

**NOTICE REGARDING THE PUBLICATION OF DRAFT NOTICE OF
AMENDMENT OF BOARD NOTICE 90 OF 2014**

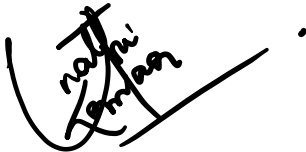
FINANCIAL SECTOR REGULATION ACT, 2017

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

The Financial Sector Conduct Authority (Authority) hereby, in accordance with section 98(1)(a)(iv) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) ("FSR Act), invites submissions on the draft Amendment to the Determination of securities, classes of securities, assets or classes of assets that may be included in a portfolio of a collective investment scheme in securities and the manner in which and the limits and conditions subject to which securities or assets may be so included, published under Board Notice 90 of 2014 in Government *Gazette* No. 37895 on 8 August 2014 in terms of section 106(1) of FSR Act and sections 40, 45(a)(ii) and (b)(ii), 46 and 85 of the Collective Investments Schemes Controls Act, 2002 (Act No. 45 of 2002), as set out in the Schedule hereto.

The draft Amendment Notice, together with a statement supporting the draft Amendment, is available on the Authority's website at <https://www.fsca.co.za>.

Submissions on the draft Amendment Notice must, using the using the submission template available on the Authority's website, be submitted in writing on or before **21 April 2023** to the Authority at FSCA.RFDStandards@fsca.co.za.



**UNATHI KAMLANA
COMMISSIONER
FINANCIAL SECTOR CONDUCT AUTHORITY**

Date of publication: 6 March 2023

SCHEDULE

Interpretation

1. In this Schedule,—

“**BN 90**” means the Determination of securities, classes of securities, assets or classes of assets that may be included in a portfolio of a collective investment scheme in securities and the manner in which and the limits and conditions subject to which securities or assets may be so included, published under Board Notice 90 of 2014 in *Government Gazette* No. 37895 on 8 August 2014; and

“**Regulation 28**” means Regulation 28 of the Regulations in terms of Section 36 of the Pension Funds Act, 1956 (Act No. 25 of 1956), published by Government Notice R98 in *Government Gazette* 162 of 26 January 1962 (as amended).

Amendment of paragraph 1 of BN 90

2. Paragraph 1 of BN 90 is hereby amended by the—

(1) substitution of the definition of “physical exchange traded fund” of the following definition:

“**physical exchange traded fund**” means an exchange traded fund which tracks an index or the value of precious metals and which physically holds the underlying assets it is tracking or an actively managed exchange traded fund which physically holds the underlying assets in accordance with its investment policy;” and

(2) substitution of the definition of “physical exchange traded notes” of the following definition:

“**physical exchange traded notes**” means exchange traded notes whose issuer physically holds the underlying assets of the index they are tracking or otherwise physically holds the referenced assets of the notes if it is not tracking an index;”.

Amendment of paragraph 3 of BN 90

3. Paragraph 3 of BN 90 is hereby amended by the—

(1) substitution of subparagraph 3(3)(a)(i) of the following subparagraph:

“(i) the maximum exposure to any one underlying portfolio may not exceed 20 percent, or where the underlying portfolio is a foreign collective investment scheme, 45 percent, of the market value of the first-mentioned portfolio;”;

(2) substitution of subparagraph 3(3)(a)(v) of the following subparagraph:

“(v) a manager may only include physical exchange traded funds or exchange traded notes in a portfolio provided that the—
(aa) exchange traded fund does not invest in synthetic financial instruments;
and

(bb) differences between a physical exchange traded fund (as a type of fund that relies on passive index tracking) and an actively managed exchange traded fund are disclosed and explained to investors;”;

(3) substitution of subparagraph 3(14)(b) of the following subparagraph:

“(b) A manager may only include physical exchange traded funds or exchange traded notes in a portfolio subject to the requirements set out in subparagraphs (3)(a)(v)(aa) and (bb).”;

(4) insertion after paragraph 3(19) of the following subparagraph:

“(20) A portfolio that–

(a) contains in its investment policy, the requirement to comply with the Asset Spreading Requirement and investment limits under Regulation 28; and

(b) has been approved by the Authority on the basis that the portfolio must comply with Regulation 28,

may include in its portfolio securities in a retail hedge fund or multiple retail hedge funds up to the same limits as provided for a pension fund in Regulation 28, provided that the retail hedge fund prices and repurchases on a daily basis.”.

Short title and commencement

4. This Notice is called the Amendment of Board Notice 90 of 2014 and comes into effect on date of publication.