FSCA

Financial Sector
Conduct Authority

NOTICE REGARDING THE PUBLICATION OF DRAFT CONDUCT STANDARD [-] OF 2020 (CIS) - ADVERTISING, MARKETING AND INFORMATION DISCLOSURE REQUIREMENTS FOR COLLECTIVE INVESTMENT SCHEMES

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

FINANCIAL SECTOR REGULATION ACT, 2017

The Financial Sector Conduct Authority (the Authority) hereby invites, in accordance with section 98(1)(a)(iv) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSR Act), submissions on the draft Conduct Standard [-] of 2020 (CIS) – Advertising, Marketing and Information Disclosure Requirements for Collective Investment Schemes, to be made in terms of section 106(1)(a) of the FSR Act and sections 90(4) and 114(3) read with 114(4)(b) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002) as per the Schedule below.

The draft Conduct Standard, together with a statement supporting the draft Conduct Standard is available on the Authority's website at www.fsca.co.za.

Submission on the draft Conduct Standard must, using the submission template available on the Authority's website, be submitted in writing on or before **4 December 2020** to the Authority at **FSCA.RFDStandards@fsca.co.za**.

DUBE TSHIDI

FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY

Date of publication 7 October 2020

SCHEDULE

DRAFT CONDUCT STANDARD [*] OF 2020 (CIS)

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PART I
DEFINITIONS, PURPOSE AND APPLICATION

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 has that meaning, unless the context otherwise indicates, and —

"administration" in relation to a benchmark, includes all stages and processes involved in the production and dissemination of a Benchmark, including-

(a) collecting, analysing or processing information or expressions of opinion for the purposes of the determination of a benchmark;
(b) determining a benchmark through the application of a formula or another method of calculating the information or expressions of opinions provided for that purpose; and
(c) dissemination to users, including any review, adjustment and modification to this process;

"administrator" in relation to a benchmark, means a person that controls the creation and operation of the benchmark administration process, whether or not it owns the intellectual property relating to the benchmark. In particular, the person has responsibility for all stages of the benchmark administration process, including-

(a) the calculation of the benchmark;
(b) determining and applying the benchmark methodology; or
(c) disseminating the benchmark;

"advertisement" means any communication published through any medium and in any form, by itself or together with any other communication, which is intended to create public interest in the business or products of a manager, collective investment scheme or portfolio, or to persuade the public or a part thereof to transact in respect of collective investment scheme or portfolio of the manager in any manner, but which does not purport to provide detailed information to or for a specific client regarding a specific financial product, financial service or related service;

"advertising document" means a document that contains an advertisement and includes, but is not limited to, brochures, Prospectuses, MDD's and websites;

"annualised figures" means the compound annual growth rate measured over the performance period;

"application form" means a document that–

(a) is completed by an investor to apply for an investment in a portfolio;
(b) records the arrangements in respect of an investment; and
(c) upon signature, constitutes the agreement between a manager and an investor;

and in the case of an institutional investor, the contract concluded between the manager and the institutional investor;

"asset allocation" means the percentage allocations of the effective exposure of the assets in the portfolio, which includes derivative exposure, to the main classes of assets held in the portfolio;

"Board Notice 52 of 2015" means the Determination on the Requirements for Hedge Funds Notice published in *Government Gazette* Number 38540 of 6 March 2015;

"benchmark publisher" means a legal entity publishing the benchmark values, which includes making available such values to subscribers on the internet or by any other means, whether free of charge or not;

"calculation agent" means a legal entity with delegated responsibility for determining a benchmark through the application of a formula or other method of calculating the information or expressions of opinions provided for that purpose, in accordance with the methodology set out by the administrator;

"class" means a category of participatory interests within a portfolio which differs from another category of participatory interests within the same portfolio as a result of–
(a) fees and charges; and
(b) any other characteristics in the case of funds approved in terms of section 65 of the Act;

"derivative" means a derivative instrument, as defined in the Financial Markets Act, 2012 (Act No.19 of 2012);

"exchange traded fund" means a portfolio listed on an exchange that tracks an index;

"financial services provider" means an authorised financial services provider as defined in the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);

"fund of funds portfolio" means a portfolio that invests in more than one portfolio excluding collective investment schemes in participation bonds;

"feeder fund portfolio" means a portfolio that invests in a single portfolio excluding collective investment schemes in participation bonds;

"hedge fund" means a hedge fund as defined in the Declaration of Hedge Fund Business as a Collective Investment Scheme made by the Minister under section 63 of the Act and published in *Government Gazette* Number 38503 of 25 February 2015;

"Index tracking portfolio" means a portfolio of which the investment objective and investment policy is to replicate or track the performance of an index;

"investor" means investor as defined in the Act and for purposes of this Conduct Standard, includes a prospective investor;

"listing requirements" has the meaning assigned to such term in section 1 of the Financial Markets Act, 2012 (Act No. 19 of 2012);

"MDD" means a minimum disclosure document irrespective of the name, which is –
(a) a document containing key information on a portfolio or class; and
(b) intended to assist an investor to understand the essential characteristics of a portfolio or class;

"money market portfolio" means a portfolio that invests only in money market instruments as contemplated in the Advertising, Marketing and Information Disclosure Requirements for Collective Investment Schemes Notice published in *Government Gazette* Number 37895 of 8 August 2014;

"most expensive class" means the class with the highest fees and charges that is generally available for investment by an investor excluding a financial institution regulated by any financial

sector law, without any intermediation;

"NAV" has the meaning assigned to such term in paragraph 1 of the Conduct Standard on Net Asset Valuation Calculation and Pricing for Collective Investment Scheme portfolios, 2020;

"performance inception date" means a date on or after the portfolio inception date on which the measurement of the performance of a portfolio or class started or re-started;

"portfolio" means a portfolio as defined in the Act, and for clarity, also includes a foreign collective investment scheme or a sub-fund or equivalent of a foreign collective investment scheme as approved by the Authority for solicitation of investments in the Republic;

"portfolio inception date" means the date on which a portfolio first became available for investment;

"price" means the price of a participatory interest which is –
(a) the NAV divided by the number of participatory interests in issue;
(b) as determined in the deed; and
(c) calculated in Conduct Standard on Net Asset Valuation Calculation and Pricing for Collective Investment Scheme Portfolios, 2020;

"Prospectus" means the founding document of a foreign scheme and where it is not the founding document of a foreign scheme, means a pre-contractual
disclosure document guided and informed by a deed, which includes amongst other things –
(a) a detailed description of the manager and its business;
(b) a detailed description of the collective investment scheme and portfolios managed and administered by the manager, and the pertinent characteristics of the collective investment scheme and portfolios;

"simulated performance information" means the expression of performance information in a simulated manner to reflect a nominal investor scenario given certain factors for a portfolio or class of participatory interests.

