



**DRAFT NOTICE No. OF 2015**

**FINANCIAL SERVICES BOARD**

**PENSION FUNDS ACT, NO. 24 OF 1956**

**PENSION FUNDS ACT, 1956: REGULATION 28 OF THE REGULATIONS  
MADE UNDER SECTION 36 OF THE ACT:  
DRAFT CONDITIONS FOR INVESTMENT IN HEDGE FUNDS**

I, Dube Phineas Tshidi, Registrar of Pension Funds, hereby, in terms of Regulation 28 of the Regulations made under the Pension Funds Act, 1956 (No. 24 of 1956), publish draft conditions with which pension funds must comply when investing in hedge funds for comment, set out in the Schedule below.

**DP TSHIDI**  
**Registrar of Pension Funds**

## SCHEDULE

### Conditions for investment in Hedge Funds

#### 1 DEFINITIONS.

In this Schedule-

unless otherwise indicated by the context, any word or expression to which a meaning has been assigned in the Act or Regulation 28 has that meaning;

**“the Act”** means the Pension Funds Act, 1956 (Act No. 24 of 1956);

**“Collective Investment Schemes Control Act”** means the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

**“Determination on the Requirements for Hedge Funds”** means the Determination on the Requirements for Hedge Funds made under sections 42, 90(2) and (4), and 114(4)(b) of the Collective Investment Schemes Control Act and published in Board Notice 52 of 2015 in *Government Gazette* 38540 of 6 March 2015;

**“Hedge Fund Declaration”** means the Declaration made by the Minister under section 63 of the Collective Investment Schemes Control Act, published as Government Notice 141 of 2015 in *Government Gazette* 38503 of 25 February 2015; and

**“manager”** means a manager as defined in the Collective Investment Schemes Control Act, who is authorised to administer a hedge fund;

**“Regulation 28”** means Regulation 28 of the Regulations published in terms of the Act and published under GNR.98 of January 1962, and amended thereafter.

#### 2 CONDITIONS

2.1 A fund may only invest in a hedge fund, whether a qualified investor hedge fund or a retail hedge fund as contemplated in the Determination on the Requirements for Hedge Funds, which is administered by a manager who is registered under the Collective Investment Schemes Control Act.

2.2 Where a fund invests in a hedge fund contemplated in subparagraph (1), it must-

- 2.2.1 ensure that the principles set out in Regulation 28(3)(d) and limits referred to in paragraph 8.1(a) of Table 1 of Regulation 28 are adhered to at all times; and
- 2.2.2 continuously monitor compliance by the manager with the Determination on the Requirements for Hedge Funds.
- 2.3 Where a fund invests in a qualified investor hedge fund, it must ensure that the manager of the qualified investor hedge fund complies with paragraph 12 of the Determination on the Requirements for Hedge Funds with regard to the inclusion of derivatives in the portfolio, despite paragraph 12 not being applicable to qualified investor hedge funds.

### **3 TRANSITIONAL ARRANGEMENTS**

- 3.1 A fund which, at the date of commencement of this Notice, is invested in a hedge fund administered by a person who is not authorised to administer a hedge fund as contemplated in paragraph 2(1) must-
  - 3.1.1 establish whether such person has timeously lodged an application for registration as a manager to operate a hedge fund in accordance with paragraph 5 of the Hedge Fund Declaration or is exempt from the provisions of the Hedge Fund Declaration in terms of Board Notice 140 of 2015 published in Government Gazette Number 39220 of 18 September 2015;
  - 3.1.2 monitor compliance by the person with any time periods and other conditions determined by the Registrar of Collective Investment Schemes for the application; and
  - 3.1.3 report any non-compliance by the hedge fund with subparagraphs (a) and (b) to the registrar without delay.
- 3.2 A fund which, at the date of commencement of this Notice, is invested in a hedge fund administered by a person, who is not authorised to administer a hedge fund as contemplated in paragraph 2(1) and who has not lodged an application for registration as a manager to operate a hedge fund in accordance with paragraph 5 of the Hedge Fund Declaration, must-
  - 3.2.1 inform the registrar without delay, providing reasons for the failure to register as a manager; and

3.2.2 act in accordance with the conditions determined by the registrar.

#### 4 **SHORT TITLE**

This Notice is called the Conditions for Pension Fund Investment in Hedge Funds.