



Financial Sector
Conduct Authority

**FSCA DRAFT EXEMPTION NOTICE 1 OF 2019 (CISCA)
COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002**

**DRAFT NOTICE OF EXEMPTION OF MANAGERS AND AUDITORS OF COLLECTIVE
INVESTMENT SCHEMES FROM THE APPLICATION OF SECTION 74(1)(a) AND (2)(c)
OF THE COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002**

The Financial Sector Conduct Authority, under section 22 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), read with section 281(3)(b) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), hereby proposes to exempt managers and auditors of collective investment schemes from the application of section 74(1)(a) and (2)(c) of the Collective Investment Schemes Control Act, 2002 (Act No. 9 of 2017), respectively, to the extent set out in the Schedule.



CD DA SILVA

For the Financial Sector Conduct Authority

Date of publication: 4 October 2019

SCHEDULE

1. 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 a meaning has been assigned in the Act shall have the meaning so assigned to it unless a different meaning is assigned elsewhere in this Notice, and –

“Authority” means the Financial Sector Conduct Authority established in terms of section 56(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);

“IAS” means the International Accounting Standards issued by the International Accounting Standards Board;

“IAS Standard” means an individual standard contained in the IAS;

“IFRS” means the International Financial Reporting Standards issued by the International Accounting Standards Board; and

“IFRS Standard” means an individual standard contained in the IFRS; and

“IFRS and IAS for portfolios” has the meaning set out in paragraph 4.

2. Background and purpose

- (1) Section 74(1)(a) of the Act requires a manager to maintain the accounting records and prepare annual financial statements in conformity with ‘generally accepted accounting practice’ in respect of itself and every collective investment scheme administered by it.
- (2) Section 74(2)(c) of the Act requires the auditor of a manager to ensure that annual financial statements are properly drawn up so as to fairly represent the financial position, and that the results of the operations of the manager and every portfolio of its collective investment scheme are in accordance with ‘generally accepted accounting practice’.
- (3) The term ‘generally accepted accounting practice’ is an accounting term which was used in the Act before the introduction of IFRS in South Africa as the accepted accounting standard.
- (4) Whilst the Act currently determines that accounting records are maintained and annual financial statements are prepared in conformity with ‘generally accepted accounting practice’, the latter accounting standards are no longer applied in South Africa. No further regulated requirement exists with regards to an accounting and auditing standard for a collective investment scheme and its portfolios.
- (5) Therefore, this exemption is aimed at facilitating the implementation of alternative accounting standards for managers and collective investment schemes in South Africa in order to ensure alignment with South African accounting practices international standards for accounting.

- (6) The Authority is satisfied that the exemption meets the criteria set out in section 22 of the Act and section 281(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017). As such, the Authority is satisfied that in the public interest certainty must be provided regarding the appropriate accounting standards to apply.

3. Exemption, extent of exemption and conditions

- (1) This exemption is applicable to all managers and auditors of collective investment schemes and their respective portfolios.
- (2) A manager is, insofar as it relates to maintaining the accounting records and preparing annual financial statements of the manager itself, hereby exempted from the application of section 74(1)(a) of the Act, on condition that the manager maintain its accounting records and prepare annual financial statements in conformity with IFRS and IAS.
- (3) An auditor is, insofar as it relates to the financial statements of a manager, hereby exempted from the application of section 74(2)(c) of the Act on condition that the auditor ensures that the financial statements of a manager are properly drawn up so as to fairly represent the financial position, and that the results of the operations of the manager are in accordance with IFRS and IAIS and in the manner required by the Act.
- (4) A manager is, insofar as it relates to maintaining the accounting records and preparing annual financial statements of the individual portfolios within every collective investment scheme administered by it, hereby exempted from the application of section 74(1)(a) of the Act, on condition that the manager maintain accounting records and prepare annual financial statements in conformity with IFRS and IAS for portfolios in respect of the individual portfolios within every collective investment scheme administered by it.
- (5) An auditor is, insofar as it relates to the financial statements of individual portfolios within a manager's collective investment scheme, hereby exempted from the application of section 74(2)(c) of the Act on condition that the auditor ensures that the financial statements of individual portfolios within a manager's collective investment scheme are properly drawn up so as to fairly represent the financial position, and that the results of the operations of the individual portfolios within a manager's collective investment scheme are in accordance with IFRS and IAIS for portfolios and in the manner required by the Act.

