

Australian Capital Territory

Financial Management Amendment Guidelines 2004 (No 3)*

Disallowable instrument DI2004-169

made under the

Financial Management Act 1996, s 67 (Guideline-making power)

1 Name of guidelines

These guidelines are the *Financial Management Amendment Guidelines 2004 (No 3)*.

2 Commencement

These guidelines commence on the day after the notification day for the guidelines.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Guidelines amended

These guidelines amend the *Financial Management Guidelines 2002*.

4 New section 4A

insert

4A Investment Plan

To facilitate investment undertaken in accordance with section 56(1)(d) of the *Financial Management Act 1996*, investments will

*Name amended under Legislation Act 2001 s 60

be made in accordance with an investment plan approved by the Treasurer.

Note 2 See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 New section 4B

insert

4B Authorised Territory Authorities—Act, s 56 (1) (d)

The following Territory Authorities are authorised to make investments in accordance with section 56(1)(d) of the *Financial Management Act 1996* subject to meeting the conditions of section 4A of the *Financial Management Amendment Guidelines 2004 (No 3)*:

- (a) Cleaning Industry Long Service Leave Board; and
- (b) Construction Industry Long Service Leave Board.

6 Section 5

substitute

5 Meaning of *debt instrument*

- (1) In these guidelines, ***debt instrument*** includes securities (other than stocks that are equities) and other commercial paper, whether issued in or outside Australia.

Note ***Securities*** is defined in the Act, dict, as follows:

securities includes stocks, debentures, notes, bonds, promissory notes, bills of exchange, and any other securities approved in writing by the Treasurer.

- (2) However, ***debt instrument*** does not include an instrument issued by or in relation to an entity that is, when the instrument is offered for sale for investment under section 15, rated by Standard & Poor's or Moody's as less than the relevant rating set out in the following table:

rating	instrument issued in Australia	instrument issued outside Australia
Standard & Poor's short-term	A-2	A-1
Moody's short-term	P-2	P-1
Standard & Poor's long-term	BBB-	B
Moody's long-term	Baa3	B2

- (3) If an instrument is rated by Standard & Poor's and Moody's, each rating is a relevant rating for subsection (2).

7 Section 15

substitute

15 Prescribed investments—Act, s 38 (1) (e) and s 56 (1) (d)

- (1) The following are prescribed investments:
- (a) cash and a cash equivalent;
 - (b) a debt instrument;
 - (c) a derivative;
 - (d) shares (whether issued in or outside Australia);
 - (e) private equity;
 - (f) infrastructure;
 - (g) development capital;
 - (h) natural resources and commodities;
 - (i) currency;
 - (j) an investment in property in Australia;
 - (k) an investment in Territory owned property;
 - (l) a loan to a Territory owned corporation;

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- (m) an investment fund that invests in an investment mentioned in paragraphs (a) to (j).
- (2) If an investment is proposed to be made in real property under subsection (1) (k), the Treasurer must, in writing—
- (a) identify the property; and
 - (b) state the details of the proposed investment, including the period, terms and amount of the investment.

8 Section 23

substitute

Within 15 working days after the end of each month, the chief executive must give the Treasurer a report on the exposure of a Territory investment portfolio to derivatives during the month.

9 Dictionary

substitute

(see s 3)

Note 3 The *Legislation Act 2001* contains definitions and other provisions relevant to these guidelines.

commercial paper includes both negotiable and non-negotiable instruments (for example, bearer bonds, bearer debentures and warehouse certificates).

counterparty, to a derivative an investment fund manager has entered into, is the other party to the contract.

cover, in derivative positions to increase exposure, means assets covering potential liabilities in the position that are cash, equivalent to cash or can be converted to cash within the settlement period for the derivative.

cover, in derivative positions to reduce or eliminate exposure, means the assets for which the derivatives are a reasonable hedge.

debt instrument—see section 5 (Meaning of debt instrument).

derivative means a financial asset or liability whose value depends on, or is derived from, the value of an underlying asset or liability or performance of an index, and includes the following:

- (a) forward rate agreements;
- (b) futures;
- (c) forwards;
- (d) swaps;
- (e) options;
- (f) share ratio futures;
- (g) warrants.

derivative exposure, for an investment portfolio, means the total derivative exposure of the portfolio.

ET derivative (exchange traded derivative) means a derivative created and traded on a recognised exchange.

forward means a binding agreement to buy or sell a commodity, currency or security at a fixed time in the future at a price agreed on or before a future date.

forward rate agreement means a contract for borrowing or lending at a stated interest rate over a stated period that begins on a future date.

future means a binding agreement to buy or sell a commodity or security at a fixed time in the future at a price fixed when the agreement is entered into.

gearing or leveraging, for an investment, means the use of various financial instruments or borrowed capital to increase the potential return of the investment or increase the exposure without making the underlying cash available.

investment fund manager—see section 21 (Engagement of investment fund managers).

liquid assets means cash, cash equivalents or assets readily convertible into cash.

Moody's means Moody's Investors Service Pty Ltd.

net market exposure, for an investment portfolio, means the total derivative exposure and physical exposure of the portfolio.

option means a right, without an obligation, to buy or sell a commodity, currency, security or futures contract.

OTC derivative (over-the-counter derivative) means a derivative not listed on any exchange that has been structured to meet the particular needs of the person buying it.

physical exposure, for an investment portfolio, is the net market value of the portfolio's underlying assets and securities that do not depend on the value of an underlying asset.

recognised exchange means a formal exchange for trading derivatives and securities which is regulated under the relevant law where the trading takes place.

Examples of recognised exchanges

- Australian Stock Exchange
- Sydney Futures Exchange
- New York Stock Exchange
- New York Mercantile Exchange
- London Stock Exchange
- London International Financial Futures and Options Exchange
- Tokyo International Financial Futures Exchange
- Chicago Mercantile Exchange
- Chicago Board of Exchange

share ratio future means a futures contract based on the relative movements between the price of a specified share and a market index.

speculation means investment activity of any of the following kinds:

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- (a) investment activity that takes the exposure of an investment portfolio to a class of assets beyond the exposure appropriate in accordance with any investment strategy, guideline or requirement formulated for the portfolio;
 - (b) investment activity that takes the risks for an investment portfolio beyond the risk allowed by any investment strategy, guideline or requirement formulated for the portfolio;
 - (c) investment in uncovered derivatives;
 - (d) investment activity that circumvents limitations on borrowing for the portfolio.

Standard & Poor's means Standard & Poor's Pty Ltd.

strategic asset allocation, for an investment portfolio, means the long-term target weightings given to particular investments such as shares, fixed interest, property or cash.

swap means a binding agreement between 2 parties to trade the cashflows corresponding to different securities without exchanging the securities directly (including currency swaps and interest rate swaps).

Territory investment portfolio means a portfolio of investments made under the Act, section 38(1) or section 56(1)(d) and money provided for making the investments.

Territory owned corporation—see the *Territory Owned Corporations Act 1990*, section 3(1).

Territory owned property means—

- (a) property in which the Territory has an interest; or
- (b) the land the Territory occupies.

underlying asset means an asset on which a derivative contract is based.

warrant means a right, without an obligation, to buy shares at a fixed price over a specified time period.

Ted Quinlan MLA
Treasurer
28 July 2004