

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 563

Pretoria, 10 May
Mei 2012

No. 35321

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS • INHOUD

No.

Page
No. Gazette
No.**BOARD NOTICE**

- 80 Collective Investment Schemes Control Act, 2002: Financial Services Board: Determination of securities, classes of securities, assets or classes of assets that may be included in a portfolio of a collective investment scheme in securities and the manner in which and limits and conditions subject to which securities or assets may be so included.....

3 35321

BOARD NOTICE

BOARD NOTICE 80 OF 2012

FINANCIAL SERVICES BOARD

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

DETERMINATION OF SECURITIES, CLASSES OF SECURITIES, ASSETS OR CLASSES OF ASSETS THAT MAY BE INCLUDED IN A PORTFOLIO OF A COLLECTIVE INVESTMENT SCHEME IN SECURITIES AND THE MANNER IN WHICH AND LIMITS AND CONDITIONS SUBJECT TO WHICH SECURITIES OR ASSETS MAY BE SO INCLUDED

I, Dube Phineas Tshidi, Registrar of Collective Investment Schemes, hereby determine, under sections 40, 46 and 85 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), in the Schedule in respect of a collective investment scheme in securities –

- (a) the portfolios in which securities, classes of securities, assets or classes of assets may be included;
- (b) the securities, classes of securities, assets or classes of assets that may be so included; and
- (c) the manner in which and the limits and conditions subject to which securities, classes of securities, assets or classes of assets may be so included.


D P TSHIDI

REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES

SCHEDULE

Preamble

This Notice stipulates the portfolios which may comprise a collective investment scheme in securities, the types of investments that may be included in portfolios of a collective investment scheme in securities as well as the conditions, limits and the manner in which the portfolios and securities may be included in a collective investment scheme in securities.

The principles governing managers of collective investment schemes in respect of the administration of collective investment schemes as provided in the Act continue to apply. A manager must administer a collective investment scheme honestly, fairly, with skill, care and diligence and in the interest of investors. In the inclusion of instruments in a portfolio of a collective investment scheme, the manager must ensure that all investments have been subjected to adequate due diligence in line with the investment objectives of the applicable portfolio.

ARRANGEMENT OF REGULATIONS

1. Definitions

CHAPTER I

STANDARD PORTFOLIO

2. Application of Chapter

3. Conditions and limits of inclusion

CHAPTER II

MONEY MARKET AND SHORT-TERM DEBT PORTFOLIO

4. Definitions

5. Determination of money market instruments

6. Inclusion limits

7. Reduction of participatory interests

8. General

CHAPTER III

FUND OF FUNDS PORTFOLIO

9. Definitions

10. Conditions and limits of inclusion

CHAPTER IV

FEEDER FUND PORTFOLIO

11. Definitions

12. Conditions and limits of inclusion

CHAPTER V

INCLUSION OF FINANCIAL INSTRUMENTS IN A PORTFOLIO

13. Definitions

14. Inclusion of financial instruments in a portfolio

15. Exposure limits for listed financial instruments

16. Maintaining of certain assets in portfolio for listed financial instruments

17. Maintaining of certain assets in portfolio for unlisted financial instruments

18. Calculation of effective exposure for listed financial instruments

19. Assets in liquid form associated with listed and unlisted financial instruments to be maintained in terms of this Chapter

20. Report by the Manager

CHAPTER VI

GENERAL

21. Disclosure of fees

22. Consequences of large repurchases

23. Operational trust account

24. Transitional measures

25. Commencement

1. Definitions. In this Schedule, **“the Act”** means the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), and any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned to it, and unless the context otherwise indicates—

“AAOIFI” means the Accounting and Auditing Organisation for Islamic Financial Institutions;

“assets in liquid form” means —

- (a) any amount of cash consisting of Reserve Bank notes and coin;
- (b) any balance in an account, excluding a trust account as contemplated in section 105 of the Act, with a -
 - (i) bank;
 - (ii) branch of a foreign institution, which institution is authorised in terms of the Banks Act to conduct the business of a bank by means of such branch, or
 - (iii) foreign bank;
- (c) any positive net balance in a settlement account, other than a margin account, operated for the buying and selling of underlying assets;
- (d) any instrument determined in Chapter II of this Notice;
- (e) participatory interests in a money market and short-term debt portfolio referred to in Chapter II of this Notice;

on condition that the assets referred to in paragraphs (a), (b), (d) and (e) are capable of being converted, without any penalty on capital in terms of the conditions of the security, into cash within seven days. In determining any limit under this Notice, exposure through a settlement account contemplated in paragraph (c) must be added to other exposures to the same issuer/guarantor. Exposure in terms of a trust account referred to in section 105 of the Act must be excluded from determining any limit;

“bank” means a bank as defined in the Banks Act, or a mutual bank as

defined in the Mutual Banks Act;

“Banks Act” means the Banks Act, 1990 (Act No. 94 of 1990);

“Bills of Exchange Act” means the Bills of Exchange Act, 1964 (Act No. 34 of 1964);

“guarantee” means a guarantee, or an undertaking to provide the financial support necessary, to ensure full and timely debt service and redemption of a debt;

“index” means the compilation of securities listed on an exchange or a number of exchanges or the compilation of prices of non-equity securities, publicly available from a recognised index compiler, representing a statistical indicator of the aggregate value of the securities comprising the index, provided that the composition of such an index meets the same level of diversification as contemplated in this Notice;

“Islamic Bond (Sukuk)” means a certificate of equal value representing undivided shares in the ownership of tangible assets, usufructs and services or (in the ownership of) the assets of particular projects or special investment activity, as defined by AAOIFI ;

“Islamic Compliant Instrument” means an instrument held in a Shari’ah compliant portfolio, being a collective investment scheme in securities managed under the Act in compliance with the relevant standards of AAOIFI, structured in such a manner that the instrument held by the portfolio will be an instrument defined under paragraphs 2(1)(a)(i) to (vii) and (ix);

“Mutual Banks Act” means the Mutual Banks Act, 1993(Act No. 124 of 1993);

“physical exchange traded fund” means an exchange traded fund which

physically holds the underlying assets of the index it is tracking;

“physical exchange traded notes” means exchange traded notes whose issuer physically holds the underlying assets of the index they are tracking; and

“recognised index compiler” means an entity which compiles and publishes indices which are acceptable to an exchange.

