19 of 2012), as amended or substituted from time to time;

"linked unit" means a unit comprising a share and one or more debentures in a Corporate REIT, where that share and debenture or debentures are linked and are traded together as a single unit on the JSE;

"Listings Requirements" means the JSE Listings Requirements as issued and amended from time to time by the JSE;

"PI" means a participatory interest in a portfolio in a CISP;

"PI holder" means a registered holder of a PI;

"REIT" means either a CISP or a company which has been approved by the JSE in terms of the Listings Requirements as a Real Estate Investment Trust (REIT) and which entity meets the requirements in the Income Tax Act dealing with REITs; and

"Resolutions" means the resolutions referred to in 3(2)(c) of this Schedule and any other resolutions required by the JSE, to be passed by PI holders at the General Meeting, approving the winding up pursuant to the conversion scheme and matters ancillary thereto.

2 PURPOSE

(1) The purpose of the Notice and this Schedule is to specify the Registrar's requirements in terms of section 102(1) of the Act, regarding the voluntary winding up of a CISP, where it is the intention of the manager to implement a conversion.

(2) The Taxation Laws Amendment Act, 2012 (Act No 22 of 2012) introduced a tax dispensation for South African REITs which has had the effect of creating tax parity between the two types of property investment vehicles which qualify as REITs, namely property investment holding companies (including property loan stock companies listed on the JSE) and CISP's. In the circumstances it is or may in the future be the intention of some managers to convert the CISP's managed by them into Corporate REITs.

(3) A Corporate REIT which is the subject of a conversion scheme will, after the implementation of the conversion scheme, not be subject to the regulatory ambit of the Registrar and the Act. For the avoidance of doubt, the conversion contemplated in this Notice is not a conversion pursuant to Part XI of the Act.

3 APPLICATION TO THE REGISTRAR TO WIND UP A CISP PURSUANT TO A CONVERSION SCHEME

(1) A manager intending to effect a conversion must make application to the Registrar in accordance with the provisions of this Notice for the voluntary winding

up of the respective CISP and must obtain confirmation from the Trustee and the Registrar that neither the Trustee nor the Registrar have any objection to the manager proceeding with a conversion scheme, prior to the dispatch of the Circular to PI holders.

(2) An application to the Registrar in terms of paragraph 3(1) of this Schedule must be accompanied by the following documents:

- (a) an exposition of the reasons for the proposed conversion and the details of the conversion scheme pursuant to which the conversion and winding up of the CISP will be effected;
- (b) the Circular and prospectus or pre-listing statement or revised listings particulars (as may be required) for the Corporate REIT;
- (c) the proposed Resolutions approving the conversion scheme, which resolutions must -
 - (i) provide for the approval of the conversion in accordance with the terms of the conversion scheme;
 - (ii) provide for the approval of the voluntary winding up of the CISP, pursuant to the conversion scheme; and
 - (iii) authorise the manager to proceed with the implementation thereof including incurring the costs of the conversion scheme as provided therein;
- (d) the Trustee's confirmation that it has no objection to the conversion scheme; and
- (e) proof of payment for the application fee as determined by the Registrar.

(3) The manager shall provide any other additional information pertaining to the conversion scheme as the Registrar may require.

(4) For purposes of considering the application for the conversion scheme, the Registrar may, after consultation with the manager, require the manager to appoint an independent person to investigate and advise the Registrar on the reasonableness and fairness of the proposed conversion scheme or any aspect thereof. The costs of the independent investigator shall be borne by the CISP, unless

the Registrar reasonably determines otherwise.

(5) Where the shareholder or shareholders of a manager are required to sell or otherwise dispose of and transfer their shares to the Corporate REIT pursuant to the conversion scheme, the manager must obtain the Registrar's prior approval to the change in shareholding of the manager.