"third party named portfolio" means a -
(a) third party named portfolio as defined in Board Notice 778 of 2011; and
(b) platform as contemplated in section 18(1) of Board Notice 52 of 2015;

"total expense ratio" or "TER" means the total expense ratio whether calculated as a class or not that is equal to the ratio of the portfolio's total operating costs to its average net assets and which is to be calculated at least once a year with reference to the most recent audited figures of the financial year of the portfolio. It may be calculated for other or additional periods;

"targeted total expense ratio" in the absence of audited figures for the first financial year, means a targeted ratio of the portfolios total expected operating cost to its average net assets, calculated for the period; and

"website" means a website as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).

2. Application

This Conduct Standard applies to –

(a) a manager;
(b) an authorised agent or delegated person, unless the context indicates otherwise; and
(c) a manager or an operator of a foreign scheme approved in terms of section 65 of the Act, or any person acting on behalf of the manager or an operator to solicit investment in the foreign scheme.

PART II
GENERAL REQUIREMENTS

3. General principles for advertising and disclosures

(1) A manager must take reasonable steps to satisfy itself that any person that markets or distributes its portfolios has the requisite processes in place to comply with this Conduct Standard to the extent applicable and to ensure that investors are provided with MDD's.

(2) A manager may disclose information in respect of a portfolio in addition to the information that must be disclosed as set out in this Conduct Standard, provided that any such disclosure complies with the requirements set out in this Conduct Standard.

(3) A manager must act honestly and fairly with skill, care and due diligence in the interest of investors and the collective investment scheme industry when advertising or when disclosing information relating to a portfolio, a class thereof or the manager itself.

(4) A manager must ensure that an advertisement and disclosure relating to a portfolio, a class thereof or the manager itself is at all times be-
(a) fair, clear and not misleading or deceptive;
(b) accurate and truthful;
(c) consistent with the founding document of the portfolio and any information provided to an investor in the ordinary course of the business of the manager;
(d) presented by using language that –
(i) is clear, concise and understandable; and
(ii) avoids as far as possible the use of jargon and technical terms without explanations.

(5) Managers must ensure that advertisements and disclosures relating to their portfolios –
(a) enable investors to evaluate the suitability of such a portfolio as an investment;
(b) encourage investor understanding of the key features of the portfolio or collective investment scheme, also taking into account the intended target market;
(c) is not deceptive, misleading, unfair or fraudulent; and
(d) does not impede competition amongst managers.

(6) A manager must ensure that an advertisement and disclosure relating to a portfolio, a class thereof or the manager itself does not emphasize potential benefits without providing a fair and equally prominent indication of any relevant risks.

(7) Any person who offers an investment in a collective investment scheme must ensure that the respective material clearly explains the nature of the collective investment scheme or portfolio that is being offered.

(8) In this Conduct Standard, wherever reference is made to a "NAV" or "yield", such "NAV" or "yield" must be calculated in accordance with the requirements as provided for in the

Conduct Standard on Net Asset Valuation Calculation and Pricing for Collective Investment Scheme portfolios, 2020.

4. General requirements for advertising and disclosures

(1) A manager must, provided that the supplemental deed of a portfolio permits closure of a portfolio for new investors, disclose in all advertising documents that the manager has a right to close the portfolio to new investors in order to manage the portfolio efficiently in accordance with its mandate.

(2) An advertisement and disclosure relating to a portfolio, a class thereof or the manager itself must include –
- (a) the registered or approved name of the manager; or
- (b) the name of a foreign collective investment scheme or portfolio along with the manager or operator; and
- (c) a statement that the manager is –
  - (i) registered in terms of the Act; or
  - (ii) registered or approved in a foreign jurisdiction.

(3) An advertisement relating to a portfolio must –
- (a) include appropriate and sufficient information on the characteristics of the portfolio so that an investor is reasonably able to understand its nature and the impact of investing in it;
- (b) identify the manager who published, or caused the advertisement to be published;
- (c) disclose the fact that the portfolio is registered or approved under the Act;
- (d) disclose any special areas of risk relating to the investment;
- (e) include a summary of fees and charges applicable to the portfolio or classes available to the public or an indication of where and how details of fees and charges may be obtained;
- (f) include a statement that an –
  - (i) investment in the portfolio is subject to market value fluctuations; and
  - (ii) investor's capital and investment performance are not guaranteed; and
- (g) include an indication of where and how additional information may be obtained free of charge.

(4) An advertisement in relation to a portfolio may not –
- (a) state or imply in any way that the advertisement has been approved by the Authority or by a regulatory body in a foreign jurisdiction;
- (b) state or imply that the portfolio is suitable for a particular type of investor unless the manager has assessed the suitability for that specific type of investor;
- (c) be designed in a manner which is likely to disguise the significance of any information or statements as required in terms of this Conduct Standard;
- (d) state or imply that the portfolio complies with prudential requirements of retirement funds, unless the founding document of the portfolio expressly provides for it accordingly; and
- (e) contain performance information that implies that portfolio performance achieved in the past will be repeated in the future.

(5) If an advertisement in relation to a portfolio includes information relating to –
- (a) the performance of a portfolio, the performance information must comply with the requirements set out in Part V; and

(b) a taxation benefit, the information must include an appropriate explanation of the practical outcome of the taxation benefit and to whom it will apply.

(6) An advertisement published on the internet or on a website must be published in such a way that a copy of the advertisement and any disclaimers or warnings can be reproduced.

(7) An advertisement limited by time and space must as a minimum comply with paragraphs 3 and 4 and provide a reference to where full disclosures can be obtained.

(8) A manager may not, prior to registration of a collective investment scheme or approval of a portfolio by the Authority, -
   (a) advertise or distribute marketing material relating to that collective investment scheme or portfolio; or
   (b) make any reference to that collective investment scheme or a portfolio;
   until the collective investment scheme or portfolio has been registered or approved, as the case may be.

(9) An advertisement must not use the group or holding company name of the manager or the name of any associate of the group or holding company in such a manner that it could create the impression that any entity other than the manager is responsible for the advertisements, or portfolio or product that is the subject matter of the advertisement.

(10) A manager must make available, on request, to existing and prospective investors, details of the investments of a portfolio, and any other necessary information, at least as at the most recent quarter-end, in order to enable the investors to make informed investment decisions.

(11) Where a manager delegates or outsources the management of investments in its portfolio to a financial services provider, the full details of that financial services provider must be disclosed to the investor, including whether the financial services provider is authorised under the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), to act in such capacity.

(12) Where a portfolio, or class of participatory interest, is not available to members of the public, it must be identified as such.

