

Advertising of collective investments (previously known as unit trusts)

1. Preamble

1.1 For the purpose of this Appendix, collective investments (previously known as unit trusts) means any participatory interest, in whatever form, in a portfolio of a scheme, other than units in a unit portfolio in property shares, which members of the public are invited or permitted to invest where—

- two or more investors contribute to and hold a participatory interest through units, shares or any other form of participatory interest; and
- the investors share the risk and the benefit of investment in proportion to their participatory interest or any other predetermined basis,

but excludes any scheme authorised by any Act other than the Collective Investment Schemes Control Act or any act that supersedes it. The word ‘fund’ shall be construed as meaning “portfolio of a scheme”, e.g. a unit portfolio.

1.2 The purpose of this Appendix is to regulate advertising and marketing material for all collective investments (previously known as unit trusts) sold in South Africa in a reasonable manner which will ensure that investors’ interests are protected at all times and that unrealistic and false expectations are not raised. It is a further objective to ensure that collective investment advertising supports the Industry’s core values of integrity and professionalism.

1.3 The Appendix is supplementary to the general provisions of the ASA Code of Advertising Practice but it is also subject to the spirit as well as the letter of the ASA Code.

2. Advertising requirements

2.1 *Introduction*

The general principle is that no advertisement may be made to the public in South Africa that is not decent, honest, legal or

truthful. The following is designed to illustrate this general principle, with reference to language, graphics and statistics.

2.2 *Performance advertising*

- 2.2.1 An advertisement regarding a fund, management company or foreign collective investment scheme's level of performance must be objective and reasonable.
Example: "Our XYZ fund is one of the best performing funds in its relevant sector, country, geographic area, etc." is a misleading statement if the XYZ fund is not placed in the top one quarter of funds in its category in an independent, recognised performance report.
- 2.2.2 An advertisement that prominently displays "#1", when the fund is not placed first in a recognised performance report, would be misleading.
- 2.2.3 Ranking of a fund within a specific geographic sector (domestic, world-wide, foreign and regional), sector (equity, asset allocation, fixed interest) or sub-sector (e.g. general, technology) can be advertised provided that there are at least two funds in the sector classification and "other funds" may not be specifically named.
- 2.2.4 Only a fund that is number one in performance of the total funds in its regulatory jurisdiction, e.g. South Africa, UK, USA, etc., may advertise this fact.
- 2.2.5 Investment performance can be advertised provided such figures—
- are consistent with industry norms;
 - are truthful;
 - are representative of the fund's history;
 - are not taken out of context;
 - conform with accepted mathematical procedures; and
 - do not create unreasonable expectations of future performance.
- 2.2.6 When **historical performance** is advertised, it must be done using annual or cumulative statistics—
- published at month-end;
 - against relevant indices or benchmarks;
 - for periods of a minimum of one year;
 - in multiples of full years, for periods longer than one year;

- cumulative performance figures must be accompanied by the relevant annual figures for the same period and reflected as prominently as the annual figures.
- 2.2.7 When **since-inception performance** is advertised, this must be done using annual or cumulative statistics where—
- the launch date must be clearly stated;
 - if since-inception cumulative performance figures are in full years, i.e. 5 years, 10 years, these figures must be accompanied by the relevant annual figures for the same period and reflected as prominently as the annual figures;
 - performance figures of less than one year or more than one year may not be annualised;
 - figures may be given for funds that have less than a one-year track record, but performance figures of less than six months' duration may not be shown at all. The performance should not be the focus of the advertisement;
 - returns for short periods (less than one year) may not be extrapolated to longer periods, e.g. annualised, except in the case of money market funds where annualised current yields are used.
- 2.2.8 Performance data advertised should at no stage be older than three months after the end of any calendar month or three months after the inception anniversary.
- 2.2.9 Where actual case histories are quoted, they must begin with the inception of the investor's account and, on request, all relevant data must be made available for audit.
- 2.2.10 All performance data should indicate the source thereof, and be dated.
- 2.2.11 Performance statistics should clearly reflect whether regular investment or lump-sum performances are being quoted, whether income distributions are included in the calculations and whether buy-sell or sell-sell figures are being quoted. Charges included should be the maximum applicable to that fund.
- 2.2.12 On request, investment performance calculations must be made available for verification.