4. IFRS AND IAS for portfolios

- (1) For purposes of this Exemption Notice, 'IFRS and IAS for portfolios' entail IFRS and IAS with the following matters excluded or applied with the necessary changes:
 - (a) IFRS 7: Exclusion of the quantitative disclosures in paragraphs 31 to 42 of IFRS as this is not necessary for portfolio reporting.
 - (b) IFRS 7: Exclusion of the comprehensive risk disclosures, for example the disclosures that include information on concentration risk, credit risk, liquidity risk and market risk.

- (c) IFRS 9: Exclusion of the disclosure requirements for the classification of either debt or equity as these would not be applicable to collective investment scheme portfolios.
- (d) IAS 7: The statement of cash flows is not fully applicable for collective investment scheme portfolios; accordingly the disclosures required are to be limited only to the creation and cancellation of participatory interests.
- (e) IAS 14 and IFRS 8: The Segment Reporting is to be excluded. The Segment Reporting requires reporting of financial information by business or geographical area. It requires disclosures for 'primary' and 'secondary' segment reporting formats, with the primary format based on whether the entity's risks and returns are affected predominantly by the products and the services it produces or by the fact that it operates in different geographical areas.
- (f) IAS 24: The required Related Party disclosures are to be excluded.
- (g) IAS 27: Separate Financial Statements outlines the accounting and disclosure requirements for 'separate financial statements', which are financial statements prepared by a parent, or an investor in a joint venture or associate, where those investments are accounted for either at cost or in accordance with IAS 39 "Financial Instruments: Recognition and Measurement or IFRS 9 Financial Instruments". The IAS Standard also outlines the accounting requirements for dividends and contains numerous disclosure requirements. This IAS Standard is to be excluded.
- (h) IAS 28: Investments in Associates and Joint Ventures outlines how to apply, with certain limited exceptions, the equity method to investments in associates and joint ventures. This IAS Standard also defines an associate by reference to the concept of "significant influence", which requires power to participate in financial and operating policy decisions of an investee (but not joint control or control of those policies). This IAS Standard is to be excluded.
- (i) IFRS 10: Consolidated Financial Statements outlines the requirements for the preparation and presentation of consolidated financial statements, requiring entities to consolidate entities it controls. Control requires exposure or rights to variable returns and the ability to affect those returns through power over an investee. This IFRS Standard is to be excluded.
- (j) IFRS 12: Disclosure of Interests in Other Entities is a consolidated disclosure standard requiring a wide range of disclosures about an entity's interests in subsidiaries, joint arrangements, associates and unconsolidated structured entities (as described in the standard). Disclosures are presented as a series of objectives, with detailed guidance on satisfying those objectives. This IFRS Standard is to be excluded.
- (k) IFRS 13: Fair Value Measurement applies to IFRS's that require or permit fair value measurements or disclosures and provides a single IFRS framework for measuring fair value and requires disclosures about fair value measurement. The IFRS Standard defines fair value on the basis of an 'exit price' notion and uses a 'fair value hierarchy', which results in a market-based, rather than entity-specific, measurement. A schedule of investments with the required information is sufficient to meet this requirement.

- (l) Paragraph 16A (which relates to Puttable instruments) of IAS 32 “Financial Instruments: Presentation” outlines the accounting requirements for the presentation of financial instruments, particularly as to the classification of such instruments into financial assets, financial liabilities and equity instruments. This IAS Standard also provides guidance on the classification of related interest, dividends and gains or losses, and when financial assets and financial liabilities can be offset. The classification as to whether a redeemable participatory interest is a liability or equity creates several difficulties. For the purpose of this IAS Standard, all participatory interests are to be classified as equity.

5. Amendment and withdrawal of Exemption

(1) This exemption is subject to-

- (a) amendment thereof published by the Authority by notice on the website of the Authority; and
- (b) withdrawal in a similar manner.

6. Short title and commencement

- (1) This Notice is called the Exemption of Managers and Auditors of Collective Investment Schemes from the application of section 74(1)(a) and (2)(c) of the Collective Investment Schemes Control Act, 2002.
- (2) This Notice comes into operation on the date of publication thereof on the website of the Authority.