CHAPTER I

STANDARD PORTFOLIO

Application of Chapter

2. (1) For the purposes of this Chapter

"securities" means –

(a)

- (i) shares, preference shares, whether redeemable, convertible or perpetual and exchange depository receipts in public companies, whether listed or not;
- (ii) listed participatory interests in a collective investment scheme in property;
- (iii) participatory interests in a collective investment scheme in securities, whether listed or not;
- (iv) bonds, debentures, debenture stock and debenture bonds;
- (v) notes, whether secured or not, and whether or not they have inherent option rights or are convertible;
- (vi) Islamic bonds (Sukuks);
- (vii) Islamic compliant instruments and
- (viii) repurchase agreements;

(b) the following listed financial instruments, subject to the conditions set out in Chapter V of this Notice:

- (i) a futures contract;
- (ii) an option contract;
- (iii) a warrant;
- (iv) an index tracking certificate;
- (v) an instrument based on any underlying asset or basket of underlying assets as defined in Chapter V of this Notice, other than an Islamic Bond or an Islamic Compliant Instrument;

(c) the following unlisted financial instruments, subject to the conditions set out in Chapter V of this Notice:

- (i) forward currency swap;
- (ii) interest rate swap;
- (iii) exchange rate swap; and
- (iv) index swap;
- (d) any asset referred to in the definition of **“assets in liquid form”** in paragraph 1 of this Notice; or
- (e) any “money market instruments” as determined in paragraph 5 of this Notice.

(2) This Chapter applies to a portfolio that consists of securities referred to in the definition of **“securities”** in sub-paragraph (1) but does not apply to any portfolio specifically dealt with in Chapters II, III, and IV of this Notice.

Conditions and limits of inclusion

3. (1) Subject to sub-paragraphs (3), (8), (9), (10) and (11), no manager may include in a portfolio- –

- (a) equity securities issued by any one concern to an amount in excess of five percent, or in the case of a concern with a market capitalisation of R2 billion or more, 10 percent, of the market value of all the assets comprised in the portfolio, or 120 percent, whichever is the greater, of that equity security's weighting in an index, subject to –
 - (i) a maximum of 20 percent of the market value of all the assets comprising the portfolio where the benchmark is the index representing the overall market or exchange;
 - (ii) a maximum of 35 percent of the market value of all the assets comprising the portfolio where the benchmark is an index, which is a sub-set of an overall market or exchange index,

except in so far as the excess is due to appreciation or depreciation of the market value of the equity securities in that portfolio, or as a result of any non-optional corporate action by that concern, provided that as long as the market value of an equity security in any particular concern exceeds the limit specified in subparagraph (a), the manager may not

- purchase any further equity securities issued by that concern; or
- (b) equity securities of any one class issued by any one concern to an amount in excess of five percent, or in the case of a concern with a market capitalisation of R2 billion or more, 10 percent, or in the case of equity securities in any investment company, which is a company that is engaged primarily in the business of investment in the securities of companies for the purpose of revenue and profit and not for the purpose of exercising control, 10 percent, of the aggregate amount of the equity securities of any one class issued by such concern or company, subject to –
- (i) an overall limit of 15 percent of the aggregate amount of equity securities of any one class issued by a concern within the same group as the manager, across the portfolios in all schemes administered by the manager; and
 - (ii) an overall limit of 24 percent of the aggregate amount of equity securities of any one class issued by a concern other than a concern within the same group as the manager, across the portfolios in all schemes administered by the manager,
- except in so far as the excess is due to an amalgamation, cession, transfer or take-over in terms of section 99 of the Act, or as a result of any non-optional corporate action by that concern, provided that –
- (i) the manager may not make any further investments in the equity securities of the class in question as long as any limit determined in this subparagraph is exceeded;
 - (ii) the manager must within 12 months after the date on which such amalgamation, cession, transfer, take-over or non-optional corporate action becomes effective or within such further period as the registrar may determine, reduce the equity securities of the class in question to the limits determined in this subparagraph.
- (2) (a) Subject to sub-paragraphs (3) and (9), at least 90 percent of the market value of a portfolio must consist of –

- (i) securities traded on an exchange;
 - (ii) instruments contemplated in subparagraphs (8) and (9);
 - (iii) securities (other than exchange securities) acquired by the manager pursuant to the exercise of rights attaching to any exchange securities included in the portfolio; or any combination thereof.
 - (b) If any securities, which are not listed on an exchange, are included in a portfolio, such securities must be valued daily based on a generally recognised methodology and by a person acceptable to the trustee, subject to the requirements of the Act.
 - (c) Prior to a manager including any unlisted securities in a portfolio, it must satisfy the trustee that a risk management program designed to identify, measure, on a daily basis, and adequately cover risks emanating from exposure to the security, is in place and is efficient.
- (3)(a) A manager may include in a portfolio participatory interests in portfolios ("underlying portfolios") of collective investment schemes in securities, including exchange traded funds registered as collective investment schemes, collective investment schemes in property or of foreign collective investment schemes to a maximum aggregate value of 80 percent of the market value of the first-mentioned portfolio, provided that-
- (i) the maximum exposure to any one underlying portfolio may not exceed 20 percent of the market value of the first-mentioned portfolio;
 - (ii) in the case of an underlying portfolio which is part of a foreign collective investment scheme, the foreign collective investment scheme must:-
 - (aa) have been approved in terms of section 65 of the Act and be subject to an annual review by the manager to ensure that it continues to comply with the requirements of section 65 ; or
 - (bb) if the foreign scheme has not been approved in terms of 65 of the Act, be subject to a due diligence investigation

conducted by the manager, to the satisfaction of the trustee, to ascertain whether the portfolio would qualify for approval in terms of section 65(1)(c) of the Act and that the portfolio is available for investment and is not otherwise prohibited in its domicile of registration;