PART III
ADVERTISING DOCUMENTS

5. Additional general requirements in respect of advertising documents

(1) A manager must include the following disclosures in all advertising documents:
   (a) That collective investment schemes are generally medium to long-term investments;
   (b) in respect of a hedge fund, that whereas collective investment schemes are generally medium to long-term investments, a hedge fund may have short term strategies and practices;
   (c) that past performance is not a guide to future performance;
   (d) that collective investment schemes are traded at ruling prices and can engage in scrip borrowing and scrip lending;

(e) whether performance fees are charged or not, and if charged, also disclose a detailed description of how the performance fees are calculated and applied;
(f) in respect of repurchases –
  (i) that the ability of the portfolio to repurchase is dependent upon the liquidity of the securities and cash of the portfolio;
  (ii) that a manager may suspend repurchases in exceptional circumstances, for a period and subject to regulatory approval, in order to await liquidity, and that the manager must keep the investors informed about these circumstances;
(g) in respect of a portfolio or a class that is only available to a particular category of financial customers or financial institutions, identify the portfolio or class as such and indicate the class of particular category of financial customers or financial institutions to whom it is available;
(h) the investment objectives and investment policy of the portfolio;
(i) appropriate guidance and warnings relating to risks associated with an investment in the portfolio;
(j) in respect of the advertisement of a portfolio–
  (i) the fees and charges inclusive of VAT applicable to the portfolio and where the portfolio consists of classes of participatory interests, the most expensive class including information on the structure of the fees and charges;
  (ii) an indication of where or how details of fees and charges may be obtained; and
  (iii) any cost applicable for intermediary services, where applicable, whether such cost is included or charged in addition to fees and charges in paragraph 5(1) (j)(i);
(k) the date on which the advertising document was published;
(l) that additional information relating to the portfolio is available free of charge and where it may be found.

(2) For purposes of paragraphs 4(3)(f) and 5(1)(l), additional information includes, but is not limited to –
  (a) half-yearly or annual reports;
  (b) founding documents;
  (c) full holdings report of the portfolio;
  (d) application forms; or
  (e) in the case of hedge fund portfolios, the valuation policy as contemplated in paragraph 22 of Board Notice 52 of 2015.

(3) Additional information that must be published on the manager's website on a quarterly basis and to be made available to an investor on request, must include the following:
  (a) Sources of leverage, including the type, the value and the providers of leverage;
  (b) the exposure limit or value-at-risk as permitted in the founding document and mandate;
  (c) highest exposure, or value-at-risk, applied during the reporting period;
  (d) the exposure, or value at risk, as at quarter end;
  (e) the extent to which assets are encumbered or re-hypothecated, including an explanation and disclosure of the associated risks;
  (f) the relevant methodologies an investor can request from the manager, including stress testing methodologies;
  (g) a report on the portfolio's counterparty exposure and prime broker exposure;
  (h) the total expense ratio applicable to the portfolio, or per class of portfolio;
  (i) any changes to the liquidity risk profile of the portfolio;

(j) side pocketing, gating and redemption suspensions (where applicable);
(k) the extent to which a manager has engaged in scrip borrowing and scrip lending, including the values, proportion and collateral held;
(l) collateral and asset re-use arrangements;
(m) name of the portfolio;
(n) net asset value per participatory interest, per class of portfolio;
(o) total net asset value of the portfolio that is the size of the portfolio;
(p) gross exposure of the portfolio;
(q) number of participatory interests issued;
(r) any special repurchase arrangements or rights of certain investors;
(s) any significant errors that were encountered, and corrected, during the reporting period;
(t) a manager's report, in respect of the adherence to the investment policy objective of the portfolio, and the changes in the composition of the portfolio during the reporting period;
(u) whenever an investor receives preferential treatment, or has the right to receive preferential treatment, including ring-fencing arrangements, where applicable, a description of that preferential treatment, specifically -
    (i) the types of investors who can receive such treatment; and
    (ii) where relevant, those investors' legal or economic relationship with the manager of the portfolio;
(v) any additional information considered relevant for the portfolio, taking into account requirements of the MDD, which may be achieved by including a link to the latest MDD;
(w) description of any material arrangements with a prime broker or other counterparty (where applicable), including-
    (i) the manner in which conflicts of interest are managed;
    (ii) the provisioning in the contract with the custodian and depository on the possibility of the transfer and re-hypothecation of assets;
    (iii) the level of counterparty exposure and the name of counterparty; and
    (iv) description of the methodology used to calculate counterparty exposure.

(4) The disclosures in paragraphs 5(2)(e) and 5(3) do not apply to a portfolio that is exclusively offered to qualified investors, but a manager must report to an investor the information contained in paragraph 5(3) as part of the quarterly disclosures to such investor.

(5) If a performance fee is charged to a portfolio or class, an advertising document must include –
    (a) a statement to that effect; and
    (b) a detailed explanation of how performance fees are calculated and applied.

(6) If a manager lends or offers to lend assets included in a portfolio, an advertising document must include a statement that the portfolio may engage in securities lending activities and that detail on securities lending is available on the website of the manager.

(7) If derivatives may be included in a manager's portfolio, an advertising document relating to such portfolio must include –
    (a) an indication of the purpose of including derivatives in the portfolio;
    (b) a description of the risks resulting from the use of derivatives, including its potential impact on the NAV of the portfolio;

(c) a disclosure that there is no assurance that a portfolio's use of a derivative strategy will succeed;
(d) a disclosure that the portfolio's management may employ a sophisticated risk management process to oversee and manage derivative exposures within a portfolio, but the use of derivative instruments may involve risks different from, and, in certain cases, greater than, the risks presented by the securities from which they are derived.

(8) If foreign assets may be included in a manager's portfolio, an advertising document relating to such portfolio must include a description of any material risk relating to the inclusion of the foreign assets in the portfolio.

(9) Where a manager's portfolio is permitted and intends to invest in securitisation securities, the manager must disclose in its advertising document, to investors in respect of such portfolio, the following information:
(a) That the portfolio may from time to time invest in securitisation structures;
(b) that securitisation structures generally consist of a pool of debt assets with varying debt quality; and
(c) additional information on the securitisation structures invested in, such as that the quality and risks of the underlying asset pool may be obtained from the manager upon request.

(10) A manager may not publish an advertisement that contains performance information that -
(a) is related to since inception performance or performance returns over periods shorter than three years, other than in the case of money market portfolios, or portfolios in a qualified hedge fund; or
(b) includes any indication of future performance returns.

(11) The provisions of subparagraph (3) do not apply to a portfolio that is exclusively offered to financial institutions. However, a manager must report the information referred to in subparagraph (3) to the relevant financial institutions that have invested.

6. Additional specific requirements in respect of advertising documents

(1) A manager must in advertising documents make the following disclosures in respect of -
(a) an index tracking portfolio or any portfolio that tracks an index or an exchange traded fund registered as a collective investment scheme:
(i) Distinguish between an exchange traded fund or index tracking portfolio or other exchange traded products and other portfolios of collective investment schemes in securities;
(ii) provide details of the index or indices that the portfolio tracks, how it will track the index or indices and in the case of a composite index, the weightings thereof;
(iii) provide details of where an investor can view the index or indices and the performance thereof as tracked by the portfolio and how it is constituted;
(iv) details of the tracking error of the index tracking portfolio or the exchange traded fund where applicable;
(v) an indication of the average level of tracking error over the previous six-month period in normal market conditions; and
(vi) an indication of the factors that may cause a tracking error.

