

## BOARD NOTICE RAADSKENNISGEWING

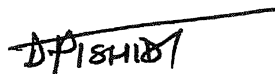
### BOARD NOTICE 84 OF 2015

#### FINANCIAL SERVICES BOARD

#### COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

#### CAPITAL REQUIREMENTS WITH WHICH A MANAGER OF A COLLECTIVE INVESTMENT SCHEME IN HEDGE FUNDS 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 hedge funds 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 hedge funds 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).

##### CAPITAL TO BE MAINTAINED BY MANAGER

1. The capital to be maintained by a manager of a collective investment scheme in hedge funds 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— <ul style="list-style-type: none"> <li>(a) issued ordinary share capital;</li> <li>(b) issued preference share capital (if not redeemable within one year and not redeemable at the option of the holder);</li> </ul>
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	<p>(c) share premium account;</p> <p>(d) non-distributable reserves;</p> <p>(e) retained income—</p> <p style="padding-left: 20px;">(i) if audited, 100 per cent must be included; and</p> <p style="padding-left: 20px;">(ii) 50 per cent of the positive unaudited retained income or 100 per cent of the negative unaudited retained income must be included;</p> <p>(f) loans (only if properly subordinated in favour of the manager);</p> <p>(g) guarantees (only from a third party and only if exercisable on demand by the manager).</p>
2.	<p>Less adjustment for—</p> <p>(a) intangible assets;</p> <p>(b) guarantees provided by the manager;</p> <p>(c) contingent liabilities;</p> <p>(d) net deferred tax assets;</p> <p>(e) any assets which are not convertible into cash within 14 business days including but not limited to –</p> <p style="padding-left: 20px;">(i) fixed assets, net of related secured loans;</p> <p style="padding-left: 20px;">(ii) investment in unlisted businesses.</p>
3.	Adjusted capital [paragraph 1 Table item 1 <i>minus</i> paragraph 1 Table item 2].
4.	<p>Less required capital to be maintained consisting of—</p> <p>(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); <i>plus</i></p> <p>(b) seed capital of R1 million to be invested by the manager in each portfolio administered by the manager: Provided that—</p> <p style="padding-left: 20px;">(i) the prescribed amount may be withdrawn once the portfolio reaches a size of R50 million net asset value under management; and</p> <p style="padding-left: 20px;">(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 R50 million for a continuous period of 6 months; <i>plus</i></p> <p>(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 a percentage of the amount paid for participatory interests in a portfolio determined as follows in respect of each type of hedge fund:</p> <ul style="list-style-type: none"> <li>•Qualified Investor Hedge Fund: 35%</li> <li>•Retail Hedge Fund : 40%</li> </ul>

5.	Liquid resources [paragraph 1 Table item 3 <i>minus</i> paragraph 1 Table item 4], which must be a positive amount.
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### FIXED EXPENSE AMOUNTS

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 REQUIREMENT			
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	X	X (Note (f))	
Other Finance	X	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	X	X (Note (e))	
Directors' Fees	X	X (Note (e))	
Interest	X	X (Note (e))	
			<b>TOTAL</b>

**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. Asset management fees that are calculated as a percentage of assets under management may be excluded. Any fixed amount or any portion of asset

management fees not calculated as a percentage of assets under management, contractually agreed to with the asset manager, 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. All assumptions must be clearly stated and demonstrably incorporated into the budget.
- (3) The 13 weeks' liquid capital may not be invested in any portfolios other than a money market portfolio.
- (4) The registrar may, where the registrar 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.

### REPORTING TO 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.

### EVALUATION OF RISK

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.

### COMMENCEMENT

5. (1) This Notice comes into effect on date of publication.
- (2) Paragraph 1 Table item 4(b) must be complied with within 6 months from the date that this Notice comes into effect.