



FINANCIAL SERVICES BOARD

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CISCA CIRCULAR NO. 5 TO FOREIGN COLLECTIVE INVESTMENT SCHEMES APPROVED IN TERMS OF SECTION 65 OF THE COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, NO. 45 OF 2002 ("THE ACT")

Further to the letter addressed by this Office to the Association of Collective Investments ("ACI") on 12 December 2006, this Office hereby confirms the following:

1. The Registrar of Collective Investment Schemes ("the Registrar") will, under section 22(b) of the Act, cause a Notice to be published in a Government Gazette, exempting from the provisions of paragraph 6 of Notice 2076 of 2003, until 30 June 2007 or such other date as the Registrar may determine:
 - 1.1 A manager of a foreign collective investment scheme ("FCIS") approved by the Registrar in terms of section 65 of the Act which converts to the UCITS III regime, on the following conditions:
 - 1.1.1 A manager which applied in terms of Notice 2076 for amendment to its scheme particulars to accommodate the provisions of UCITS III, as contained in UCITS Directives 2001/107/EC and 2001/108/EC ("UCITS III Directives"), must furnish this Office with proof to the satisfaction of the Registrar that the scheme is duly registered by the competent authority of its home jurisdiction and that it is compliant with the UCITS III Directives. The said proof should reach this Office by not later than 28 February 2007;

Board Members: Dr CDR Rustonjee (*Chairperson*) AM Sithole (*Deputy Chairperson*) BM Hawkworth Ms JV Mogadime
Ms LM Mojela Ms AMM Mokgabudi Prof PJ Sutherland Ms HS Wilton
Board Secretary: SB Makgalemele
Executive Officer: RJG Barrow



1.1.2 A manager of a FCIS which will be availing itself of expanded investment powers under UCITS III is therefore required by the Registrar to:

- (a) Send a notice to existing South African investors confirming that the home regulator has approved the revised scheme particulars. Any waivers granted or special conditions imposed should be disclosed. The notice should contain a description of the key differences between UCITS I and UCITS III and any applicable additional risk relating to the use of financial derivative instruments. The notice should also state that the fund's risk management and control policies are available to South African investors on request and are appropriate, given the fund's risk profile. The notice ;
- (b) Provide the Registrar with a copy the notice referred to in 1.1.2(a), as well as copies of documents containing the revised scheme particulars, highlighting the changes effected; and
- (c) Revise fund documentation for new investors taking cognisance of the above;

1.1.3 For a FCIS converting to UCITS III which will not use the enhanced powers under UCITS III, a simpler procedure will apply. Disclosure by notice to existing South African investors and in offering documents is required confirming that the scheme or locally marketed portfolios will continue to operate as though no conversion has occurred, notwithstanding its actual conversion to UCITS III. If such a UCITS III fund subsequently adopts the expanded UCITS III investment powers, at least three months prior notice to South African investors will be required and the additional information mentioned above for UCITS III conversion will be needed.

1.2 A FCIS which, although not a UCITS, was required by the Registrar to amend its scheme particulars in compliance with Circular No. 2 issued by the Registrar on 16 March 2006, on condition that:

- (a) A notice is sent to existing South African investors confirming the non-compliance with the said Circular No.2;

- (b) Such notice contains a description of the key differences between the requirements set out in paragraph 6 of the amended Notice 2076 of 2003, and the relevant scheme particulars, as well as any applicable additional risk relating to the use any powers or strategies, and any limits contained in such scheme particulars. It should also state that the fund's risk management and control policies are available to South African investors on request and are appropriate given the fund's risk profile; and
 - (c) The Registrar is provided by such FCIS with a copy of the notice referred to in 1.2(a) above.
2. Attention is drawn to the fact that the exemption is only an interim measure intended to create space for a consultative process that will inform the Registrar on the most appropriate regulatory route to pursue. Accordingly, managers of FCIS are cautioned to conduct their businesses in a manner that takes into account the fact that the outcome of the consultative process may not support the accommodation of schemes with the extended powers introduced by the UCITS III directives.
 3. A copy of this circular is enclosed for the information of your auditor. Please acknowledge receipt.



REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES

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