

**SECTIONS 32, 38 AND 78-THE SECURITIES (REGISTRATION OF SECURITIES)
(INVESTMENT COMPANIES) RULES**

Statutory Instrument 167 of 1993

1. These Rules may be cited as the Securities (Registration of Securities) (Investment Companies) Rules.
Title

2. (1) In these Rules, unless the context otherwise requires-

Interpretation

"associate" means-

(a) in relation to any director, chief executive or substantial shareholder (being an individual)-

(i) his spouse, and any child or step-child under the age of twenty-one years, of the director, chief executive or substantial shareholder or of his spouse;

(ii) the trustees, acting in their capacity as such trustees, of any trust of which he or any of his close relations is a beneficiary or, in the case of a discretionary trust, is a discretionary object; or

(iii) any company in the equity capital of which he or his close relations taken together are directly or indirectly interested so as to exercise or control the exercise of twenty per cent or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any other company which is its subsidiary or holding company or a fellow subsidiary of any such holding company; and

(b) in relation to a company, any other company which is its subsidiary or holding company or is a fellow subsidiary of any such holding company or one in the equity capital of which it or such other company taken together are directly or indirectly interested so as to exercise or control the exercise of twenty per cent or more of the voting power at general meetings, or to control the composition of a majority of the board of directors;

"chief executive" means a person who either alone or together with one or more other persons is responsible under the immediate authority of the board of directors for the conduct of business of the company;

"connected person" in relation to a company means a director, chief executive or substantial shareholder of the company or any of its subsidiaries or an associate of any of them;

"director" includes any person who occupies the position of a director, by whatever name called;

"investment company" means a company having as its purpose the investment of its funds with the aim of spreading investment risk and giving its members the benefit of the results of the management of those funds by or on behalf of the company;

"substantial shareholder" means a person who is entitled to exercise, or control the exercise of, ten per cent or more of the voting power at any general meeting of a company.

(2) For the purposes of these Rules, a company is a subsidiary of another company if-

(a) that other company-

(i) controls the composition of the board of directors of the first-mentioned company;

(ii) controls more than half of the voting power of the first-mentioned company; or

(iii) holds more than half of the issued share capital of the first-mentioned company (excluding any part of it which carries no right to participate beyond a specified amount in a distribution of either profits or capital); or

(b) the first-mentioned company is a subsidiary of any company which is that other company's subsidiary.

3. (1) Subject to clause (2), these Rules, which are additional to the requirements of the Securities (Registration of Securities) Rules 1993, apply to an investment company any of whose securities are registered, or are required to be registered, under the Act.

Application

(2) These Rules apply to an investment company in respect of such of its activities as are not regulated by the provisions of the Securities (Collective Investment Schemes) Rules, 1993.

4. The following additional conditions for registration apply in respect of investment companies-

(a) the Commission must be satisfied as to the fitness and competence of the directors of an investment company and its management company or investment adviser, if any, and must be satisfied that they have had satisfactory experience in the management of investments or other appropriate business experience;

(b) an investment company shall have a custodian or trustee which shall be independent from the company and must be acceptable to the Commission;

(c) an investment company and its management must normally be bound, either in its articles of association or equivalent constitutive document or in such other manner as is acceptable to the Commission, to ensure compliance with the following requirements-

(i) that the investment company will not either on its own or in conjunction with any connected person take legal, or effective, management control of underlying investments and that in any event the investment company will not own or control more than thirty-five per cent (or such lower percentage as may from time to time be specified in the Takeover Code as being the level at which a general offer becomes mandatory) of the voting rights in any one company;

(ii) that a reasonable spread of investments will be maintained by the investment company which means generally that the value of its holding of investments issued by any one company or body shall not exceed twenty per cent of the investment company's net asset value at the time when such investment is made; Additional conditions for registration

(iii) that, in the case of a newly formed investment company, it will not change its stated investment objectives and policies for a minimum period of three years, without shareholders' consent;

(iv) that shareholders' meetings are convened and conducted in a manner which is acceptable to the Commission;

(v) that any custodian, management company, any of their connected persons and every director of any investment company and management company is prohibited from voting their own shares at, or being part of a quorum for, any meeting to the extent that they have or any of their associates has, a material interest in the business to be conducted;

(vi) that the investment company's auditors are independent of the investment company, any management company and any custodian, to the same extent as that required of an auditor under the Securities (Accounting and Financial Requirements) Rules, 1993, and that, in the case of an overseas investment company, the accounts of the investment company are audited to a standard comparable to that required in Zambia and all reports conform to international accounting standards as promulgated from time to time by the International Accounting Standards Committee;

(d) it will normally be a condition of registration that, in the case of a newly formed investment company, at the conclusion of the initial offering of shares, and in the case of an existing investment vehicle, at the time of the issue of the prospectus, no person shall control thirty-five per cent (or such lower amount as may from time to time be specified in the Takeover Code as being the level at which a general offer becomes mandatory) or more of the votes exercisable at any general meeting of the investment company.

