INVESTMENT FUNDS (SMART FUND) RULES 2009

S.I./28 of 2009

(SECTION 5(3))

[Commencement -22nd July, 2009]

Citation.

1. These Rules may be cited as the Investment Funds (SMART Fund) Rules, 2009.

Interpretation.

2. In these Rules —

"SFM 006" means SMART Fund Model SFM 006 as licensed under rule 3;

"term sheet" means the offering document of a SMART Fund that complies with the offering document requirements as provided in Schedule 1.

Description of SFM006.

3. No fund shall be licensed to operate as a SFM 006 unless an investor of the fund is a person to whom a professional fund may be offered.

Parameters and requirements of SFM 006.
Ch. 369A.
S.I. 94/2003.

4. (1) Subject to paragraph (2), the Investment Funds Act and Investment Fund Regulations, 2003 shall apply to a fund operating as a SFM 006.

(2) A SFM 006 in relation to the items set out in column 1 of the table appearing in Schedule 1, shall comply with the provisions prescribed in column 2 of that table.

SCHEDULE I

OFFERING DOCUMENT/TERM SHEET	A term sheet is required and shall contain the following information — i. Name of Fund; ii. Date established; iii. Reason for the Fund; iv. Name and address of Operators; v. Nature of Equity Interest; vi. Redemption policy including a Statement that redemptions shall only occur with the prior written notice from time to time by the Operators of the Fund to all shareholders of record giving a notice period within which shareholders shall be required to redeem their shares; vii. Name and address of all parties related to the Fund; viii. A Statement that all of the holders of the equity interests, creditors of the Fund (unlimited in number) and assets are the same as those of another specified investment fund or group of funds (excluding recognized foreign funds); ix. A Statement that no new subscribers are permitted into the Fund once the Fund is launched; x. A Statement that the Fund shall not be audited annually and that a performance report/management accounts shall be filed every six months with the Securities Commission and each shareholder of record; xi. A Statement that net asset valuation reports are not required and shall only be effected at the discretion of the Operators; xii. A Statement by the Operators of the Fund that they are in possession of satisfactory due diligence on each shareholder of record; xiii. A Statement that at least seventy-five percent (75%) of the shareholders who would, be the shareholders and creditors of the originating investment fund, approved the establishment of the Fund; xiv. A Statement whether the assets require a custodian/prime broker; xv. Fees and expenses; xvi. Termination.
CONSTITUTIVE DOCUMENTS	The Constitutive Documents shall provide that only shareholders of an

	identified Bahamian investment fund which is restricted to investors to whom a professional fund may be offered (excluding recognized foreign funds) may become shareholders of the Fund and that no new subscribers are permitted into the Fund.
SUBSCRIPTION AGREEMENT	The Subscription Agreement is optional. However, when required, the Subscription Agreement of the Fund shall contain confirmation — (i) that the investor of the Fund agrees with the regulatory requirements applicable to the SMF 006; and (ii) that the due diligence process was previously satisfactorily completed.
ADMINISTRATOR	The Fund is not required to have as its administrator, an entity licensed as such under the Investment Funds Act, Ch. 369A in which case the Operators are responsible for the day-to-day administrative functions of the Fund. These functions may be delegated to any reputable person in any jurisdiction on an as needed basis. Where the Fund does not appoint a licensed Administrator, it shall be licensed by the Commission.
LICENSING REQUIREMENT	The Operators of the Fund shall submit to the Licensor no later than 30 days after the date of its licence — (i) certification by the Operators that the holders of equity interests, creditors and assets are the same as those of another specified investment fund (excluding recognized foreign funds).
PERCENTAGE RESTRICTIONS	No more than 30% of the gross assets of the identified Bahamian investment fund may be invested in the Fund (SFM 006).
FINANCIAL REPORTING REQUIREMENTS	No annual audit or net asset valuation reports are required. A performance report/management accounts shall be filed every six months with the Securities Commission and each shareholder of record.
ANNUAL CERTIFICATION	The Operators of the Fund no later than January 31 of each year shall certify to the Commission that the Fund is qualified to operate as a SFM 006.