- (iii) in the case of an underlying portfolio that is managed, directly or by delegation, by the same manager or by any other company with which the manager is linked by common management or control, or by a substantial direct or indirect holding, that manager or other company may not charge subscription (including initial fees) or redemption fees on the underlying portfolio;
 - (iv) in the case of an underlying portfolio holding participatory interests in other portfolios, each of those portfolios may not constitute more than 20 percent of their respective investments in other portfolios;
 - (v) a manager may only include physical exchange traded funds or exchange traded notes in a portfolio;
 - (vi) a manager may not include exchange traded funds or exchange traded notes which are capable of obtaining leveraged exposure to underlying assets.
- (b) The limit determined in sub-paragraph (a) may be exceeded only if the excess is due to appreciation or depreciation of the value of the underlying participatory interests constituting the portfolio, provided that a manager may not, for as long as the excess continues, purchase any further participatory interests for the portfolio.

(4) For the purposes of sub-paragraph (3)(a), the value of a participatory interest held by one portfolio in another must be calculated by reference to the lower of the repurchase price or the net asset value of the relevant participatory interest, at the latest available price before a repurchase price is calculated, or the market value in the case of exchange traded funds.

(5) A manager must ensure that a portfolio's investment policy provides for the inclusion of participatory interests in that portfolio.

(6) A manager may only include in a portfolio, participatory interests issued by a fund of funds where that fund of funds is domiciled and regulated outside the Republic and where the fund of funds is not invested in another fund of funds or feeder fund.

(7) If a manager finds that a fund of funds is invested in another fund of funds or a feeder fund contrary to the provisions of sub-paragraph (6), the manager concerned must, if the non-compliance is not rectified within 30 days of the date on which the manager became aware of the non-compliance, furnish the registrar with a detailed plan setting out measures to rectify the non-compliance.

(8) (a) A manager may include in a portfolio listed and unlisted financial instruments, subject to the limits and conditions determined in Chapter V of this Notice.

(b) The financial instruments referred to in sub-paragraph (a) may only be included for purposes of efficient portfolio management with the aim of reducing risk, reducing cost or generating capital or income for a portfolio with an acceptable level of risk or to achieve the investment objective of the portfolio. In this instance, the manager must ensure that a portfolio's investment policy provides for the inclusion of listed and unlisted instruments.

(c) The manager must ensure that the listed or unlisted financial instruments are not used to leverage or gear the portfolio and are covered at all times.

(9) (a) A manager may include the following non-equity securities, whether listed on an exchange or not, in a portfolio, subject to the limits prescribed at Table 1 below -

- (i) any money market instrument as defined in Chapter II of this Notice;
- (ii) bonds, debentures, debenture stock and debenture bonds, notes, whether or not they have inherent option rights or are convertible;
- (iii) participatory interests in a collective investment scheme in securities which only consists of interest bearing non-equity

- securities and assets in liquid form;
- (iv) Islamic Bonds and Islamic Compliant Instruments;
- (v) preference shares determined as non-equity securities in accordance with sub-paragraph 12(b).

Table 1

Item	Categories of non-equity securities	Limits being the maximum percentage of the aggregate market value of the portfolio	
		Per issuer/guarantor as applicable	In aggregate for all issuers/guarantors as applicable
1	Non-equity securities issued or guaranteed by:		100%
1.1	the government of the Republic of South Africa;	100%	100%
1.2	any foreign government which has been assigned a foreign currency sovereign rating not lower than that of the Republic of South Africa;	100%	100%
1.3	the South African Reserve Bank.	100%	100%
2	Non-equity securities issued or guaranteed by a local or foreign bank which forms part of a group of companies (in terms of international accounting standards) of which the holding company is listed on an exchange:		100%
2.1	with a market capitalisation for the listed group holding company of more than R 20 billion;	30%	100%
2.2	with a market capitalisation for the listed group holding company of between R 2 billion and R 20 billion.	20%	100%
3	Non-equity securities issued or guaranteed by:		100%
3.1	a public entity under the Public Finance Management Act, 1999 (Act No. 1 of 1999); and	10%	100%
3.2	any local or foreign entity which is listed on an exchange:	10%	100%
4	Non-equity securities issued or guaranteed by entities not described above, including, but not limited to, participatory interests in participation bonds	5%	10%

- (b) In order to determine the market capitalisation of an internationally listed group holding company, a conversion must be done to Rand at the prevailing foreign exchange rate on the date of inclusion and thereafter at least once every 30 days.
- (c) The limits prescribed in Table 1 may be exceeded only if the excess is due to appreciation or depreciation of the market value of the instruments comprising a portfolio; provided that a manager may not, for as long as the excess continues, purchase any further instruments

of the class in respect of which the excess occurs for the portfolio.

- (d) If, after the date of inclusion of an instrument in a portfolio, a limit, prescribed in Table 1 becomes applicable to any instrument that is lower than the previous limit, the manager must rectify the position within 30 days of such reduced limit becoming applicable. If the manager and the trustee are of the view that rectification of the position within 30 days would be detrimental to a particular portfolio, the manager must, within seven days of the date of becoming aware of the change in limits, submit a detailed plan setting out measures to rectify the position, to the registrar for approval.
- (e) If a manager, through no fault of its own, excluding reasons other than appreciation or depreciation of the market value of the instruments comprising a portfolio, is unable to comply with a limit prescribed in this paragraph, the manager must, if the non-compliance is not rectified within 30 days of the date on which the manager becomes aware of the non-compliance, submit a detailed plan setting out measures to rectify the non-compliance, for approval by the Registrar.
- (f) A manager that administers a portfolio in compliance with the relevant Standards of AAOIFI, in terms of which the portfolio may invest in Islamic Bonds or Islamic Compliant Instruments, must comply with the limits as set out in Table 2 with regard to item 2 until 31 May 2013, after which date the limits as set out in subparagraph (a) in Table 1 shall apply:

Table 2

Item	Categories of Securities	Per issuer/guarantor as applicable
2	Non-equity securities issued or guaranteed by a local or foreign bank which forms part of a group of companies (in terms of international accounting standards) of which the holding company is listed on an exchange:	
2.1	with a market capitalisation for the listed group holding company of more than R 20 billion;	50%
2.2	with a market capitalisation for the listed group holding company of between R2 billion and R 20 billion.	34%

(10) A manager may not include in any index tracking portfolio, securities issued by any concern to an amount exceeding a percentage equal to that concern's weighting in a relevant index, subject to a maximum of 35 percent of the market value of all the assets comprising that portfolio.

