

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT

Act 45 of 2002.

SUSPENSION OF REPURCHASE OF PARTICIPATORY INTERESTS BY MANAGER OF COLLECTIVE INVESTMENT SCHEME IN SECURITIES

[Updated to 28 February 2003]

GeN 573, G. 24984 (c.i.o 3 March 2003).

Under section 114(3)(f) of the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002), I, Jeffrey van Rooyen, Registrar of Collective Investment Schemes, hereby prescribe in the Schedule the circumstances under, and the conditions on which, the repurchase of participatory interests in a portfolio of a collective investment scheme in securities may be suspended.

(Signed)

J VAN ROOYEN

REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES

SCHEDULE

1. Definition
2. Circumstances under which repurchase of participatory interests may be suspended
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4. Duties of manager

1. Definition

In this Schedule “**the Act**” means the Collective Investment Schemes Control Act, 2002 (Act 45 of 2002), and any word or expression to which a meaning has been assigned in the Act, bears the meaning so assigned to it.

2. Circumstances under which repurchase of participatory interests may be suspended

The manager may, subject to the deed and condition 3 and with the consent of the trustee or custodian, suspend the repurchase of participatory interests if offers for repurchase of participatory interests are received, the aggregate amount of which is more than five per cent of the market value of a portfolio as at the last valuation point: Provided that this condition does not preclude a manager from entering into an agreement with an investor determining a more restrictive basis on which repurchase offers will be honoured.

3. Conditions in respect of suspension

- (1)
 - (a) The repurchase of participatory interests, irrespective of their aggregate amount or value, may not be suspended if 10 business days' valid notice of the offer for repurchase has been given to the manager.
 - (b) The repurchase of participatory interests offered for repurchase by an investor, the aggregate amount or value of which does not exceed R50 000 on the day of such offer, may not be suspended.
- (2) For the purpose of calculating the five per cent referred to in condition 2, the aggregate amount or value of all offers for repurchase received on a specific day, must be reduced by the aggregate amount of all sales of participatory interests on that day.

4. Duties of manager

- (1) If a manager decides to suspend the repurchase of participatory interests under the circumstances contemplated in condition 2, it must forthwith and with the consent of the trustee or custodian, segregate a portion of the assets, equivalent to the value of all received offers for repurchase, from the rest of the assets in the portfolio.
- (2) The manager must—
 - (a) forthwith notify the investor(s) concerned that repurchasing has been suspended in accordance with the deed and this Notice: Provided that in such case the investor must be given the option to withdraw its offer to repurchase on the day of such notification or to accept assets equivalent in value to the offer for repurchase;
 - (b) forthwith notify the investor(s) concerned that it will endeavor to honour the repurchase request within 20 business days from the date of suspension; and
 - (c) calculate and communicate to the investor(s) on a daily basis, a single price per participatory interest based on the segregated assets.
- (3) If the manager fails to meet the offer to repurchase participatory interests within 20 business days, it must tender assets to that investor for payment: Provided that the investor may consent to an extension of the 20 business days to enable the manager to liquidate the relevant assets.
- (4) The manager must forthwith notify the registrar—
 - (a) that the repurchasing has been suspended in accordance with the deed and this Notice; and
 - (b) of the reasons for the suspension and how it will be dealt with.

- (5) Where the manager has tendered assets in terms of condition 4(3)—
- (a) the manager must forthwith notify the trustee or custodian that the repurchase of participatory interests will be effected by the transfer of assets; and
 - (b) the trustee or custodian must, on receipt of such evidence of title as it may require—
 - (i) cancel the relevant participatory interests; and
 - (ii) transfer to an investor his or her proportionate share in the assets of the portfolio.
- (6) For the purposes of this condition—
- (a) **“proportionate share”** means—
 - (i) such part of the segregated assets in the portfolio as is proportionate to or as nearly as is practicably proportionate to the investor's share in the assets; or
 - (ii) such selection from the assets of the portfolio as the trustee or custodian may, after consultation with the manager, decide is reasonable, having regard to the need to be fair both to the investor concerned and the continuing investors;
 - (b) **“valid notice”** means notice in writing or such other method that has been agreed upon between the manager and the investor.