5. In addition to the requirements of the Securities (Registration) Rules, 1993, every prospectus issued by or on behalf of an investment company no part of whose securities is already registered must contain the following:

(a) details of all costs and charges and in particular the fees of any management company payable from the investment company's assets which an investor would be likely to consider material, and all deductions made from money subscribed for securities;

(b) a statement of any costs of establishing the investment company which are to be paid by the investment company together with an estimate of their size and the period over which they are to be amortised;

(c) details of the investment objectives, including capital and income objectives, and the investment policy, including a summary of the restrictions which will be observed on the investment of the investment company's assets and the intended diversification of assets by country or region and, in the case of a newly formed investment company, a statement that such investment policy will be adhered to for at least three years following the issue of the prospectus, unless otherwise agreed by the shareholders on the investment company in general meeting; and in particular, the prospectus must disclose the extent to which it is intended to invest in options, warrants, commodities, futures contracts, unlisted securities, and precious metals and must include an appropriate negative statement if there is an intention not to invest in any such investments;

- (d) details of the principal taxes levied on the investment company's income and capital (including taxes withheld at source on distributions received by the investment company) and tax, if any, deducted on distributions to shareholders;
- (e) a summary of the borrowing powers of the investment company, if any, stating that at no time will it exceed a certain amount, and stating the circumstances under which borrowing might take place;
- (f) a statement as to whether certificates for securities will be issued in registered or bearer form, or in both forms;
- (g) the name, address and description of any management company, custodian, investment adviser, and any alternate custodian;
- (h) the full names, addresses and descriptions of every director of the investment company and every director of the management company;
- (i) a description of the relevant experience of any management company, investment adviser and the directors of the investment company;
- (j) particulars of what reports will be sent to registered shareholders and when;
- (k) a statement as to whether or not the directors of the investment company, the management company or any investment adviser, or any associate of any of those persons, is or will become entitled to receive any part of any brokerage charged to the investment company, or any re-allowance of other types on purchases charged to the investment company;
- (l) a warning that an investment in the investment company is subject to abnormal risks, if the nature of the investment policy so dictates;
- (m) a statement that the investment company will not change its stated investment objectives and policies for a minimum period of three years, without shareholders' consent;
- (n) details of the investment company's foreign exchange policy and in particular details of any foreign exchange controls or restrictions of relevance to the investment company or its investment policy or objectives;
- (o) in the case of an existing investment company, full details of all exchange-traded investments and all other investments with a value of more than five per cent of the investment company's gross assets, and details of at least the ten largest investments, stating, in respect of each such investment-
 - (i) a brief description of the business;
 - (ii) proportion of the share capital owned;
 - (iii) cost;
 - (iv) directors' valuation and, in the case of listed investments, market value;

- (v) dividends or other income received during the year from such investment (indicating any abnormal dividends);
- (vi) dividend cover or underlying earnings;
- (vii) any extraordinary items; and
- (viii) net assets attributable to the investment; and
- (p) in the case of an existing investment company, an analysis of any provision for diminution in value of investments, naming the investments against which provision has been made and stating for each investment-
 - (i) cost;
 - (ii) provision made;
 - (iii) book value; and
 - (iv) reason for the provision.

6. In addition to the information required by the Securities (Registration of Securities) Rules, 1993, every prospectus issued by or on behalf of an investment company some part of whose securities is already registered must contain the information required in rule five with the exception of that required by paragraphs (b), (g), (j) and (k) of that rule. Additional prospectus requirements where some securities already registered

7. An investment company shall, in addition to the continuing obligations imposed by the Securities (Registration of Securities) Rules, comply with the following continuing obligations:

- (a) the annual report and accounts shall include-
 - (i) a list of all investments with a value greater than five per cent of the investment company's gross assets, and at least the ten largest investments stating, with comparative figures where relevant-
Continuing obligations of investment companies
 - (aa) a brief description of the business;
 - (bb) proportion of share capital owned;
 - (cc) costs;
 - (dd) directors' valuation and, in the case of listed investments, market value;
 - (ee) dividends received during the year (indicating any abnormal dividends);
 - (ff) dividend cover or underlying earnings;
 - (gg) any extraordinary items; and
 - (hh) net assets attributable to investment;

(ii) an analysis of any provision for diminution in the value of investments, naming the investments against which provision has been made and stating for each investment-

(aa) cost;

(bb) provision made; and

(cc) book value; and

(iii) an analysis of realised and unrealised surpluses, stating separately profits and losses as between investments which are traded on a regulated securities exchange which is recognised by the Commission and those investments which are not so traded;

(b) the interim report and any preliminary announcement of results for the full year shall include a division of income between-

(i) dividend and interest received; and

(ii) other forms of income (which may be income of associated companies);

distinguishing where significant between underwriting income and the results of dealings by subsidiaries;

(c) the investment company must adhere to the investment policy set out in the prospectus for at least three years following the issue of the prospectus except as sanctioned by shareholders in a general meeting of the investment company; and

(d) the investment company must publish, in at least one leading newspaper which is published daily and circulates generally in Zambia, a statement of its net asset value as at the end of each month within fifteen days of that date.