2.3 Comparative advertising

- 2.3.1 When comparing performance figures, specific attention is drawn to Section II, Clause 7 of the ASA Code.
- 2.3.2 Where comparisons of return are advertised–
- statistics published at quarter-end or month-end must be used;
 - against relevant indices or benchmarks;
 - for periods of a minimum of one year;
 - and multiples of full years for longer periods.
- 2.3.3 Comparisons of returns data advertised should, at no stage, be older than three months after the end of any calendar quarter.
- 2.3.4 No mention may be made of specific competitive funds, companies or schemes.
Example: A survey chart may not be used to show where a specific fund lies in comparison with named other funds.
- 2.3.5 Funds may only be compared to other funds on the basis of recognised sector or sub-sector classification, ie South African industrial funds with South African industrial funds, UK geographic funds with UK geographic funds, European funds with European funds, global bond funds with global bond funds, etc.
- 2.3.6 Comparisons may not be made between funds grouped in a sector with the word “other” in its title, in which there is no commonality of investment objectives, nor may any ranking be advertised.
- 2.3.7 Only a fund that is number one in performance of the total funds in its regulatory jurisdiction may advertise this fact.
- 2.3.8 Ranking of a fund within a specific sector can be advertised provided that there are at least two funds in the sector classification and “other funds” may not be specifically named.
- 2.3.9 Comparisons of index fund performance may only be done on the basis of the relative index tracking error.

2.4 Award advertising

- 2.4.1 Companies/schemes wishing to advertise their current awards must state the name of the award and/or logo. The date of the award must be disclosed as well as the fact that full details and the basis of the award are available from the company/scheme.

2.4.2 Companies/schemes may advertise their historical awards provided these awards are not the focus of the advertisement. The name of the award and/or logo must be given. The date of the award must be disclosed as well as the fact that full details and the basis of the award are available from the company/scheme.

2.4.3 The award may only be advertised once it has been formally awarded to the winner.

2.5 **Guarantees**

An advertisement should not contain words or phrases that may give investors the impression that they cannot lose money or that profits are guaranteed, unless such profits actually are guaranteed. Any such guarantee, including costs, must be clearly defined and be provided by a party other than the management company concerned.

2.6 **Specific disclosures**

2.6.1 *Gold, property and index funds*

Companies/schemes which manage gold, property or index funds must disclose, in all their marketing and advertising material, the fact that the value of securities included in these funds can be greater than is generally permitted by the Collective Investment Schemes Control Act.

2.6.2 *Funds which can be or have been capped*

Where a Trust Deed allows a fund to be closed, this fact must be disclosed in all marketing and advertising material and, where funds have been closed, this latter fact must be disclosed.

2.6.3 *Third party funds*

In the instance of advertising of “third party” funds, the management company under which the Supplemental Trust Deed of any “third party” fund is registered, carries full legal responsibility for this fund. Thus, the name of the company/scheme and its postal address must be clearly identified in all marketing and advertising material.

2.7 **General**

2.7.1 No advertising of collective investments (previously known as unit trusts) may—

- imply that investment performance achieved in the past will be repeated;

- imply that collective investments (previously known as unit trusts) will yield an attractive return over terms shorter than three years, other than in the case of Money Market and Fixed Interest Funds.

2.7.2 Charges shall be shown as the maximum applicable to that fund.

2.8 **Projections**

No advertising of collective investments (previously known as unit trusts) may include any projected future returns.

3. **Mandatory disclosures for advertising**

Please note that mandatory disclosures are fundamental to all collective investments (previously known as unit trusts) advertising and it is the intention and spirit of this Code that they be carried in all advertising, except where the size of the advertisement renders it impractical.