(vii) where the portfolio engages in securities lending activities, information on such securities lending activities, the percentage of securities lent out, the names of all the counterparties related to these activities, as well as the risks associated with counterparty exposure; and

(viii) the nature of the risks associated with index tracking portfolios or exchange traded funds;

(b) an exchange traded fund: That it is listed on an exchange and may incur additional costs;

(c) a money market portfolio:

(i) That a money market portfolio is not a bank deposit account;

(ii) that the manager applies a variable price (VNAV) or a constant price (CNAV) to a participatory interest of a money market portfolio as the case may be;

(iii) that the total return to the investor is made up of interest received and any gain or loss made on any particular instrument;

(iv) that in most cases the return to the investor will merely have the effect of increasing or decreasing the daily yield but in the case of abnormal losses it can have the effect of reducing the capital value of the portfolio;

(v) details of the yield applicable to the quarter for which the marketing material is published and how the yield is calculated; and

(vi) that excessive withdrawals from the portfolio may place the portfolio under liquidity pressures and in such circumstances a process of suspension or ring-fencing of withdrawal instructions and managed pay-outs over time may be followed;

(d) a portfolio that derives its income from interest-bearing instruments and publishes the yield in accordance with section 100(2) of the Act: Details of whether the yield is historic or current, as well as the date of calculation of the yield;

(e) a fund of funds portfolio: That a fund of funds is a portfolio that invests in portfolios of collective investment schemes that levy their own charges which could result in a higher fee structure for the fund of funds;

(f) a feeder fund: That a feeder fund is a portfolio that invests in a single portfolio of a collective investment scheme which levies its own charges, and which could result in a higher fee structure for the feeder fund;

(g) a third party named portfolio:

(i) That the manager retains full legal responsibility for the third party named portfolio;

(ii) that assets are managed by an external financial services provider as per Board Notice 778;

(iii) the eventualities of an incubator portfolio or a co-named portfolio compared to a conventional portfolio;

(iv) potential conflicts of interest; and

(v) the brand identities of the manager and that financial services provider must be included in an advertising document and be displayed with equal prominence;

(h) a portfolio that has tax free investments:

(i) That the portfolio or class is a tax-free investment by virtue of section 12T of the Income Tax Act;

(ii) the nature of a tax-free investment;

(iii) the maximum annual and lifetime investment limits and how these limits are applied;

(iv) the consequences for the investor if the annual and lifetime investment limits are exceeded; and

(v) the general tax implications of a tax-free investment;

(i) a portfolio where foreign securities are included: Details of any material risks such as -
   (i) potential constraints on liquidity and the repatriation of funds;
   (ii) macroeconomic risks;
   (iii) political risks;
   (iv) foreign exchange risks;
   (v) tax risks;
   (vi) settlement risks; and
   (vii) potential limitations on the availability of market information;

(j) a collective investment scheme in participation bonds: That an investor is locked-in an investment for five years and dealing in participatory interests within the five-year period is at the discretion of the manager;

(k) a hedge fund:
   (i) That collective investment schemes in hedge funds are different to collective investment schemes in securities because they are, for example, collective investment schemes that allows for leveraging and short selling strategies;
   (ii) that collective investment schemes are generally medium to long term investments, but a hedge fund may have short term strategies and practices;
   (iii) whether the portfolio follows short, medium or long-term strategies and practices;
   (iv) that hedge funds are traded at ruling prices and prices may fluctuate post publication;
   (v) that hedge funds can engage in borrowing of money, scrip borrowing and scrip or asset lending;
   (vi) whether performance fees are charged and if charged, disclose a detailed description of how the performance fees are calculated and applied;
   (vii) that hedge fund strategies can result in losses greater than the market value of the fund, but investors' losses are limited to the value of the investment or contractual commitments;
   (viii) that the ability of a portfolio to repurchase is dependent upon the liquidity of the securities and cash of the portfolio, and that a manager may, in exceptional circumstances, suspend repurchases for a period, subject to regulatory approval, to await liquidity, and the manager is required to keep the investors informed of these circumstances; and
   (ix) details regarding the risk profile of the investment, including a statement that funds may experience increased investment volatility.

(2) A manager must, in advertising documents disclose, in respect of a portfolio that invests into other portfolios of collective investment schemes that the underlying portfolios may levy their own charges which could result in a higher fee structure for the portfolio;

(3) A manager must ensure that any advertising document that contains performance information as well as awards and rankings related to the performance information also includes references to their sources and date.

7. Requirements for a Minimum Disclosure Document

(1) A manager must on a quarterly basis produce an MDD in respect of a portfolio, including a third party named portfolio, provided that where a portfolio has multiple classes, the information pertaining to the most expensive class available to retail investors must be produced as a minimum.

(2) A manager may in addition to the requirements in paragraph 7(1) produce an MDD in respect of a class other than the most expensive class, provided that the MDD complies with the relevant requirements set out in this Conduct Standard.

(3) An MDD –
- (a) may not be longer than two double-sided or four one-sided pages of A4 sized paper; and
- (b) must be set in readable characters or font, spacing and format.

(4) An MDD must include –
- (a) a statement that it is the Minimum Disclosure Document;
- (b) the portfolio inception date and where the performance inception date is a different date, also the performance inception date;
- (c) the NAV of the portfolio and the number of participatory interests;
- (d) the NAV price of a participatory interests;
- (e) the fees and charges applicable to the portfolio or class and if relevant to that portfolio or class, the fees and charges must be expressed as an annual percentage, other than for once-off fees;
- (f) the total expense ratio applicable to the portfolio or class;
- (g) an indication of –
  - (i) the frequency of the calculation of a price and total expense ratio; and
  - (ii) the website on which the latest price and latest total expense ratio is published; and
  - (iii) the frequency and cut-off time for dealing in the participatory interests of the portfolio;
- (h) the dates and values of income distributions per participatory interest during the 12 months immediately preceding the end of the quarter;
- (i) performance information relating to the portfolio or class subject to paragraphs 14, 15 and 16;
- (j) a risk indicator or risk metric which -
  - (i) is appropriate for and relevant to the portfolio or class and its performance, as a measure of the overall risk and reward profile of the portfolio;
  - (ii) includes a short description of that risk indicator or risk metric; and
  - (iii) includes a statement to the effect that the details regarding the risk metrics are available on the website;
- (k) the percentage allocations of the effective exposure of the assets in the portfolio, which includes derivative exposure, to the main categories of assets held in the portfolio and the detail of the effective exposure created by the derivatives;
- (l) information on the strategy pursued for achieving the investment objective and investment policy of a portfolio;
- (m) a review of the manager's investment activities in respect of a portfolio;
- (n) details of any fundamental or noteworthy changes or events relating to a portfolio since the previous report;
- (o) any other information which would enable investors to evaluate the development of the activities related to a portfolio during the reporting period.
- (p) if applicable, conditions for an investment in a portfolio or class, including but not limited to –
  - (i) a minimum investment amount;
  - (ii) a frequency of investment; and
  - (iii) any requirement to qualify for investment;
- (q) if applicable, an indication of an industry classification or category;

(r) if applicable, the name of the financial services provider authorised to manage the assets of the portfolio;
(s) if applicable, an indication that the portfolio is closed for new investments; and
(t) in respect of a hedge fund portfolio or class, the –
  (i) exposure limit or value-at-risk permitted in the founding document and mandate;
  (ii) highest exposure or value-at-risk applied during the reporting period;
  (iii) exposure or value at risk as at quarter end;
  (iv) gross exposure of the portfolio; and
  (v) current level of leverage applied in the portfolio.

