
GOVERNMENT NOTICE

NATIONAL TREASURY

No. 141**25 February 2015****COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, NO 45 OF 2002****DECLARATION OF HEDGE FUND BUSINESS AS A COLLECTIVE INVESTMENT
SCHEME****1. Declaration**

I, Nhlanhla Musa Nene, Minister of Finance, hereby in terms of section 63(1) of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002 ("the Act")), declare the business of a hedge fund to be a collective investment scheme to which the prescribed provisions of the Act apply.

2. Defined business activity

For purposes of this declaration, a "**hedge fund**" means an arrangement in pursuance of which members of the public are invited or permitted to invest money or other assets and which uses any strategy or takes any position which could result in the arrangement incurring losses greater than its aggregate market value at any point in time, and which strategies or positions include but are not limited to —

- (a) leverage; or
- (b) net short positions.

3. Applicable provisions

(1) The Act as a whole, applies to a declared collective investment scheme under this Notice, except sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 44(2), 44(3), 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 76, 77, 78, 79, 80, 81, 82, 83, 84, 96, 97(1) and 97(2).

(2) Sections 68, 69, 70, 71 and 72 apply to the extent determined by the registrar.

4. Matters which must be provided for in the Deed of a Collective Investment Scheme in Hedge Funds

(1) A deed must provide for the requirements applicable to the administration of a collective investment scheme in hedge funds and must, amongst others and as far as applicable, contain provisions regarding the following matters:

- (a) The investment policy to be followed in respect of each portfolio;
- (b) The applicable investment restrictions, if any;
- (c) The manner in which the assets of a portfolio are to be valued for purposes of calculating the selling and repurchase prices of participatory interests;
- (d) The manner in which and the point at which the valuation point will be applied either to the creation, sale, repurchase or cancellation of participatory interests;
- (e) The frequency and basis on which the assets of a portfolio are to be valued;
- (f) The frequency of subscriptions and repurchases;
- (g) Whether there is an early redemption fee;
- (h) Whether there is a minimum subscription amount;
- (i) In the event that any performance fees are charged, the basis and method as well as all the components of calculating the performance fee must be set out;
- (j) The manner in which participatory interests are to be created or cancelled;
- (k) The manner in which distributions are to be calculated and settled;
- (l) The limits, terms and conditions under which a manager may borrow money;
- (m) The charges that may be levied and the method of calculation of those charges;
- (n) That a written notice must be given to every investor of an increase in any charge and of any change in the method of calculation which could result in an increase or the introduction of any additional charges not less than the longer of three months or a period equal to three times the redemption period;
- (o) The manner in which the deed may be amended;
- (p) The manner in which the manager will enter into side letters and make use of facilities including side pocketing, gating and redemption suspensions.

(2) In respect of the repurchase of participatory interests in a portfolio of a hedge fund, a deed must provide for the following:

- (a) A manager must repurchase any number of participatory interests offered to it;
- (b) For the purposes of sub-item (a), the manager must determine a point in time by when repurchase requests must be received for the purpose of determining which valuation point will be utilised for the pricing calculation;
- (c) The time determined in terms of sub-item (b) may not be changed unless 30 days' prior written notice has been given to investors.

(3) In respect of valuation of assets, the deed must provide that the assets are valued independently, and if not valued independently, the valuation must be independently verified.

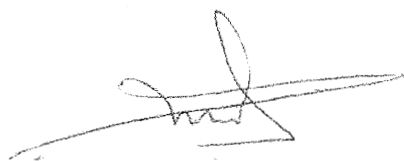
(4) The deed must provide that the assets of each portfolio will be protected from creditor claims and that the assets of the portfolio will not be used to meet the liabilities of any other portfolio in the scheme.

5. Transitional arrangements

A person conducting the business of a hedge fund must, within 6 months from the commencement date of this Declaration, lodge with the registrar an application for registration as a manager to operate a hedge fund in accordance with section 42 of the Act.

6. Commencement

This declaration commences on 1 April 2015.



NHLANHLA MUSA NENE, MP

MINISTER OF FINANCE

Date: 6-2-2015