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BOARD NOTICE 138 OF 2015

FINANCIAL SERVICES BOARD

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

CAPITAL REQUIREMENTS WITH WHICH A MANAGER OF A COLLECTIVE INVESTMENT SCHEME IN PARTICIPATION BONDS MUST COMPLY

I, Dube Phineas Tshidi, Registrar of Collective Investment Schemes, hereby determine, under section 88 (1) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), the capital to be maintained by a manager of a collective investment scheme in participation bonds for the matters and risks set out in the Schedule.

DP TSHIDI
REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES

SCHEDULE

PREAMBLE

The Registrar determines the capital to be employed and maintained by a manager of a collective investment scheme in participation bonds to:

(a) ensure that a manager has sufficient capital to enable the continued operation of 13 weeks (operational capital);
(b) provide funds to cover the initial expenses in a portfolio (seed capital); and
(c) ensure that there is sufficient capital when a manager buys participatory interests from and sells participatory interests to investors for the own account of the manager (position risk capital).
(d) ensure that the manager has sufficient liquid capital for the trading of participatory interests that are sold as tax free investments.

1. The capital to be maintained by a manager of a collective investment scheme in participation bonds must be calculated in relation to the financial statements of a manager as prepared in terms of International Financial Reporting Standards (IFRS) in the manner set out in the Table below:

1.	Eligible capital consisting of the total of— (*a*) issued ordinary share capital; (*b*) issued preference share capital (if not redeemable within one year and not redeemable at the option of the holder); (*c*) share premium account; (*d*) non-distributable reserves; (*e*) retained income— (i) if audited, 100 per cent must be included; and (ii) 50 per cent of the positive unaudited retained income or 100 per cent of the negative unaudited retained income must be included; (*f*) loans (only if properly subordinated in favour of the manager); (*g*) guarantees (only from a third party and only if exercisable on demand by the manager).
2.	*Less* adjustment for— (*a*) intangible assets; (*b*) guarantees provided by the manager; (*c*) contingent liabilities; (d) net deferred tax assets; (e) any assets which are not convertible into cash within 14 business days including but not limited to – (i) fixed assets, net of related secured loans; (ii) investment in other unlisted businesses.
3.	Adjusted capital [paragraph 1 Table item1 *minus* paragraph 1 Table item 2].
4.	*Less* required capital to be maintained consisting of— (*a*) a basic capital which must be a sum equivalent to 13 weeks' annual fixed expenditure for the whole of the collective investment scheme business of a manager or such other amount as the registrar may determine in a particular case as provided for under 2 (4); *plus* (*b*) seed capital of R1 million to be invested by the manager in each portfolio administered by the manager: Provided that— (i) the prescribed amount may be withdrawn once the portfolio reaches a size of R10 million net asset value under management; and (ii) the sum of R1 million is to be re-invested in the portfolio where the net asset value of the portfolio has been reduced to below R10 million for a continuous period of 6 months; *plus* (*c*) where the manager buys from and sells to investors participatory interests of its scheme for its own account, position risk capital of a sum equivalent to –

	(i) 10 per cent of the amount paid for participatory interests in a scheme and held by the manager for its own account, calculated on the amount so paid which exceeds the last three month's investment inflow into the scheme; (ii) one per cent of the amount paid for participatory interests in a scheme and held by the manager for its own account, calculated on the amount so paid which does not exceed the last three month's investment inflow into the scheme; and (d) 25% of the repurchase value of participatory interests sold as tax free investments per portfolio which must be held as assets in liquid form provided no more than 20% of the 25% is provided by the scheme assets.
5.	Liquid resources [paragraph 1 Table item 3 *minus* paragraph 1 Table item 4], which must be a positive amount.

2. (1) For the purposes of paragraph 1 Table item 4 (*a*) fixed expense amounts must be determined as set out in the computation table and notes below:

COMPUTATION OF FIXED EXPENSE BASE REQUIRMENT			
Expense Category	Treat as Fixed Expense Amounts	Treat as Trading Expense and "non-cash" items	Expenses per Income Statement
Accounting and secretarial or other services, charges, etc.	X		
Auditors' remuneration	X		
Depreciation		X (Note (*a*))	
Insurance	X		
Interest paid other than to Directors Bank overdraft Other Finance	 X X	 X (Note(*f*)) X (Note(*f*))	
Charges and fees	X	X (Note(*b*))	
Motor vehicle expenses	X		
Net loss on realisation of fixed assets		X (Note (*a*))	
Office rental	X		
Machine and other leasing charges/rentals	X		
Printing and Stationery	X		
Salaries and wages	X	X (Note(*c*))	
Telephone, telex and postages	X		
Other expenses	X	X	

		(Notes(*d*)+(*g*))	
Directors' Salaries Directors' Fees Interest	X X X	X (Note (*e*)) X (Note (e)) X (Note (*e*))	
			TOTAL

Notes to the computation table: In determining fixed cost amounts, the following principles must be applied:

(a) Depreciation and profits or losses on sales of fixed assets are non-cash items and must not be taken into account.

(b) Charges relating to active trading must be excluded. Fixed charges must be included. Fees pertaining to the management of the assets that are calculated as a percentage of assets under management may be excluded but any such fees that are agreed fixed amounts must be included. Any other variable fee that is calculated as a percentage of assets under management may be excluded; provided that any fixed contracted portion thereof must be included and treated as fixed costs. This includes, but is not limited to, the fixed portion payable to an intermediary or employed sales personnel before the percentage commission is applied, as well as any fixed amount in outsourcing costs for administration.

(c) Non-contractual payments by way of profit share or performance related bonuses must be excluded.

(d) Exceptional or extraordinary items may be excluded.

(e) Payments to directors must only be included to the extent that they are made irrespective of profitability.

(f) Interest paid to counterparties which is trade related may be excluded.

(g) Loss arising from the conversion of foreign currency balances may be excluded.

(2) The 13 weeks' annual fixed expenditure must be calculated as the previous financial year's divided by four or if no financial year was completed, this amount must be budgeted for to the satisfaction of the registrar.

(3) The 13 weeks' liquid capital may not be invested in any portfolios other than a money market portfolio of a collective investment scheme in securities.

(4) The registrar may, where he has reason to believe that the size of the operations of a manager has been or is likely to be expanded during any financial period, require a manager to submit a budget based on the expanded operations. Where a manager has reason to believe that its operations in any financial period will decline from that of the previous year, it may submit a revised budget for approval by the registrar.

3. The calculation of the capital position by a manager must be submitted to the registrar as at the last business day of each calendar month, within 14 business days after the end of such calendar month, in the form determined by the registrar.

4. A manager must, at least once a year, evaluate its risk to professional liability and fidelity claims and must in accordance with the risk identified during risk evaluation maintain suitable professional indemnity or fidelity insurance cover of no less than R5 million.

5. (1) Notice 2075 of 2003, as published in *Government Gazette* No. 25283 of 1 August 2003, is hereby repealed.

(2) This Notice comes into effect on date of publication.

(3) Paragraph 1 Table item 4(b) must be complied with within 6 months from the date that this Notice comes into effect.