(5) A manager may only publish forecasts or commentary about the expected future performance of asset classes in general, or the market in general, in an MDD if the forecasts are based on disclosed reasonable assumptions, and the manager indicates that the forecasts or commentary are not guaranteed to occur.

(6) A manager must ensure that information contained in an MDD relating to the performance of a portfolio, manager or collective investment scheme -
(a) is representative of the portfolio history;
(b) is not taken out of context;
(c) conforms with accepted mathematical procedures; and
(d) does not create unreasonable expectations of future performance.

(7) Subject to subparagraph (8), an updated MDD of a portfolio or class of participatory interests referred to in subparagraphs (1) and (2) must be published on the manager's website or any website it uses to make its portfolio available for investment by members of the public within thirty days after the end of the quarter to which the MDD applies.

(8) An MDD of a portfolio or class of participatory interest which is available exclusively to financial institutions regulated by any financial sector law is not subject to paragraph 6, but must be provided to the relevant financial institution by the manager within thirty days after the end of the quarter to which the MDD applies.

(9) Where a manager provides an investor with an MDD in accordance with paragraph 9 (1) it must be in a durable medium or through a website, provided that the investor specifically selects that medium or consents in writing to the provision on a website.

PART IV
DISCLOSURE TO INVESTORS

8. Investor statements

(1) This paragraph does not apply to portfolios which are solely traded on exchanges.

(2) A manager must provide an investor with an investor statement in respect of the investment of that investor in a portfolio or class at least –
(a) quarterly; or
(b) half-yearly in the case of a foreign portfolio approved in terms of section 65 of the Act, within thirty days after the end of the quarter or half-year.

(3) An investor statement referred to in subparagraph (2) must include –
- (a) the name of the portfolio and, if applicable, the name of the class;
- (b) the price of a participatory interests;
- (c) the number of participatory interests and if applicable the notional participatory interests held by the investor in the portfolio; and
- (d) the value of the investment calculated by multiplying the price by the number of participatory interests;
- (e) if applicable, the equalisation allocation and any classification related thereto;
- (f) an indication of the performance of the investment over the reporting period as a change in the monetary value of the investment;
- (g) all transactions processed and its values;
- (h) in respect of the investment of the investor, all fees and charges that the manager deducted from the portfolio or class with specific disclosure of the performance fee as percentages levied against the portfolio or class of portfolio; and
- (i) if applicable, the effect of a correction of any pricing or distribution error.

(4) A manager must ensure that information contained in an investor statement referred to in subparagraph (2) relating to –
- (a) performance returns of a portfolio is –
  - (i) based on performance calculations that are done on a NAV to NAV basis over all reporting periods provided that where a NAV is not available the value used to calculate the performance returns and which was agreed with the trustee must be clearly stated and a description of how the figures were calculated must be provided;
  - (ii) accompanied by a disclosure indicating that -
    - (aa) the performance returns are calculated for the portfolio irrespective of whether the portfolio has different classes of participatory interests; and
    - (bb) the individual investor performance returns may differ as a result of initial fees, the actual investment date, the date of reinvestment, and dividend withholding tax;
- (b) reinvestment of income is calculated on the actual amount distributed per participatory interest, using the ex-dividend date NAV price of the applicable class of the portfolio, irrespective of the actual reinvestment date.

(5) A manager of a hedge fund and a manager of a foreign collective investment scheme categorised as a hedge fund must disclose to an investor in respect of the investment of that investor in a portfolio or class at least quarterly or half-yearly in the case of a foreign portfolio approved in terms of section 65 of the Act, within thirty days after the end of the quarter or half-year, the following minimum information:
- (a) The name of the portfolio invested in together with the series or class of participatory interests invested in;
- (b) the net asset value and participatory interest price multiplied by the number of notional participatory interests held in the portfolio;
- (c) equalisation credit and debit, or series invested in, where applicable;
- (d) the change in the monetary value of the investment, over the period of the investor statement;
- (e) transactions processed, relevant to the investor;
- (f) pricing and distribution errors;
- (g) subscriptions (new investments) and number of participatory interests issued and held;
- (h) repurchases and number of participatory interests cancelled;
- (i) a breakdown of net profit or loss for the period, including, but not limited to-

(i) realised gain or loss;
(ii) unrealised gain or loss;
(iii) dividends and dividend expenses;
(iv) manufactured dividends;
(v) interest earned and interest incurred;
(vi) all fees and charges that the manager deducted from the portfolio, with specific disclosure of the performance fee, as percentages levied against the portfolio or class of portfolio;

(j) trading expenses aggregated, including but not limited to-
(i) brokerage costs;
(ii) scrip borrowing fees; and
(iii) transaction fees;

(k) other expenses aggregated, including but not limited to-
(i) accounting fees;
(ii) administration fees;
(iii) audit fees;
(iv) bank charges;
(v) custodian or depository fee;
(vi) exit fees payable for premature disinvestment of assets; and
(vii) other transaction costs;

(l) equivalent information for the previous reporting period to allow for comparative analysis.

9. General requirements for pre-contractual disclosures

(1) Prior to entering into a transaction with an investor, a manager must provide an investor with –
(a) the latest MDD of the relevant portfolio or class related to the transaction to be entered into, or if an MDD is not available for the relevant portfolio or class, the information that is required to be included in an MDD as set out in paragraph 7;
(b) an application form; and
(c) the prospectus of the manager's scheme with the relevant collective investment scheme portfolio section.

(2) Prior to entering into a transaction with an investor a manager must ensure that it discloses all conflicts or potential conflict which may exist between the interests of the manager, including its directors and management or third party representing the manager and the interests of an investor, and the manner in which the conflict or potential conflict is being managed.

10. Application forms and process

(1) An application form referred to in paragraph 9(1)(b) must require an investor to provide appropriate information that is necessary to enable the manager to -
(b) establish a business relationship between the manager and the investor;
(c) comply with any legislation which is relevant to the business relationship, including requirements contained in the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); and
(d) administer the investment in accordance with the requirements of the Act, including but not limited to –
(i) an appropriate method of communication between the manager and the investor;

(ii) an appropriate mechanism for instructions to invest in a portfolio or class;
(iii) a method of investment and if applicable, instructions relating to that method;
(iv) an appropriate mechanism for instructions in respect of income distributions;
(v) an appropriate mechanism for instructions in respect of withdrawals or redemptions; and
(vi) an appropriate contractual signatory declaration that is relevant to the investor and the investment.