(6) The circular which is to be dispatched to PI holders convening the General Meeting must comply with the Deed, the Listings Requirements and the Companies Act and contain all relevant details regarding the conversion scheme as well as a notice convening the General Meeting, specifying the Resolutions to be considered and if deemed fit passed, with or without amendment, at the General Meeting. The manager shall also comply with the requirements of the JSE and the Companies Act in regard to the issue of a prospectus, prelisting particulars or revised listing particulars, as may be required, for the Corporate REIT.

4 RESOLUTIONS OF INVESTORS

(1) After the Registrar has provided his formal confirmation that the manager may dispatch the Circular, the manager must convene a General Meeting in accordance with the provisions of the Deed and the Listing Requirements, in order to obtain the approval of PI holders to the conversion scheme by way of the Resolutions, which must, in the case of the resolution referred to in 3(2)(c) of this Schedule, be approved by PI holders present (or represented by proxy) and voting at such General Meeting and holding at least 75% (seventy five percent) in value of PI's in the CISP so present (or represented by proxy) at such General Meeting. For the purposes of determining such 75% threshold, there shall be excluded from both the numerator and denominator in respect of the calculation, the manager and any parties which are related parties for the purposes of the Listing Requirements, unless the Registrar permits such related parties to vote on good cause shown in any instance.

(2) The General Meeting may be postponed or adjourned by agreement between

the Trustee and the manager, or as determined by PI holders in terms of a resolution passed in terms of the Listings Requirements at such General Meeting, to another date and time, not being more than 120 days after the date on which the General Meeting was first convened. Details of the date and time of the postponed or adjourned General Meeting and the reasons therefor, must be given to the Registrar and the Trustee and published on the JSE news service (SENS) and in the press.

(3) Prior to the manager proceeding with the implementation of the conversion scheme after the Resolutions have been passed at the General Meeting, the Trustee must furnish to the Registrar a statement confirming that:-

- (a) the General Meeting was specially called to consider the Resolutions;
- (b) proper notice of the General Meeting was given to PI holders; and
- (c) PI holders at the General Meeting passed the Resolutions with the requisite majorities.

(4) The Resolutions, if passed by the requisite majorities, shall be sufficient authority from the PI holders to the manager for the purposes of implementing the winding up pursuant to the conversion scheme and the manager shall proceed with the relevant steps in winding up the CISP in terms of the conversion scheme, once the Resolutions have been passed by PI holders.

5 COMPLETION OF THE CONVERSION SCHEME AND WINDING UP OF THE CISP

(1) On the conversion scheme including the winding up of the CISP being completed, the manager must submit a report from the auditors of the CISP to the Registrar confirming that PI holders have received the agreed value or number of shares or linked units in the Corporate REIT for their respective PI as provided in the conversion scheme and that all conversion scheme assets and liabilities have been transferred to the Corporate REIT. If there are any assets remaining in the CISP after settlement of all the liabilities forming part of the excluded liabilities, those assets shall be transferred to the Corporate REIT as part of the original approval and

transaction as if those assets formed part of the conversion scheme assets and liabilities.

- (2) Once the CISP has no further assets or liabilities, the manager must submit:-
- (a) proof that a copy of the Resolutions has been filed with the South African Revenue Service;
 - (b) a certificate from the auditors of the CISP that there are no assets and liabilities in either the CISP or any property portfolio in the CISP;
 - (c) proof that all the returns or information required to be submitted or furnished to the South African Revenue Service have been submitted or furnished or arrangements have been made with the South African Revenue Service for the submission of any outstanding returns or furnishing of information;
 - (d) any other additional information pertaining to the implementation of the conversion scheme as the Registrar may require; and
 - (e) proof that application has been made to the Companies and Intellectual Property Commission amending the memorandum of incorporation of the manager in order to reflect that the manager is no longer a manager of a collective investment scheme.
- (3) The Registrar shall confirm that the CISP has been wound up by endorsing the cessation supplemental deed.

6. COMMENCEMENT

This Notice comes into effect on the date of publication.