Please note that all text earmarked with “ ” must be disclosed as such in all advertising and marketing material. All text in italics marked with [] relate to company specific information.

3.1 **Local funds**

The following mandatory disclosures must be included in all marketing and advertising material–

3.1.1 *Generic non-performance advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

PLUS – 1 OF THESE 3 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”
- “Some funds forward price while other funds price historically. Consult the company/scheme for details.”

3.1.2 *Specific fund non-performance advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

PLUS – 1 OF THESE 2 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”

3.1.3 *Specific fund performance/comparative advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

PLUS – 1 OF THESE 2 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”

PLUS

★ “Figures quoted are from (name of recognised source), for the period ending for a (lump sum/monthly investment), using (sell-sell prices which exclude initial fees and charges/buy-sell prices which include initial fees and charges), with income distributions (reinvested/excluded).”

3.1.4 *Money Market Fund advertising*

“A constant unit price will be maintained. Past performance is not necessarily a guide to future performance. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

* If performance/comparative advertising, add:

“The yield is calculated using an annualised seven-day rolling average as at (date).”

OR

Source: (name or recognised source)

OR

Repeat paragraph above marked with an *.

3.1.5 *Bond and Income fund advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

* If performance/comparative advertising, add–

“This is an historic/current yield as at (date).”

OR

Repeat paragraph above marked with an *.

3.1.6 *Funds which have been rated*

3.1.6.1 *CA Ratings*

CA Ratings issues a primary rating which involves a comprehensive study of the relevant management company, and a secondary rating which is merely an expressed opinion. It must be noted that funds may only advertise the primary rating. Thus, all ratings bearing a capital “E”, which indicates a second tier opinion, may not be advertised.

Funds may advertise their CA Ratings with the following mandatory disclosure–

“Funds are rated in terms of the degree of capital preservation on a scale from ‘zaAAAm’ to ‘zaDm’ (za = South Africa, m = Money Market Fund). A constant unit price will be maintained. Past performance is not necessarily a guide to the future. A schedule of fees and charges and maximum commissions is available on request from the company/scheme.

Commission and incentives may be paid and are included in the overall costs.”

If specific fund performance/comparative advertising, add paragraph above marked with an ★.

3.1.6.2 FITCH IBCA

FITCH IBCA is an international rating agency. Ratings consist of two different scales measuring credit quality and volatility. Both scales may be used.

Funds may advertise their ratings with the following mandatory disclosure—

“Funds are rated in terms of credit quality on a scale from ‘zafAAA’ to ‘zafB’ (zaf = national rating scale) and volatility on a scale from ‘V1+’ to ‘V10+’. A constant unit price will be maintained. Past performance is not necessarily a guide to the future. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and are included in the overall costs.”

★ If performance/comparative advertising, add:

“The yield is calculated using an annualised seven-day rolling average as at (date).”

OR

Source: (name or recognised source)

OR

Repeat paragraph above marked with an ★.

3.1.7 *Funds of funds advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs. A fund of fund collective investment only invests in other collective investments, which levy their own charges.”

PLUS – 1 OF THESE 2 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”

If performance/comparative advertising, add–

“Figures quoted are from (name of recognised source), for the period ending for a (lump sum/monthly investment), using (sell-sell prices which exclude initial fees and charges/buy-sell prices which include initial fees and charges), with income distributions (reinvested/excluded).”

3.1.8 *Advertising of gold, property and index funds which are exempted from section 6(1)(a)(i) of the Collective Investments Schemes Control Act*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, are included in the overall costs. The value of securities in these funds can be greater than permitted in the Collective Investment Schemes Control Act. Details are available from the company/scheme.”

PLUS – 1 OF THESE 2 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”

If performance/comparative advertising, add–

“Figures quoted are from (name of recognised source), for the period ending for a (lump sum/monthly investment), using (sell-sell prices which exclude initial fees and charges/buy-sell prices which include initial fees and charges), with income distributions (reinvested/excluded).”