(2) Subject to subparagraph (3), an application form referred to in paragraph 9(1)(b) must include –
(a) in sufficient detail –
(i) the fees and charges applicable to the particular investor including management fees, initial fees, performance fees, redemption fees, advisory fees;
(ii) the method of the calculation of the fees and charges;
(iii) a statement that a manager may change the fees and charges on at least three months' notice to the investor by means of the selected method of communication; and
(iv) all charges paid by the portfolio;
(b) the manner and conditions in which participatory interests may be bought or sold;
(c) an indication that a manager may change the point in time by when an application for a redemption must be received on at least thirty days' notice to the investor by means of the selected method of communication;
(d) an indication that a manager's ability to repurchase is dependent on the liquidity of the assets in a portfolio;
(e) a statement that the NAV of the portfolio and the price of participatory interests are calculated on the basis of the market value of the assets in a portfolio, including income accruals subject to the rules of an exchange and less permissible deductions, and as prescribed by legislation;
(f) details of the manner in which and where an investor may lodge a complaint against a manager;
(g) if applicable, an appropriate authorisation from an investor for a payment of fees and charges from the investment in respect of advice, provided to the investor, including –
(i) details of the fees and charges applicable to the particular investor; and signature of the financial services provider; and
(ii) the method of the calculation of the fees and charges.

(3) A manager may, in respect of an investment in a portfolio approved in terms of section 65 of the Act exclude information as contemplated in subparagraph (2) from an application form provided that similar information is included in a founding or offering document and that such document is provided to an investor.

(4) A manager must disclose the following minimum information to a potential investor in the application form:
(a) The manner in which distributions are calculated and settled;
(b) the manner in which and the conditions under which an investor may make changes to the investment;
(c) that the assets of a portfolio and the funds of investors are by law regarded as trust property and separated from the assets and funds of a manager;
(d) a statement that assets of each portfolio are protected from creditor claims and will not be used to meet liabilities of any other portfolio;

(5) A manager must ensure that the following minimum information regarding the liquidity of a portfolio is disclosed to potential investors during the application process:

(a) That although the portfolio transacts and repurchases participatory interests on a daily, weekly or monthly basis, it is not guaranteed that the portfolio will be able to do so at all times;

(b) that investors are encouraged to seek an explanation of the liquidity risks of the portfolio that they wish to invest in;

(c) details regarding the ability of the portfolio to invest in non-listed shares and concomitant liquidity risk thereof;

(d) subject to legislation, that repurchases may be suspended for a period -

(i) with delayed or staggered payments;

(ii) that securities that encounter zero liquidity may be set aside to await liquidity; or

(iii) may be written off entirely where no future liquidity is evident or may even be offered to investors as scrip where possible;

(e) in respect of a money market portfolio, that excessive withdrawals from the portfolio may place the portfolio under liquidity pressures, and that in such circumstances a process of ring-fencing of withdrawal instructions and managed pay-outs over time may be followed; and

(f) in respect of a hedge fund, a description of the liquidity risk management of the portfolio including repurchases rights in both normal and in exceptional circumstances, which disclosure must also be contained in the application form referred to in paragraph 9(1)(b) above.

11. Prospectus

(1) A manager must have a prospectus for all collective investment schemes and portfolios approved and registered in the Republic.

(2) A prospectus must –

(a) be available for inspection by investors at the manager's official address in the Republic;

(b) be reflective of the current business environment and situation; and

(c) be amended to ensure that it is at all times reflective of approved changes and complies with the spirit of transparency.

(3) A prospectus referred to in subparagraphs (1) and (2) includes a prospectus produced by a foreign collective investment schemes approved by the Authority, where it is filed or lodged with its domicile jurisdiction and is similar in nature and function to the provisions of this prospectus requirement in the Republic, or is the founding or constituting documents for the foreign collective investment scheme and its portfolios.

(4) A prospectus may not –

(a) be used as an establishing or founding document for a collective investment scheme or portfolio for funds established in the Republic;

(b) be used as a replacement for the MDD and should thus normally contain information of a more static nature; and

(c) include any portfolio performance or returns information or data.

(5) A prospectus must provide a holistic view of the collective investment scheme and all its approved and registered portfolios with content and structure considerations made for retail investors.

(6) A prospectus must include –
- (a) sections dealing with matters of –
  - (i) the collective investment scheme which is limited to sixty pages at A4 page size limitation; and
  - (ii) each collective investment scheme portfolio which may be separately published from the other portfolios;
- (b) a date stamp on the cover page noting the issue date of the -
  - (i) current prospectus; and
  - (ii) previous prospectus published;
- (c) all key characteristics of the collective investment scheme as stated in the applicable deed, including supplemental deeds;
- (d) the powers and restrictions pertaining to the collective investment scheme and its portfolios;
- (e) a directory of the names and registered offices of the following persons and institutions, where applicable:
  - (i) Investment manager;
  - (ii) investment advisor;
  - (iii) trustee/custodian;
  - (iv) administrator;
  - (v) banker;
  - (vi) auditor;
  - (vii) external risk manager;
  - (viii) external compliance officer; and
  - (ix) legal advisor;
- (f) the names of the directors of the manager;
- (g) a brief description of the manager including a -
  - (i) brief resume of each director;
  - (ii) brief history and background of the manager;
  - (iii) brief history and background of the investment manager; and
  - (iv) brief history and background of the trustee/ custodian;

(7) A prospectus must include disclosures pertaining to –
- (a) the risk analysis which should include all risks appropriate and applicable to the manager and its portfolios;
- (b) the liquidity management tools and policies which should disclose and clearly explain the past and envisioned liquidity risk management tools and policies that the manager has at its disposal and has previously implemented;
- (c) Efficient Portfolio Management (EPM) -
  - (i) including disclosure regarding whether or not the manager makes use of EPM techniques;
  - (ii) and if EPM techniques are being implemented, an explanation regarding its policy informing EMP implementation which must be in line with local regulations and international best practices;
- (d) the fees, charges and expense ratios and, where applicable, all fees directly or indirectly borne by the investor, including but not limited to the manager policy regarding exit fees and tiered fee structures;
- (e) portfolio valuation adequately addressing valuation methodology implemented for Net Asset Value (NAV) purposes, including the following:

(i) Valuation point;
(ii) a mathematical example of the NAV calculation methodology; and
(iii) publication of NAV and NAV Price;

(f) how participatory interests are bought and sold by the investor;

(g) the register of investors which must contain at least the following:
(i) A brief explanation of the function of the register;
(ii) how records are to be kept;
(iii) how the investor may view its own record in the register; and
(iv) how amendments are to be treated;

(h) the manager's conflict of interest policy and, in plain language, an explanation of the principles contained therein;

(i) the manager's complaints resolution framework and policies;

(j) the manager's Environmental, Social and Governance policy, where applicable;

(k) if a manager delegated administration function in terms of section 4(5) of the Act, including the management of the assets of a portfolio, the name of the delegated person and the function performed by the delegated person;

(l) if applicable, the name of the depository as defined in Board Notice 52 of 2015;

(m) in the event that preferential treatment is afforded to an investor in a hedge fund portfolio, a description of –
(i) the preferential treatment, including ring-fencing arrangements;
(ii) the types of investors who are afforded preferential treatment; and
(iii) where relevant, an investor's legal or economic relationship with the manager.