(11) A manager may not include in a precious metal and minerals portfolio, securities issued by any concern, to an amount exceeding a percentage equal to that concern's weighting in the FTSE/JSE Gold or FTSE/JSE Platinum Index, subject to a maximum of 60 percent of the market value of all the assets comprising that portfolio.

(12)(a) Where a manager includes preference shares in a portfolio, the shares must be treated as equity securities if the issuer of the shares has included them as part of its share capital on its balance sheet.

(b) Preference shares which do not form part of the share capital of an issuer must be treated as non-equity securities.

(13) A manager may only include instruments based on the value of gold if such instruments are listed, and dealt with, on an exchange, are not synthetic instruments and only to a maximum of 10 per cent of the market value of all the assets comprising the portfolio.

(14)(a) Notwithstanding the provisions of sub-paragraph (3), a manager may invest in an exchange traded fund or an exchange traded note, whether organised as a portfolio of a collective investment scheme or not, only if that exchange traded fund or note ordinarily owns securities as permitted by this Notice.

(b) A manager may only include physical exchange traded funds or exchange traded notes in a portfolio.

(c) A manager may not include exchange traded funds or exchange traded notes which are capable of obtaining leveraged exposure to underlying assets.

(15) The inclusion limits determined in this Chapter will apply, according to which type of instrument it is, irrespective of whether the instrument issued by an

exchange traded fund is an equity instrument, a non-equity instrument or a participatory interest of a collective investment scheme.

- (16)
 - (a) It is the responsibility of the manager to assess the quality of a security.
 - (b) In assessing the quality of a security the manager must consider all applicable factors including the liquidity profile and the nature of the asset class represented by the instrument.
 - (c) In carrying out its due diligence investigation, the manager must not place inappropriate reliance on the credit rating of the security.
 - (d) The manager must ensure that if the inclusion of instruments in a portfolio will result in further exposure to another issuer, whose instruments are already included in the portfolio, the exposure created by the inclusion of the first-mentioned instruments is taken into account when determining the overall permissible exposure to the issuer.
- (17)
 - (a) In order to ensure that an Islamic Compliant Instrument purchased complies with the requirements for inclusion in a Shari'ah compliant portfolio, the instrument must:
 - (i) be based on the ownership of an underlying tangible asset or basket of tangible assets;
 - (ii) be negotiable; and
 - (iii) title to the underlying tangible asset or basket of tangible assets must pass from a portfolio to a third party within seven business days as from the date on which the relevant transaction of purchase and sale is concluded.
 - (b) The sale price of the underlying tangible assets or basket of tangible assets must be fixed at the time of conclusion of the purchase and cannot be varied due to a movement in the market value of the underlying tangible assets or basket of tangible assets.

CHAPTER II

MONEY MARKET AND SHORT-TERM DEBT PORTFOLIO

Definition

4. For the purposes of this Chapter,-

“money market and short-term debt portfolio” means a portfolio consisting solely of money market instruments in the currency of the Republic whose participatory interests are at all times valued at a constant price;

“weighted average duration” means a measure of the average length of time to maturity of all of the underlying instruments in the portfolio weighted to reflect the relative holdings in each instrument, where the maturity of a floating rate instrument is the time remaining until the next interest reset to the money market rate, rather than the time remaining before the principal value of the instrument must be repaid; and

“weighted average legal maturity” means the weighted average of the remaining life of each instrument held in a portfolio, meaning the time remaining until the principal value is repaid in full, disregarding interest and any discounts.

Determination of money market instruments

5. For the purposes of this Chapter, **“money market instruments”** which may be included in a money market and short-term debt portfolio, other than “deposits” must be transferable and acknowledging indebtedness and are defined as follows:

- (a) **“asset with a branch of a foreign institution”** means a deposit with, or any instrument of indebtedness (as defined in sub-paragraphs (b) to (n)) issued by a branch of a foreign institution, which institution is authorised in terms of the Banks Act to conduct the business of a bank by means of such branch; provided that the foreign institution must be domiciled in a country which is assigned a foreign currency sovereign rating of at least the same as the Republic;

- (b) **"banker's acceptance"** means a bill as defined in the Bills of Exchange Act, drawn on and accepted by a bank;
- (c) **"bond"** means an acknowledgement of debt in which the issuer/guarantor undertakes to repay the debt together with interest on the maturity of the debt to the holder of the bond;
- (e) **"commercial paper"** means any negotiable acknowledgement of debt;
- (f) **"debenture"** means debenture stock, debenture bonds and any other securities of a company, whether constituting a charge on the assets of the company or not;
- (g) **"deposit"** means a deposit as defined in the Banks Act, or in the Mutual Banks Act;
- (h) **"Islamic Compliant Instrument"** means an Islamic Complaint Instrument as defined in this Notice;
- (i) **"land bank bill"** means a bill or note as defined in the Bills of Exchange Act, drawn, accepted or issued by the Land and Agricultural Bank of South Africa;
- (j) **"negotiable certificate of deposit"** means a certificate of deposit issued by a bank, and payable to order or to bearer;
- (k) **"public entity bill"** means a bill or note as defined in the Bills of Exchange Act, drawn, accepted or issued by a parastatal institution;
- (l) **"promissory note"** means a promissory note as defined in the Bills of Exchange Act, ;
- (m) **"trade bill"** or **"trade note"** means a bill or note as defined in the Bills of Exchange Act, drawn, accepted or issued to provide for the payment for goods;
- (n) **"treasury bill"** means a bill drawn by the Government on the Secretary to the Treasury calling on the latter to pay a sum certain in money to a specified person or his order or to bearer, on demand or on a certain specified future date;
- (o) a transaction for the swap of interest rates applicable to any of the money market instruments determined in sub-paragraphs (a) to (n) included in a money market or short-term debt portfolio, provided that

the swap of interest rates is supported by an International Swaps and Derivatives Association ("ISDA") agreement and a credit support annex ("CSA").

