



FSCA COMMUNICATION 8 OF 2024 (CIS)

Re-investment of income distribution from securities held by Collective Investment Schemes in Portfolios in terms of Paragraph 3(1)(a) read with Paragraphs 3(1)(b)(i) and 3(3)(b) of Board Notice 90 of 2014 (the Notice).

1. Purpose

The purpose of this Communication is to provide clarity on the application of paragraph 3(1)(a) read with paragraphs 3(1)(b)(i) and 3(3)(b) of the Notice insofar as re-investment of income distribution from underlying securities, is interpreted by some CIS Managers.

2. Background

2.1 It has come to the attention of the Financial Sector Conduct Authority (FSCA) that several CIS Managers seem to have adopted a practice of -

- (a) re-investing income distributions (dividends) from an equity security in a portfolio in the same equity security that distributed dividend which may result in that equity security exceeding the prescribed exposure limit for the portfolio; or
- (b) applying income received in the portfolio from an underlying portfolio to purchase more participatory interests of that underlying portfolio which may exceed its exposure limit; and
- (c) deeming the re-investment of income in portfolios as part of the market movement exclusions provided for in paragraphs 3(1)(b)(i) and 3(3)(b) of the Notice.

2.2 In terms of paragraph 3(1)(b)(i) of the Notice, *“where a portfolio breaches the limits set out in sub-paragraphs (a)(i) and (ii) 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 the relevant concern, the manager may not purchase any further equity shares issued by that concern for as long as the market value of an equity security in any particular concern exceeds the limit specified in subparagraphs (a)(i) and (ii).”*

2.3 Paragraph 3(3)(b) of the Notice further provides that, *“the limit determined in sub-paragraph 3(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.”*

3. Re-investment of income distributions in the context of paragraphs 3(1)(b)(i) and 3(3)(b) of the Notice

- 3.1 Paragraphs 3(1)(b)(i) and 3(3)(b) of the Notice provide for temporary breaches due to market movements, which are limits exceeded due to appreciation or depreciation of the value of the underlying equity securities or participatory interest constituting the portfolio, provided that the manager may not, for as long as the excess continues, purchase any further equity securities or participatory interest for the portfolio.
- 3.2 In a case where income distributions are re-invested in the underlying equity securities or portfolio, additional participatory interest are created by the manager, and thus it cannot constitute a fluctuation in the value of the participatory interests due to market movements. As such, where income distributions are re-invested and the re-investment, results in a breach of the limits, the exceptions provided for in paragraphs 3(1)(b)(i) and 3(3)(b) of the Notice, do not apply.

4. Monitoring of practice and enforcement action

- 4.1 The FSCA continues to monitor compliance with the Notice regarding this practice and is in the process of engaging with the CIS Managers applying such practice.
- 4.2 The FSCA expects CIS Managers to implement adequate controls to ensure that portfolios do not exceed the prescribed limits due to re-investment of income distributions.
- 4.3 Where a manager is found to have acted contrary to paragraphs 3(1)(b)(i) and 3(3)(b) of the Notice as explained above, the CIS Manager may be subjected to enforcement action by the FSCA, which could include a directive in terms of Section 144 of the Financial Sector Regulation Act No. 9 of 2017 (FSR Act) or an administrative penalty in terms of Section 167 of the FSR Act for a breach of a financial sector law.

5. Enquiries

For further information regarding this Communication, please contact the Conduct of Business Department of the FSCA by emailing Chwayita Mtebele at Chwayita.Mtebele@fsca.co.za.



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Date of publication: 6 March 2024