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FINANCIAL SERVICES BOARD

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

DETERMINATION OF CONDITIONS AND THE MANNER IN WHICH PARTICIPATORY INTERESTS IN COLLECTIVE INVESTMENT SCHEMES IN SECURITIES, PROPERTY AND PARTICIPATION BONDS MAY BE ISSUED TO AN INVESTOR AS A TAX FREE INVESTMENT

I, Dube Phineas Tshidi, Registrar of Collective Investment Schemes, hereby determine, under sections 46, 51 and 114(4)(b) 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 collective investment scheme in property and a collective investment scheme in participation bonds, the conditions and manner in which participatory interests may be issued in a portfolio as tax free investments under the Income Tax Act, 1962.

DP Tshidi

D P TSHIDI
REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES

SCHEDULE

1. PREAMBLE

Following the determination of tax free investments in the Regulations, this notice stipulates the additional conditions of the Registrar in addition to the conditions pertaining to collective investment schemes under the Act, for the regulation of collective investment schemes as tax free investments.

2. 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 meaning is assigned in the Act bears that meaning, and unless the context indicates otherwise–

"Income Tax Act" means the Income Tax Act, 1962 (Act No 58 of 1962);

"Regulations" means the Regulations in terms of section 12T of the Income Tax Act.

3. CONDITIONS

(1) Where a manager markets, sells or otherwise provides participatory interests to an investor as being a tax free investment, the manager must ensure that it and the portfolio, or class of participatory interests or account provided for the investor constituting the tax free investment, fully comply with the Regulations at all times.

(2) Within 60 days of first issuing any participatory interest as a tax free investment, the manager must submit to the Registrar a report obtained from an independent auditor, confirming that the administrative and accounting systems of the manager are capable of -

(a) separately identifying each investor's tax free investment account,

(b) managing annual and lifetime investment limits,

(c) accounting for and managing all transactions in and out of the investors' account in compliance with the Regulations; and

(d) properly reporting on the investor's account to the investor on a quarterly basis.

(3) The manager must ensure that it includes the report referred to at subparagraph (2) above in the manager's annual audit.

(4) The manager must in addition to other determined disclosures, fully disclose to the investor prior to accepting a tax free investment transaction from an investor, the fact that the account is a tax free investment, the nature of a tax free investment, the maximum annual and lifetime investment limits, how these limits operate and

what the consequences are for the investor should these limits be exceeded as well as the general tax implications of a tax free investment.

4. **COMMENCEMENT**

This Notice commences on the date of publication.