Inclusion limits

6. (1) A manager may include money market instruments, subject to paragraph 8(7) of this Notice, whether listed on an exchange or not and, in a money market and short-term debt portfolio provided that the market value of the instruments does not exceed the percentage/s as specified in the table below.

Table 3

Item	Categories of Money Market Instruments	Limits being the maximum percentage of the aggregate market value of the portfolio	
		Per issuer/guarantor as applicable	In aggregate for all issuers/guarantors as applicable
1	Money market instruments issued or guaranteed by:		100%
1.1	the Government of the Republic of South Africa;	100%	100%
1.2	any foreign government which has been assigned a foreign currency sovereign rating not lower than that of the Republic of South Africa;	100%	100%
	the South African Reserve Bank.	100%	100%
2	Money market instruments issued or guaranteed by a local or foreign bank which forms part of a group of companies (in terms of international accounting standards) of which the holding company is listed on an exchange:		100%
2.1	with a market capitalisation for the listed group holding company of more than R 20 billion;	30%	100%
2.2	with a market capitalisation for the listed group holding company of between R 2 billion and R 20 billion.	20%	100%
3	Money market instruments issued or guaranteed by:		100%
3.1	a public entity under the Public Finance Management Act, 1999 (Act No. 1 of 1999);	10%	100%
3.2	any local or foreign entity which is listed on an exchange.	10%	100%
4	Money market instruments issued or guaranteed by entities not described above.	5%	20%

(2) In order to determine the market capitalisation of an internationally listed group holding company, a conversion must be done to Rand at the prevailing foreign

exchange rate at the date of inclusion of the instrument and thereafter at least once every 30 days.

(3) If, after the date of inclusion of any money market instrument in a money market and short-term debt portfolio, a reduced inclusion limit becomes applicable to that instrument, the manager must rectify the position within 30 days of such reduced limit becoming applicable. Provided that if the manager and the trustee are of the view that rectification would be detrimental to a particular portfolio, the manager must, within seven days of the date of becoming aware of the change in limits, submit a detailed plan setting out measures to rectify the position to the Registrar for approval.

(4) A manager that administers a portfolio in compliance with the relevant standards of AAOIFI, in terms of which the portfolio may invest in Islamic Bonds (Sukuks) or Islamic Compliant Instruments, must comply with the limits as set out in Table 4 with regard to item 2 until 31 May 2013, after which date the limits set out in Table 3 of subparagraph (1) shall apply:

Table 4

Item no.	Categories of Money Market Instruments	Per issuer/guarantor as applicable
2	Money market instruments issued or guaranteed by a local or foreign bank which forms part of a group of companies (in terms of international accounting standards) of which the holding company is listed on an exchange:	
2.1	with a market capitalisation for the listed group holding company of more than R 20 billion;	50%
2.2	with a market capitalisation for the listed group holding company of between R 2 billion and R 20 billion.	34%

(5) If a manager, is unable to comply with any limit prescribed in this paragraph through no fault of its own, the manager must, if the non-compliance is not rectified within 30 days of the date on which the manager becomes aware of the non-compliance, submit a detailed plan setting out measures to rectify the position to the registrar for approval.

Reduction of participatory interests

7. (1) For the purposes of this section, a "reduction in value" is constituted where a loss on a sale or a default of a money market instrument results in a loss greater than all the income accrued in an accounting period.

(2) A manager must within 21 days after the reduction in value of any participatory interest in a money market and short-term debt portfolio, provide the registrar and every investor in the portfolio in writing with details of the reduction.

(3) A reduction in value must be reflected in the accounts and returns to be kept and rendered to the registrar by the manager in terms of section 90(1) of the Act.

(4) The auditor of a manager must, in the case of a reduction, provide the registrar with details of the reduction on a quarterly basis.

General

8. (1) At the time of its inclusion in a money market and short-term debt portfolio a money market instrument may not have a residual maturity exceeding 13 months.

(2) The weighted average legal maturity of money market instruments included in a money market and short-term debt portfolio, based on the value of the total money market and short term debt portfolio, may not exceed one 120 days.

(3) The weighted average duration of money market instruments included in a money market and short-term debt portfolio, based on the value of the total money market and short term debt portfolio, may not exceed 90 days.

(4) The following money market instruments may not be included in a money market and short-term debt portfolio -

- (a) money market instruments having no fixed maturity;
- (b) money market instruments whose initial interest rates are not known at the date of inclusion;
- (c) money market instruments, including, but not limited to, credit linked notes whose return or redemption may be dependent on another instrument;
- (d) money market instruments, including, but not limited to, credit

linked notes whose return or redemption may be dependent on another entity;

- (e) money market instruments, including, but not limited to, credit linked notes, whose return or redemption may be dependent on any event.

(5) The manager must at all times be able to calculate the return of the money market and short-term debt portfolio.

- (6) (a) The manager is responsible for the assessment of the quality of a money market instrument; in making its assessment, the manager must take into account all applicable factors including the liquidity profile and the nature of the instrument.

- (b) In carrying out its due diligence investigation, the manager must not place inappropriate reliance on the credit rating of the instrument.