(8) A prospectus must include at least the following information relating to portfolios of the manager:
(a) Full name of the portfolio;
(b) investment objective of portfolio;
(c) investment policy of portfolio;
(d) portfolio distribution policy;
(e) list of all classes of participatory interests per portfolio, noting the minimum contribution limits per class;
(f) industry category classification per portfolio, where applicable; and
(g) a table of all portfolios launched with the full names of each portfolio.

(9) A prospectus must include an indication of the reports that the investor is entitled to receive and the frequency of such reports.

12. Benchmarks

(1) A manager must disclose in all of its advertising documents the following benchmark information as it pertains to a portfolio irrespective of whether it is an index or not and whether the portfolio tracks an index or is an ETF:
(a) The name of the benchmark;
(b) a description of what the benchmark consists of and where a full list of the benchmark constituents can be obtained;
(c) who the independent calculator of the benchmark or index is and the calculation methodology;
(d) who the benchmark sponsor or the benchmark administrator is;
(e) where the benchmark is linked to an exchange traded product or index tracker portfolio.

(2) Where the manager has established a benchmark or index for a particular portfolio or strategy, the manager must comply with the requirements provided for in subparagraph (1).

(3) Where the manager performs either the benchmark sponsor or the benchmark administrator functions, the manager must disclose this fact and must also disclose its internal conflict of interest policy in its advertising documents.

(4) A manager must indicate in its advertising documents what function a benchmark is providing where the portfolio it is linked to has a performance fee component noted in its constituting documentation and/or supplemental deed.

(5) At a minimum, a benchmark referred to in advertising documents must be priced or calculated at the same frequency as the portfolio which it is being used for where the manager is either the benchmark sponsor, the benchmark calculator or the benchmark administrator.

PART V
PERFORMANCE INFORMATION

13. Publication of price and total expense ratio

(1) Subject to subparagraph (2), a manager, excluding a manager or operator of a portfolio approved in terms of section 65 of the Act, must publish, on a website of which the particulars are disclosed in the application form referred to in paragraph 9(1)(b), the latest price and the latest total expense ratio in respect of a portfolio or the most expensive class of participatory interests available to retail investors.

(2) In respect of a portfolio or class of participatory interests that is available exclusively to financial institutions regulated by any financial sector law, a manager –
   (a) may not publish a price and total expense ratio for such portfolio or class of participatory interests; and
   (b) may only provide a price and total expense ratio directly to such relevant financial institution.

(3) On request by a local news agency, a manager must provide the price and total expense ratio relating to a portfolio, or most expensive class of a portfolio, free of charge.

14. General requirements for performance information

(1) Any performance information published by a manager must -
   (a) not be older than three months at the time of publication; and
   (b) be calculated at month end.

(2) The calculation by a manager of the performance of a portfolio or class must -
   (a) be based on the NAV of the portfolio or class calculated by the manager at the valuation point defined in the deed; or
   (b) where a manager publishes performance of participatory interests of a portfolio that trades on an exchange, be based on the market value of the participatory interests based on the primary listing.

(3) A manager may not present performance in any way that may indicate future performance except in the case of portfolios that may publish annualised yields.

(4) Performance information may only be disclosed by a manager, other than in an investor statement contemplated in paragraph 8 -
   (a) in the case of a money market portfolio: After the expiry of a period of six months from the portfolio inception date;
   (b) in the case of a portfolio other than a money market portfolio: After the expiry of a period of twelve months from the portfolio inception date.

(5) A manager may only include performance information in an advertisement if performance has been attained for a period of thirty-six months or more.

(6) Performance information disclosed by a manager must at a minimum be disclosed–
   (a) in complete 12-month periods for -
      (i) the most recent year;
      (i) the most recent three years; and
      (ii) the period from the portfolio inception date or, if applicable, the performance inception date or the most recent 10 years; and
   (b) in comparison to the benchmark of the portfolio unless a benchmark is not applicable to the portfolio.

(7) A manager may, subject to paragraphs 14(5) and 14(6), and in addition to the performance information as contemplated in paragraph 14(8), disclose performance for –
   (a) the most recent month;
   (b) the most recent three months;
   (c) the most recent six months; and
   (d) the calendar year-to-date;
   provided that the selected option is consistently applied.

(8) Performance information disclosed or provided by a manager must –
   (a) be presented in annualised figures or may be presented using cumulative figures;
   (b) include an explanation of annualised or cumulative figures;
   (c) include an indication of whether the performance is presented for the portfolio or for a class;
   (d) include the period to which the performance information relates;
   (e) include the sources of information used in the calculation of performance;
   (f) include the basis upon which performance is measured including the benchmark of a portfolio unless a benchmark is not applicable to a portfolio;
   (g) include the portfolio inception date or, if applicable, the performance inception date;
   (h) include the lowest and highest performance over a 12-month period since the portfolio inception date or, if applicable, the performance inception date, and indicating the relevant 12-month period; and
   (i) include a statement that –
      (i) the calculation of the performance is based on the NAV of the portfolio or class;
      (ii) individual investor performance may differ due to fees and charges, actual investment dates and withholding taxes; and
      (iii) past performance is not necessarily indicative of future performance.

(9) Where a manager presents performance information in cumulative figures -
   (a) the cumulative figures must be accompanied by the relevant annualised figures for the same period where applicable; and

(b) the annualised figures must be reflected with equal prominence to the cumulative figures.

(10) A manager must on request by any person provide –
(a) actual annual figures or any additional relevant performance information; or
(b) information in respect of performance calculations for verification upon request.

(11) If changes to -
(a) the method of calculating performance;
(b) the basis of measuring performance;
(c) any essential characteristic of the portfolio; or
(d) the administration of the portfolio,
affects the performance information or the presentation thereof, the manager must include appropriate explanations of the changes and the timing of the changes in the performance information for an appropriate period of time but at least for the subsequent three MDDs.

(12) A manager may only publish the prices of portfolios, or classes of participatory interests, that are offered and available for investment by members of the public other than financial institutions.

(13) Prices applicable to classes of participatory interests that a manager offers exclusively to financial institutions, may –
(a) only be provided to the relevant financial institutions; and
(b) not be disclosed to members of the public.

(14) A manager must ensure that published performance figures for a specific investment performance return also indicates whether recurring investment or lump sum investment performance returns are being quoted;

15. Specific requirements for performance information

(1) Performance information relating to a money market portfolio that maintains a constant price must include a money market portfolio yield as well as an indication as to how the yield is calculated.

