

**BOARD NOTICE 140 OF 2015****COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002****EXEMPTION OF A CATEGORY OF PERSONS CONDUCTING THE BUSINESS OF A  
HEDGE FUND FROM CERTAIN PROVISIONS OF THE COLLECTIVE INVESTMENT  
SCHEMES CONTROL ACT, 2002**

I, Dube P Tshidi, Registrar of Collective Investment Schemes hereby exempt under section 22(b) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), the persons defined in the Schedule from compliance with certain provisions of the Declaration to the extent and subject to the conditions set out in the Schedule.

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

## SCHEDULE

### 1. Definitions

In this Schedule any word or expression to which a meaning is assigned in the Act shall have that meaning, unless the context otherwise indicates or the term is defined in this Schedule.

“**Act**” means the Collective Investment Schemes Control Act, No 45 of 2002, as amended, and includes a regulation, notice, rule and any other measure having the force of law made under this Act;

“**Applicant**” means a person who has lodged an application with the Registrar to register as a Manager in accordance with the Act;

“**Declaration**” means the declaration made by the Minister under section 63 of the Act and published as Government Notice 141 of 2015 in *Government Gazette* No. 38503 of 25 February 2015;

“**Designated Person**” means a person conducting the business of a hedge fund as contemplated in paragraph 5 of the Declaration;

“**Hedge Fund**” means a hedge fund as defined in the Declaration;

“**Hedge Fund Notice**” means the Notice issued by the Registrar prescribing the requirements for hedge funds published in *Government Gazette* Number 38540 on 6 March 2015 as Board Notice 52 of 2015, and amended by Board Notice 70 of 2015 published on 1 April 2015 in *Government Gazette* Number 38626;

“**Manager**” means a person approved as a manager of a collective investment scheme in hedge funds in accordance with the Act;

“**Scheme**” means a collective investment scheme in hedge funds;

“**Unregulated Hedge Fund**” means a Hedge Fund that existed prior to 1 April 2015.

### 2. Background and Purpose

- (1) Paragraph 5 of the Declaration provides that a Designated Person must, within six months from the commencement date of the 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.
- (2) Certain Designated Persons have indicated to the Registrar that their

respective business models are not suited to operating as a Manager and they intend to transition their Unregulated Hedge Funds to operate as portfolios under collective investment schemes registered by other Managers.

- (3) The purpose of this exemption is to exempt Designated Persons who wish to operate their Unregulated Hedge Funds as described in sub-paragraph (2) from the provisions of paragraph 5 of the Declaration subject to the conditions below.
- (4) The Registrar is of the view that the exemption is in the public interest.

### **3. Extent of exemption**

- (1) A Designated Person who complies with the provisions of paragraph 3(2) is hereby exempted from compliance with the provisions of paragraph 5 of the Declaration.
- (2) A Designated Person who is so exempted must, on or before 30 September 2015 furnish the Registrar in writing with the following:
  - (a) the name of the Manager or Applicant with whom the Designated Person intends to enter into an agreement for purposes of hosting the Designated Person's Unregulated Hedge Fund as contemplated in paragraph 18 of the Hedge Fund Notice,
  - (b) the name of the approved portfolio or portfolios administered by the Manager or, if not yet approved, the proposed name of the portfolio approval of which the Manager or Applicant has applied to the Registrar;
  - (c) a written undertaking by the Designated Person to enter into an agreement contemplated in paragraph 3(2)(a) within three months from the date on which the Manager or Scheme is approved in terms of section 42 of the Act, subject thereto that the Registrar may at a later date, on application by the Designated Person, approve a different Manager to host the Designated Person's portfolio.

### **4. Commencement**

This exemption commences on the date of publication.