(7) A manager may not include any money market instrument in a money market and short-term debt portfolio if the institution that issues or guarantees the money market instrument-

- (a) does not have capital and reserves amounting to at least R 100 000 000 and presents and publishes its annual accounts to the public; or
- (b) is not an entity within a group of companies which includes one or several listed companies, whose holding company has capital and reserves amounting to at least R 100 000 000, and presents and publishes its annual accounts to the public and where such entity's accounts are included in the consolidated accounts of the group, as defined in the Companies Act 2008, (Act No. 71 of 2008).

- (8) (a) A manager may include in a money market or short-term debt portfolio a transaction for the swap of interest rates, as described in paragraph 5(o), subject to sub-paragraph (1), (2) and (3) and subject to the conditions and limits determined in Chapter V of this Notice, where the inclusion of such a transaction is only utilised

for efficient portfolio management with the aim of reducing risk, reducing costs or generating capital or income for a portfolio with an acceptable level of risk or to achieve the investment objective of the portfolio.

- (b) The manager must ensure that an unlisted transaction for the swap of interest rates is not used to leverage or gear the portfolio, and is covered at all times.

(9) A manager must perform a mark-to-market valuation of the money market portfolio and each participatory interest every six months to determine the variance of the mark-to-market value with the constant price and report this calculation to the registrar within 30 days of performing the calculation.

CHAPTER III

FUND OF FUNDS PORTFOLIO

Definition

9. For the purposes of this Chapter, a “**fund of funds**” means a portfolio that, apart from assets in liquid form, consists solely of participatory interests, whether listed on an exchange or not, in portfolios of collective investment schemes other than collective investment schemes in participation bonds.

Conditions and limits of inclusion

10. The conditions and limits subject to which participatory interests in a portfolio may be included in a fund of funds, are as follows:

- (a) The investment in participatory interests by a fund of funds must consist of participatory interests in not less than two other portfolios, provided that the investment in any one portfolio may not exceed 75 percent of the market value of the fund of funds.
- (b) The limit determined in sub-paragraph (a) may be exceeded only if the excess is due to appreciation or depreciation of the value of the underlying participatory interests constituting the portfolio, provided that a manager may not, for as long as the excess continues, purchase any further participatory interests.
- (c) A fund of funds may invest in participatory interests issued by another fund of funds only if that fund of funds holds assets outside the Republic of at least 85 percent of the value of the fund of funds and where that fund of funds is not invested in another fund of funds or feeder fund.
- (d) A fund of funds may invest in participatory interests issued by a feeder fund only if the feeder fund holds assets outside the Republic of at least 85 percent of the value of the feeder fund.

- (e) If a manager is unable to comply with the provisions of sub-paragraph (c) through no fault of its own, the manager must, if the non-compliance is not rectified within 30 days of the date on which it becomes aware of the non-compliance, submit a detailed plan setting out measures to rectify the position to the registrar, for approval.
- (f) The investment objectives of a fund of funds must clearly specify the nature of the participatory interests comprising the portfolio.
- (g) If a manager of a fund of funds includes in a portfolio participatory interests of the portfolios referred to in sub-paragraphs (a), (c) or (d) of a foreign collective investment scheme ("underlying portfolios"), the underlying portfolio must:-
 - (i) have either been approved in terms of section 65 of the Act, and be subject to an annual review by the manager to ensure that it continues to comply with the requirements of section 65; or
 - (ii) if the underlying portfolio has not been approved in terms of 65 of the Act, be subject to a due diligence investigation conducted by the manager, to the satisfaction of the trustee, to ascertain if the portfolio would qualify for approval in terms of the conditions under section 65(1)(c) of the Act and that the portfolio is available for investment and is not otherwise prohibited in its domicile of registration.
- (h) In the case of an underlying portfolio that is managed, directly or by delegation, by the same manager as the manager of the portfolio investing in the underlying portfolio or by any other company with which the manager is linked by common management or control, or by a substantial direct or indirect holding, the manager or other company may not charge subscription or redemption fees on the underlying portfolio.
- (i) If a manager of a fund of funds includes participatory interests of a foreign feeder fund in such portfolio, that feeder fund may not have invested in another feeder fund or a fund of funds.
- (j) For the purposes of this Chapter, the value of a participatory interest held by one portfolio in another must be calculated by reference to the

lower of the repurchase price or the net asset value of the relevant participatory interest, at the close of business on the day before the day a repurchase price was calculated.

- (k) To the extent that the assets in a portfolio are exposed to exchange rate risk, a manager may enter into financial transactions for the exclusive purpose of hedging such exchange rate risk subject to the conditions and limits stipulated in Chapter V, provided that the portfolio's investment policy provides for it to include financial instruments for the exclusive purpose of hedging exchange rate risks.
- (l) A fund of funds may not consist solely of participatory interests in a money market or short term debt portfolio.

CHAPTER IV

FEEDER FUND PORTFOLIO

Definition

11.For the purposes of this Chapter, a “feeder fund” means a portfolio that, apart from assets in liquid form, consists solely of participatory interests in a single portfolio of a collective investment scheme in securities, whether listed on an exchange or not.

Conditions and limits of inclusion

12.The conditions and limits subject to which participatory interests in a portfolio of a collective investment scheme in securities may be included in a feeder fund are as follows:

- (a) A feeder fund may invest in participatory interests issued by a fund of funds only if the fund of funds is domiciled and regulated outside the Republic and where the fund of funds is not invested in another fund of funds or in a feeder fund.
- (b) If a manager is unable to comply with the provisions of sub-paragraph (a) through no fault of its own, the manager concerned must, within 30 days of the date on which it becomes aware of the non-compliance, submit a detailed plan for approval to the registrar setting out measures to rectify the position.
- (c) If a manager of a feeder fund includes in the feeder fund participatory interests of a foreign registered feeder fund (“underlying portfolio”), the underlying portfolio must:-
 - (i) have either been approved in terms of section 65 of the Act, and be subject to an annual review by the manager to ensure that it continues to comply with the requirements of section 65 ; or
 - (ii) if the underlying portfolio has not been approved in terms of 65 of

the Act, the manager must conduct a due diligence investigation to the satisfaction of the trustee to ascertain if such portfolio would qualify for approval in terms of the conditions under section 65(1)(c) of the Act and that such portfolio is available for investment and is not otherwise prohibited in its domicile of registration;