3.1.9 *Advertising of funds that can be closed or have been closed*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum

commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs. This fund may be closed.” [*Where the fund has been closed, this fact must be stated*].

PLUS – 1 OF THESE 2 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”

If performance/comparative advertising, add–

“Figures quoted are from (name of recognised source), for the period ending for a (lump sum/monthly investment), using (sell-sell prices which exclude initial fees and charges/buy-sell prices which include initial fees and charges), with income distributions (reinvested/excluded).”

3.1.10 *Advertising of “third party” funds*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.” [*Advertising for “third party” funds must carry a line, separated by a space below the mandatory disclosure, that reads: “Company/scheme: XYZ Company”.*] [*The postal address of the Company/scheme must be disclosed.*].

PLUS – 1 OF THESE 2 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”

If performance/comparative advertising, add–

“Figures quoted are from (name of recognised source), for the period ending for a (lump sum/monthly investment), using (sell-sell prices which exclude initial fees and charges/buy-sell prices which include initial fees and charges), with income distributions (reinvested/excluded).”

3.1.11 *Advertising of funds with different classes*

“Collective investments are generally medium to long term investments. The value of units may go down as well

as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. Different classes of units apply to these funds and are subject to different fees and charges. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

PLUS – 1 OF THESE 3 OPTIONS

- “Forward pricing is used”
- “Historic pricing is used”
- “Some funds forward price while other funds price historically. Consult the company/scheme for details.”

If performance/comparative advertising, add–

“Figures quoted are from (name of recognised source), for the period ending for a (lump sum/monthly investment), using (sell-sell prices which exclude initial fees and charges/buy-sell prices which include initial fees and charges), with income distributions (reinvested/excluded).”

3.1.12 *Advertising of awards*

In addition to the relevant standard mandatory disclosure, the following mandatory disclosure must accompany all award advertising–

“Give name of award and date. Full details and basis of award referred to are available from (name of company/scheme).”

3.2 ***Foreign collective investment scheme funds***

3.2.1 *Marketing material and annual reports*

All advertising of foreign collective investment schemes must indicate in which country the fund is regulated. Marketing material must be designed specifically for the South African market and material should only advertise those funds registered by the FSB.

With regard to mandatory disclosures for advertising, marketing material and annual reports, it would be considered acceptable if the statutory notes required for foreign funds cover the same principles but in words different to the mandatory disclosures detailed below.

Foreign companies are required, by law, to send out a full annual report to their unit-holders. Annual reports sent to South African unit-holders must, by way of a sticker or insertion, indicate which funds are not available to South African investors.

3.2.2 *Generic non-performance advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

PLUS

A statement reflecting pricing methodology, such as: (weekly/daily) (historic/forward) pricing is used.

PLUS

A prospectus is available on request from [*give name of the local host company/scheme*].

3.2.3 *Specific fund non-performance advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and, if so, would be included in the overall costs.”

PLUS

A statement reflecting pricing methodology, such as: (weekly/daily) (historic/forward) pricing is used.

PLUS

A prospectus is available on request from [*give name of the local host company/scheme*].

3.2.4 *Specific fund performance/comparative advertising*

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide

to the future. Collective investments are traded at ruling prices.” [*Maximum specific charges must be detailed here, unless included in other areas of the document. This includes front-end, back-end, compulsory, performance annual or any other charges, all of which must be quoted VAT inclusive.*] “Commission and incentives may be paid and, if so, would be included in the overall costs.”

PLUS

A statement reflecting pricing methodology, such as: (weekly/daily) (historic/forward) pricing is used.

PLUS

“Figures quoted are from (name of recognised source), for the period ending for a (lump sum/monthly investment), using (sell-sell prices which exclude initial fees and charges/buy-sell prices which include initial fees and charges), with income distributions (reinvested/excluded). Performance is quoted in (rand/dollars/pounds/specify other currency) terms.”