(2) Performance information relating to a portfolio, excluding a portfolio referred to in subparagraph (1) where the investment objective includes an aim to produce income by investing predominantly in interest-bearing instruments, –
(a) must include a historic yield; and
(b) may include a probable or current yield accompanied by an explanation of the method of calculating such yield with disclosure of the date of the calculation of the yield.

(3) Where a portfolio inception date or if applicable, a performance inception date of a hedge fund portfolio is a date prior to the date of its approval in terms of the Act, any performance information relating to that hedge fund portfolio must, for a period of five years from the date of approval in terms of the Act, include –
(a) the date of the approval of the hedge fund portfolio in terms of the Act;
(b) the performance of the hedge fund portfolio prior to the date of its approval in terms of the Act (prior performance);

(c) a clear identification of such prior performance as performance attained prior to the hedge fund portfolio being approved in terms of the Act; and
(d) an explanation of material differences between the essential characteristics of the hedge fund portfolio prior to and after its approval in terms of the Act, including but not limited to the holdings, strategies, gearing and sectoral exposure.

(4) Where a manager publishes performance returns of a portfolio that is listed on an exchange, performance figures must be based on the NAV calculated by the manager at the valuation point as defined in the deed.

(5) In addition to subparagraph (4) –
(a) a manager may use traded closing prices;
(b) where a manager has more than one listing, both must be published and disclosed.

16. Simulated performance information

(1) In this paragraph investment performance refers to the performance of a notional investor, who may be invested in a portfolio or specific class of participatory interests.

(2) If a manager discloses simulated performance information for a notional investor in a portfolio or class of participatory interests to show the effect of costs and other factors that impact on investment performance, the simulated performance must be –
(a) based on the actual past performance of the relevant portfolio or class; and
(b) calculated using the same method as the calculation method for actual past performance.

(3) When simulated performance information is disclosed by a manager, it must include –
(a) a clear identification that the performance represents simulated performance;
(b) an indication of whether the simulated performance is presented for a portfolio or class;
(c) the period to which the simulated performance information relates;
(d) the sources of information used in the calculation of the simulated performance; and
(e) a statement –
(i) that the simulated performance is only a demonstration of the performance of the portfolio or class taking into account the simulated factors;
(ii) that the calculation of the performance is based on the NAV of the portfolio or class;
(iii) that individual investor performance may differ due to fees and charges, actual investment dates, withholding taxes, etc; and
(iv) that past simulated performance is not necessarily indicative of future performance; and
(v) if appropriate, containing additional information to enable an investor to understand the context within which the simulated performance information is presented.

17. Rankings, credit ratings and awards

(1) When ranking portfolios with multiple classes of participatory interests, only the most expensive class in each portfolio offered by the manager, and available for direct investment by members of the public, other than financial institutions, at the beginning of the reporting period and available during the whole reporting period, may be ranked.

(2) A manager may only advertise a factual ranking in respect of the performance of a portfolio if that ranking has been independently assessed.

(3) A ranking relating to the performance of a portfolio or class may be advertised provided that –
   (a) the ranking is determined objectively and independently of the manager; and
   (b) the advertisement identifies the source of the ranking and the date of the ranking.

(4) A manager may only advertise the ranking of a portfolio within a relevant peer group if -
   (a) there are at least five portfolios in the relevant peer group; and
   (b) the other portfolios are not specifically named.

(5) A manager may only advertise a credit rating assigned to a portfolio if –
   (a) the credit rating was issued by a credit rating agency registered under the Credit Rating Services Act, 2012 (Act No. 24 of 2012);
   (a) the advertisement identifies the credit rating agency, the date of the credit rating and where to obtain the related information as required by the Credit Rating Services Act, 2012 (Act No. 24 of 2012);
   (b) a description and methodology of the rating is publicly available;
   (c) the credit rating was issued at the request of the manager; and
   (d) the credit rating agency had unrestricted access to all confidential and other sensitive information, including management interaction.

(6) A manager who advertises its awards -
   (a) may only advertise an award once it has been formally awarded;
   (b) must state-
      (i) the name of the award and its logo;
      (ii) the date of the award; and
      (iii) that the full details, and basis of the award, are available from the manager.

(7) A manager may only advertise its historical awards (awards that are older than twelve months) if the award is not the sole focus of the advertisement.

18. Comparing performance

(1) The performance of a portfolio or class of participatory interests may only be compared with the performance of another portfolio or class of participatory interests if –
   (a) the comparison is meaningful and presented in a fair and balanced way;
   (b) the essential characteristics of the portfolios are sufficiently similar;
   (c) the performance information of the portfolios relates to the same time periods;
   (d) the other portfolio or the manager of the other portfolio is not identified; and
   (e) the information used to compare the portfolios is current, complete and accurate.

(2) Where a manager advertises comparisons of performance returns, the manager must use figures published at quarter-end or month-end against relevant benchmarks for periods of a minimum of one year and in multiples of full years for longer periods.

(3) A manager may not, in comparative advertising -
   (a) mention names of specific competitive portfolios, managers or collective investment schemes;

(b) make comparisons between portfolios that are grouped in a sector in which there is no commonality of investment objectives; and
(c) use ranking that is not current nor use ranking of other portfolios; and
(d) compare information on portfolios that is not current.

(4) A manager may only compare portfolios within a peer group where the basis of inclusion or exclusion is disclosed and where the selection criteria are consistently applied.

PART VI
GENERAL

19. Record keeping

(1) A manager must keep a record whether electronically or otherwise of advertisements and advertising documents published by the manager, including –
(a) the date and name of publication;
(b) the medium or method of publication; and
(c) evidence to support any statement made in an advertisement or advertising document or an indication of where and how such supporting evidence may be obtained.

(2) A record referred to in subparagraph (1) must be kept for a period of at least five years from the date of the publication of an advertisement or advertising document.

20. Lodging of advertisements and advertising documents with the Authority

(1) A manager must, prior to the publication or use of any material, unless otherwise stipulated, submit copies of the material to be published or used by the manager to the Authority in the manner determined by the Authority.

(2) Subject to paragraph 20(1), a manager must, at least once a year, within one month of the commencement of the manager's new financial year, lodge with the Authority all application form templates to be used for purposes of paragraph 9(1)(b).

(3) In assessing whether any material complies with this Conduct Standard, the Authority may take into account matters of fact or opinion, or forecasts, which have been omitted or might properly have been included from the material, as well as the content and form of the material itself, the context in which it is published, the general impression that it creates, and the likelihood of any person being misled by it.

(4) As part of the lodgement process, a manager must provide the Authority with a link to the website, and if applicable the social media platform, on which a manager publishes advertisements and advertising documents

21. Short title, commencement and repeal

(1) This Conduct Standard is called Advertising, Marketing and Information Disclosure Requirements for Collective Investment Schemes, 2020 and comes into operation 6 months from the date of publication thereof.

(2) Board Notice 92 of 2014, as published in *Government Gazette* No. 37895 of 8 August 2014, is hereby repealed.

(3) Paragraph 27 of Board Notice 52 of 2015, as published in *Government Gazette* 38540 of 6 March 2015, is hereby repealed.