- (d) In the case of an underlying portfolio that is managed, directly or by delegation, by the same manager as the manager of the portfolio investing in the underlying portfolio or by any other company with which the manager is linked by common management or control, or by a substantial direct or indirect holding, that manager or other company may not charge subscription or redemption fees on the underlying portfolio.
- (e) For the purposes of this Chapter, the value of a participatory interest held by one portfolio in another must be calculated by reference to the lower of the repurchase price or the net asset value of the relevant participatory interest, at the close of business on the day before the day a repurchase price was calculated.
- (f) To the extent that assets in a portfolio are exposed to exchange rate risk, a manager may enter into financial transactions for the exclusive purpose of hedging such exchange rate risk subject to the conditions and the limits stipulated in Chapter V, provided that a portfolio's investment policy provides for it to include financial instruments for the exclusive purpose of hedging exchange rate risks.

CHAPTER V

INCLUSION OF FINANCIAL INSTRUMENTS IN A PORTFOLIO

Definitions

13. For the purposes of this Chapter –

“asset portfolio” in relation to a portfolio, means the portfolio of underlying assets comprising the portfolio;

“call option” means an option contract in terms of which the holder of the contract has the right, but not an obligation, to purchase the relevant underlying asset or to receive a cash settlement instead;

“contract size” or **“multiplier”**, in relation to a financial instrument, means the factor by which the price of an underlying asset is multiplied to arrive at the value of one contract as specified in either –

- (a) the rules of the relevant exchange on which the financial instrument is listed; or
- (b) the terms and conditions as defined in the offering document of the relevant financial instrument;

“delta factor”, in relation to a financial instrument, means the requirement for an exposure calculation for financial instruments as determined in accordance with –

- (a) a method prescribed by the relevant exchange for the specific financial instrument; or
- (b) the terms and conditions as defined in the offering document of the relevant financial instrument;

“delta sign”, in relation to a financial instrument, means the mathematical sign of the exposure of the financial instrument, determined by the sign of the delta factor, which can be either positive or negative, determined in accordance with –

- (a) the delta factor calculation prescribed by the relevant exchange for the specific financial instrument; or
- (b) the terms and conditions as defined in the offering document of the relevant financial instrument;

“effective exposure”, in relation to a listed financial instrument, means the exposure as calculated in paragraph 15 of this Notice;

“listed financial instrument” means an instrument as defined in paragraph 2(1)(b) of Chapter 1 of this Notice, which is listed and dealt on an exchange with full membership of the World Federation of Exchanges, ,

“put option” means an option contract in terms of which the holder of the contract has the right, but not an obligation, to sell the relevant underlying asset or to receive a cash settlement instead;

“transaction sign”, in relation to a financial instrument, means the transaction direction, whether buying or selling, of a financial transaction, as calculated in accordance with paragraph 18(4) of this Notice;

“underlying asset”, in relation to a listed or unlisted financial instrument, means -

- (a) any security;
- (b) an index as determined by an exchange;
- (c) a group of securities which is the subject matter of the financial instrument, whether such group of securities is represented by an index or not;
- (d) a currency rate; or
- (e) an interest rate;

“unlisted financial instrument” means an instrument as defined in paragraph 2(c) of Chapter I of this Notice;

Inclusion of financial instruments in a portfolio

14. (1) A manager may include listed and unlisted financial instruments in a portfolio, subject to this Notice, the deed and supplemental deeds.

(2) In the application of sub-paragraph (1) a manager may only write option contracts in compliance with the conditions set out in paragraph 16 of this Notice, or sell option contracts, which have previously been bought.

Exposure limits for listed financial instruments

15. (1) The sum of the effective exposures of listed financial instruments to assets in liquid form to be maintained in terms of this Chapter, together with the market value of all the physical underlying assets in the portfolio, may not exceed 100 percent of the market value of the portfolio.

(2) The effective exposure to listed financial instruments based on any specific underlying asset, which is not an index or group of securities, together with the market value of any physical holding of that specific underlying asset, may not exceed the limitations laid down in paragraph 3(1) or Table 1, as applicable, of Chapter I of this Notice.

(3) For the purposes of this paragraph, the provisions of paragraph 3(1)(a) and (b) or Table 1, to the extent applicable, of Chapter 1 of this Notice in respect of excesses, which are due to appreciations or depreciations of the market value of the relevant securities, or an amalgamation, cession, transfer or take-over in terms of section 99 of the Act, apply *mutatis mutandis*.

Maintaining of certain assets in portfolio of listed financial instruments

16. A manager which, in accordance with the provisions of this Notice, -

- (a) sells future contracts, call options or call warrants, or buys put options or put warrants, based on specific underlying assets which are not indices or a basket of securities, must maintain an exposure to the

market value of such underlying assets which is at least equal to the effective exposures of the mentioned underlying assets;

- (b) sells futures contracts, call options or call warrants, or buys put options or put warrants, based on index futures or a basket of securities, must maintain an exposure to the same or similar underlying assets or other financial instruments with positive exposures to the same or similar underlying assets in the relevant portfolio, which is at least equal to the effective exposure of such listed financial instruments;
- (c) buys futures contracts, call options or call warrants, or sells put options or put warrants based on any underlying asset, must maintain an exposure to assets in liquid form, which is at least equal to the effective exposure of such listed financial instruments;
- (d) sells put options or put warrants, may maintain a bought put option or bought put warrant in place of assets in liquid form as required in sub-paragraph (c) only if the strike price of the bought put option or bought put warrant is not lower than the price of the sold put option or put warrant;
- (e) sells call options or call warrants, may maintain a bought call option or bought call warrant in place of underlying assets as required in sub-paragraph (a) or (b) only if the strike price of the bought call options or call warrants is lower than the price of the sold call option or call warrant;
- (f) sells or buys multiple options or multiple warrants or futures based on the same underlying assets which are not indices or a basket of securities with positive net effective exposure, must maintain assets in liquid form as prescribed in sub-paragraph (c);
- (g) sells or buys multiple options or multiple warrants or futures based on index futures or a basket of securities with positive net effective exposure, must maintain assets in liquid form as prescribed in sub-paragraph (c); and
- (h) sells or buys multiple options or multiple warrants or futures or basket of securities based on the same or similar underlying asset with

negative net effective exposure, must maintain assets as prescribed in sub-paragraph (a) or (b) as applicable.

