



**GUIDANCE NOTE**  
**FINANCIAL SERVICES BOARD**  
**REPUBLIC OF SOUTH AFRICA**

**COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002**  
**(NO 45 OF 2002)**

**NO. 6A**

**20 OCTOBER 2014**

**GUIDANCE NOTE ON THE REPORTING ON PERFORMANCE OF PORTFOLIOS THAT  
CREATED SIDE POCKETS FOR THE AFRICAN BANK INVESTMENTS LIMITED DEBT  
PAPER**

1. In August 2014, subsequent to the placing of African Bank Investments Limited (“ABIL”) under curatorship, the Registrar approved a number of “side pocket” portfolios for purposes of segregating illiquid ABIL debt paper. The Registrar indicated under Guidance Note 6 that those managers who had chosen to establish side pockets would have to communicate with investors regarding the creation and implementation of the side pockets and to regularly provide a report to investors on the status of the side pocket and related assets, which reporting would include performance reporting.
2. Section 2(1) of the Collective Investment Schemes Control Act, No 45 of 2002 (“the Act”) provides that “a manager must administer a collective investment scheme honestly and fairly...and in the interest of investors...”. It is the Registrar’s view that when reporting the performance of a portfolio, section 2(1) imposes, on the manager, a duty to report in a manner that is not deceptive or misleading. This also accords with the principle of treating customers fairly and the recently promulgated Board Notice 92 of 2014 detailing the requirements for advertising, marketing and information disclosure of collective investment schemes.
3. In order to assist with appropriate reporting to investors regarding side pockets, the Registrar has considered international practice and identified the Global International Performance Standards (“GIPS”) as being suitable for reporting on the performance of side pockets.
4. The GIPS provides for reporting on segregated investments or side pockets under the Guidance Statement on Alternative Investment Strategies and Structures at paragraph 4.3.2 as follows:  
*“For pooled funds that create a side pocket for investment purposes at the discretion of the firm, that side pocket performance must be included in the performance of the entire pooled*

*fund if the side pocket includes assets managed by the firm on a discretionary basis. In such a case, the performance that must be included in the composite is the performance generated by the pooled fund, not the performance experienced by an individual shareholder. The fact that future investors will not be participating in the performance of the side pocket is not a valid argument to exclude the side pocket from the pooled fund performance. In many situations, pooled funds may be closed or no longer available for future investors, but side pocket performance still must be included in the historical track record of the pooled fund and related composite.”*

*“If the side pocket is classified as discretionary, firms must present returns both including and excluding the side pockets, provided that the fund with a side pocket is the only portfolio in the composite (single-fund composite). This requirement applies when presenting gross-of-fees returns, net-of-fees returns, or both. The reason for this requirement is that although prospective investors are interested in seeing the performance history that includes the impact of the side-pocketed assets, they will be equally interested to understand the performance history without the impact of the side pocket because prospective investors will not be participating in the performance of the side pocket going forward.”*

5. It is the Registrar's view that given that the side pockets are discretionary, the above standards are thus appropriate for reporting to investors.
6. Accordingly managers are advised in the interests of investors and the proper administration of a collective investment scheme to report on side pockets in addition to the related liquid portfolio using the GIPS provisions as guidance. A failure to report accordingly will be viewed by the Registrar as an attempt to conceal the true performance of the portfolios concerned, which conduct is a contravention of the Act and may lead to referrals to the Enforcement Committee for action.



**J A BOYD**



**REGISTRAR OF COLLECTIVE INVESTMENT SCHEMES**