

NOTICE 2075 OF 2003

FINANCIAL SERVICES BOARD

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

CAPITAL REQUIREMENTS WITH WHICH A MANAGER OF A COLLECTIVE INVESTMENT SCHEME IN PARTICIPATION BONDS MUST COMPLY

Under section 88(1) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), I, Jeffrey van Rooyen, Registrar of Collective Investment Schemes, hereby determine in the Schedule the capital to be maintained by a manager of a collective investment scheme in participation bonds for the matters and risks set out in the Schedule.

REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES

SCHEDULE

1. The capital to be maintained by a manager of a collective investment scheme in participation bonds must be calculated as follows:
 - (1) Eligible capital consisting of the total of –
 - (a) issued ordinary share capital;
 - (b) issued preference share capital (if not redeemable within one year and not redeemable at the option of the holder);
 - (c) share premium account;
 - (d) non-distributable reserves;
 - (e) retained income –
 - (i) if audited, 100 per cent may be included;
 - (ii) if not audited, 50 per cent may be included;

- (f) loans (only if properly subordinated in favour of other creditors);
- (g) guarantees (only from a third party and only if exercisable on demand by the manager).

(h) **Total**

(2) **Less adjustments for impaired capital consisting of –**

- (a) intangible assets;
- (b) contingent liabilities.

(c) **Total**

(3) **Available capital resources [1(1)(h) *minus* 1(2)(c)]**

(4) **Less adjustments for non-liquid assets consisting of –**

- (a) fixed assets, net of related secured loans;
- (b) investment in other businesses.

(c) **Total**

(5) **Adjusted liquid capital [1(3) *minus* 1(4)(c)]**

(6) **Less required capital to be maintained consisting of -**

- (a) a basic capital which must be the greater of an amount of R600 000 or a sum equivalent of 13 weeks' of fixed cost 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(3); *plus*
- (b) seed capital of R1 million to be invested by the manager in each portfolio administered by the manager: Provided that -
 - (i) the prescribed amount may be reduced by 10 per cent for every R1 000 000 invested by investors in a portfolio which investors may not be connected to but must be independent from the manager; and
 - (ii) if the sum of R1 000 000 has been reduced to nil in terms of

subparagraph (i) and disinvestment from a portfolio causes the investment in the portfolio to reduce to less than R10 000 000, a manager need not reinvest any further sum in terms of this paragraph; *plus*

- (c) position risk capital of a sum equivalent to –
 - (i) 10 per cent of the amount paid for participatory interests in a scheme and held by the manager for its own account, calculated on the amount so paid which exceeds the last three month's investment inflow into the scheme; and
 - (ii) one per cent of the amount paid for participatory interests in a scheme and held by the manager for its own account, calculated on the amount so paid which does not exceed the last three month's investment inflow into the scheme;

(d) **Total.**

(7) **Liquid resources [1(5) minus 1(6)(d)].**

2. (1) For the purposes of 1(6)(a) fixed cost amounts must be determined as follows:

COMPUTATION OF FIXED COST BASE REQUIREMENT			
Expense Category	Treat as Fixed Cost Amounts	Treat as Trading Costs and "non-cash" items	Expenses per Income Statement
Accounting and secretarial or other services, charges, etc.	X		
Auditors' remuneration	X		
Depreciation		X (a)	

Insurance	X		
Interest paid other than to Directors			
Bank overdraft	X	X (f)	
Other Finance	X	X (f)	
Charges and fees	X	X (b)	
Motor vehicle expenses	X		
Net loss on realisation of fixed assets		X (a)	
Office rental	X		
Machine and other leasing charges/rentals	X		
Printing and Stationery	X		
Salaries and wages	X	X (c)	
Telephone, telex and postages	X		
Other expenses	X	X (d)+(g)	
Salaries and Directors' Fees	X	X (e)	
Interest	X	X (e)	
			TOTAL

Note:

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.

- (c) *Non-contractual payments by way of profit shares 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 counter parties which is trade related may be excluded.*
- (g) *Loss arising from the conversion of foreign currency balances may be excluded.*
- (2) The thirteen weeks' fixed cost 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.
- (3) The registrar may, where he 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, call upon 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.
- 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.
- 4. (1) Notice 578 of 2003, as published in *Government Gazette* No. 24984 of 28 February 2003, is hereby repealed.
- (2) This Notice comes into effect on 1 August 2003.

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