PLUS

A prospectus is available on request from [*give name of the local host company/scheme*].

3.2.5 *Sharpe ratio, Sortino ratio and volatility*

Sharpe ratio, Sortino ratio and volatility as measured by standard deviation are the only measures of risk performance.

“Collective investments are generally medium to long term investments. The value of units may go down as well as up, and past performance is not necessarily a guide to the future. Collective investments are traded at ruling prices. A schedule of fees and charges and maximum commissions is available on request from the company/scheme. Commission and incentives may be paid and if so, would be included in the overall costs.”

- “Forward pricing is used”
- “Historic pricing is used”
- “Some funds forward price while other funds price historically. Consult the company/scheme for details.”

3.3 Mandatory disclosures for marketing material

3.3.1 All disclosures are the same as above, with the following changes–

- Leave out “A schedule of fees and charges is available on request from the company/scheme”.
- Instead, specify actual charges (VAT inclusive), including initial charges, exit fees, transactional charges, annual and compulsory fees.
- Specify the valuation time – time of day when a fund is valued.
- Specify the trading/transaction time – time of day when purchases and repurchase requests must be received by the management company.

3.3.2 The following mandatory disclosures must appear in all marketing material of approved Foreign Collective Investment Schemes–

Topic/Item	Name of foreign scheme	South African regulation
1. Minimum investment in liquid assets (refer to 10)		5% minimum
2. Investment restriction		No limit
3. Investment restriction on individual security in respect of equity funds		Maximum of 5% of fund, if company market capitalisation is less than R2 billion; otherwise 10%
4. Investment restriction on a class of security in respect of equity funds		Maximum of 5% of amount in issue, if company market capitalisation is less than R2 billion; otherwise 10%
5. Investment restrictions for specialist funds, e.g. money market fund or funds of funds		Subject to certain limits prescribed in regulations (furnish detail)

continued

Topic/Item	Name of foreign scheme	South African regulation
6. Investment restrictions on the use of derivative instruments		20% of gross exposure of fund restricted to hedging purposes/efficient portfolio management only
7. Investment in listed instruments		95% of securities must be listed on recognised Stock Exchanges only
8. Investment in unlisted instruments		Instrument must be listed within 12 months of purchase date or disposed of maximum 4,75% of portfolio value
9. Investment of own resource into the fund		Management company must invest 10% of own resources in each fund; can be limited to R1 000 000 maximum per fund
10. Borrowing/leveraging		Not allowed
11. Gearing		Not allowed
12. Market/exchanges - listed - OTC markets		Only recognised exchanges Not allowed
13. Expenses/charges Costs to investors		Full disclosure in trust deed and a notice to unit-holders of change Only taxes, audit fee and service charges
14. Risk factors		
15. Capped or not capped		Not capped
16. Redemption (repurchase) units		
17. Independent trustee/custodian		Trustee must be completely independent

continued

Topic/Item	Name of foreign scheme	South African regulation
18. Taxation of fund		No taxation Interest portion taxable in hands of individual
19. Taxation of fund 19.1 Income dividends Interest 19.2 Capital gains		Only interest portion taxable
20. Interval at which units are priced		Daily
21. Distributors		All income distributed regularly or reinvested at option of investor
22. Switching		Allowed – charges differ
23. Pledging of securities		Not allowed
24. Scriplending/ scripborrowing		Now allowed
25. Certificate, if issued and needed for redemption		Issued on request
26. Reporting to supervisory authority		Quarterly and annually
27. Inspection powers by supervisory authority		Yes
28. Reporting to investors		Annually
29. Legal structure if different from trust		Collective investment scheme
30. Any other material difference		

3.4 *Exceptions*

It is not mandatory to make the above disclosures in print advertisements of less than 300 cm² (unless it is a performance/comparative advertisement) or in radio, television or cinema and all outdoor advertising.