Maintaining of certain assets in portfolio for unlisted financial instruments

17. (1) A manager, which in accordance with the provisions of this Notice, includes in a portfolio an unlisted financial instrument, must ensure at all times that-

- (a) the net negative mark-to-market exposure of the unlisted financial instrument is at all times covered by assets in liquid form;
- (b) in the case of net positive mark-to-market exposure of the unlisted financial instruments, the exposure be aggregated to all existing physical underlying assets and effective exposures) to the same issuer/guarantor and the aggregate must at all times remain within the limits as set out in Table 1 of Chapter I of this Notice.

(2) Netting is only permissible with respect to the same or similar unlisted financial instrument with the same issuer/guarantor, provided that the manager is able to legally enforce netting arrangements with that issuer/guarantor.

(3) The manager must ensure that unlisted financial instruments are not used to leverage or gear the portfolio and that the unlisted financial instruments are covered at all times.

Calculation of effective exposure for listed financial instruments

18.(1) The exposure of a futures contract or index tracking certificate of an underlying asset, group of underlying assets or an index must be calculated as the product of –

- (a) the number of contracts;
- (b) the relevant contract size; and
- (c) the current market value of the underlying asset, group of underlying assets or index.

(2) The exposure of an option contract or a warrant to an underlying asset, group of underlying assets, index or index future, must be calculated as the product of -

- (a) the number of option or warrant contracts;
- (b) the relevant contract size;
- (c) the current market value of one relevant underlying asset, one group of the underlying assets, an index or index future; and
- (d) the delta factor.

(3) The effective exposure to any listed financial instrument must be calculated as the product of -

- (a) the exposure, calculated in accordance with paragraph 18(1) or (2) of this Notice; and
- (b) the transaction sign.

(4) The transaction sign is positive for any listed financial instrument purchased and negative for any listed financial instrument sold.

(5) The net effective exposure to listed financial instruments on the same or similar underlying asset is the sum of the effective exposures of all the listed financial instruments to the same or similar underlying asset.

Assets in liquid form associated with listed and unlisted financial instruments to be maintained in terms of this Chapter

19. (1) A manager must at all times ensure that the portfolio has sufficient assets in liquid form in aggregate to comply with the requirements of paragraph 16(c), 16(f), 16(g), 16(h) and 17 of this Notice.

(2) The amount of assets in liquid form may be adjusted by any amount held in a margin account of an exchange as cover.

Report by the Manager

20. After the inclusion of a financial instrument in a portfolio, and while a financial instrument remains included in a portfolio, a manager must furnish the registrar within 30 days after the last business day of each quarter with a report substantially conforming to Annexure A to this Notice.

CHAPTER VI

GENERAL

Disclosure of fees

21. For the purposes of paragraphs 3(6), 16(c) and (d) and 18(a) of this Notice, when a portfolio invests in participatory interests of another portfolio, the manager must disclose that the fee structure is higher and also disclose the anticipated aggregate of the fees levied by itself and by the other portfolio, to potential investors in the application form, before entering into a transaction.

Consequences of large repurchases

22.(1) If a limit determined in this Notice is exceeded due to the manager meeting its obligation to meet offers to repurchase participatory interests and for as long as such excess continues, the manager may not purchase any further securities or instruments issued by that entity.

(2) If the excess is not rectified within 30 days of the date on which it occurred, the manager must submit a detailed plan for approval to the registrar setting out measures to rectify the position.

Operational trust account

23. Any amount deposited, transferred or held in an account determined in section 105 of the Act, must be disregarded for the purposes of any limit prescribed in this Notice.

Transitional measures

24. If, after the date of this Notice coming into effect, any limits prescribed in

paragraphs 3(9) and 6(1) are exceeded but the portfolio would have been in compliance with the limits prescribed in Notice 1503 of 2005, the manager may hold the securities exceeding the limits prescribed in this Notice to maturity and must furnish the registrar with a report listing the securities so held and indicating the remaining term to maturity quarterly.

Commencement

25.(1) Notice 1503 of 2005, as published in *Government Gazette* No. 28287 of 15 December 2005 and Notice 408 of 2011, as published in *Government Gazette* No. 34377 of 24 June 2011, are repealed from the date of coming into operation of this Notice.

(2) This Notice comes into effect on 01 July 2012.....

=====

ANNEXURE A**REPORT OF COMPLIANCE OFFICER OF MANAGER IN RESPECT OF SYSTEM OF INTERNAL CONTROL**

We, (NAME), CHIEF EXECUTIVE OFFICER/MANAGING DIRECTOR, and
..... (NAME), COMPLIANCE OFFICER, have examined the system of internal control regarding
..... (NAME OF PORTFOLIO), designed to ensure compliance by (NAME OF
MANAGER) with Chapter VII of Notice ... of.

We hereby certify that –

- (a) the system of internal control over compliance with Chapter VII is
suitability designed to provide reasonable assurance that the controls have prevented or detected non-compliance with
Chapter VII;
- (b) the system of internal control designed to ensure compliance with Chapter VII, operated as designed throughout the quarter
ended

We draw attention to the following instances of non-compliance with Chapter VII which were/were not subsequently corrected.

.....

(Signature)

Address

Date

.....
(Signature)