

**FINANCIAL REGULATIONS AND RULES
OF THE COMMON FUND FOR COMMODITIES**

(Document No. CFC/FIN.RULES/2/2005)

**COMMON FUND FOR COMMODITIES
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AMSTERDAM, NETHERLANDS, 2005**

FINANCIAL REGULATIONS AND RULES

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INTRODUCTION

The present Financial Regulations and Rules of the Common Fund for Commodities were adopted by the Governing Council on 26 July 1990 at its Second Annual Meeting and amended by the Governing Council on 6 December 2004 at its Sixteenth Annual Meeting¹.

¹ Regulation VI (Decision GC/XVI/4)

FINANCIAL REGULATIONS AND RULES OF THE COMMON FUND FOR COMMODITIES

Headnote

The Agreement Establishing the Common Fund for Commodities sets out inter alia the principles governing the financial administration of the Fund. These Financial Regulations and Rules must be read in conjunction with the Agreement.

REGULATION I. DEFINITIONS

1. *For the purpose of these Regulations, and the Rules to be enacted thereunder, "Agreement" means the Agreement of 27 June 1980 Establishing the Common Fund for Commodities.*
2. *The definitions set out in Article 1 of the Agreement shall be applicable to these Regulations.*

REGULATION II. FINANCIAL YEAR

The financial year of the Fund shall begin on 1 January and end on 31 December of each year.

REGULATION III. RESOURCES OF THE FUND

1. *The resources of the Fund shall comprise cash, promissory notes, guarantee capital, and stock warrants or proceeds arising from their disposal, resulting from:*
 - (a) *Subscriptions of Members, as provided by*

Articles 10, 11 and 12.3 of the Agreement;

- (b) Association of International Commodity Organizations with the Fund, as provided by Article 14 of the Agreement;*
- (c) Voluntary contributions, as provided by Article 13 of the Agreement;*
- (d) Borrowings, as provided by Articles 15, 16, 17 and 18 of the Agreement;*
- (e) Net earnings or income, as provided by Articles 17.1 (f), 18.1 (c) and 18.1 (e) of the Agreement;*
- (f) Reserves, including those provided by Article 16.4 of the Agreement.*

REGULATION IV. USABLE CURRENCIES

For the purpose of the designation of Usable Currencies as defined in Article 1.9 of the Agreement, the International Monetary Fund shall be the competent international monetary organization referred to in that same Article.

Rule 104

Pursuant to Article 1.9 of the Agreement, the Managing Director, after consultation with the International Monetary Fund may, from time to time, recommend to the Executive Board additions to, or deletions from, the list of usable currencies. Decisions thereon by the Executive Board shall be adopted by a Qualified Majority.

REGULATION V. UNIT OF ACCOUNT

Pursuant to Article 8 of the Agreement, the Unit of Account of the Fund shall be equivalent to the SDR as defined from time to time by the International Monetary Fund.

REGULATION VI. GENERAL OPERATING AND REPORTING PRINCIPLES

1. *All financial transactions of the Fund shall be subject always to the separation of the resources of the Fund into two Accounts, as provided by Articles 16.2 and 16.3 of the Agreement. The resources referred to in Article 18.4 (b) of the Agreement shall be held, used, committed, invested or otherwise disposed of, entirely separately from other resources of the Fund, including the other resources of the Second Account.*

2. *The resources of the Fund shall be expressed in terms of Units of Account. Consistent with the objectives of avoiding currency speculation as prescribed in Article 16.13 of the Agreement, and of minimizing exchange risks, the Managing Director shall maintain the assets of the First Account in Usable Currencies reflecting approximately the percentage share of those currencies in the composition of the Unit of Account, and the resources of the Second Account in one or more Usable Currencies.*

3. *The Managing Director shall prepare each year, for consideration by the Executive Board and the Governing Council, projections for each Account. These projections shall comprise a summary of the operational activities foreseen, and also a summary of the related estimated income and disbursement. Estimated income and disbursement for Association Agreements concluded under the First Account shall, however, be reported to the extent possible.*

4. *The Managing Director shall in addition provide to the Executive Board periodic reports on the financial situation of the Fund.*

Rule 106.1

For the purpose of Regulation VI.2, “approximately” shall mean within ten per cent plus or minus the exact percentage share of each usable currency in the composition of the Unit of Account. Adjustments to the currency mix shall normally be made, if required, each month, but may be made at shorter intervals if necessary.

Rule 106.2

Reports made by the Managing Director pursuant to Regulation VI.4 will include:

- (a) Each quarter:

Status of contributions, status of the investments portfolio, statements of income and expenditure, projections of income and resources available for commitment;

- (b) Each six months:

Statements of income and expenditures; the statement in respect of the first six months of each year shall be of an interim nature and will include also projections of income and expenditure for the current year;

- (c) Each twelve months:

- (i) In respect of projections, a summary of the operational activities foreseen under a given set of assumptions about the general economic environment, and a summary of anticipated net income and profitability. Such projections shall take into account the schedule of projects to be considered by the Executive Board. Projections for the Second Account shall normally be made for a period of three years, and shall take into account, *inter alia*, the expected level of voluntary contributions. Projections will also be made for the coming three years in respect of operational revenues, expenditure and income.
- (ii) In respect of the financial year as a whole, a statement comprising the final audited balance sheets and statements of income and expenditure.

REGULATION VII. VOLUNTARY CONTRIBUTIONS

The Managing Director may, on behalf of the Fund, accept voluntary contributions, provided such contributions are made without restrictions as to their use by the Fund except as to their designations by the contributor for use in the First or Second Account, and provided further that they are paid in usable currencies.

Rule 107

Payments of voluntary contributions in usable currencies may be held in the

currencies in which the payment was made or may, at the discretion of the Managing Director, be converted as described in Regulation VI.2.

REGULATION VIII. CUSTODY AND INVESTMENTS

Subject in every case to Regulation VI.1 regarding the separation of assets between each Account:

- (a) *The Managing Director shall designate the bank or banks in which the resources of the Fund shall be kept. In so doing, he shall be guided by considerations of security, and shall take into account the relevant practice of other international organizations;*
- (b) *Funds which are not required immediately for the operations of the Fund shall be invested by the Managing Director. Such investments shall be guided by the principles of security and liquidity. Subject to these primary considerations, the Managing Director shall endeavour to maximize the return on investments.*

Rule 108.1

(a) The Managing Director may open and operate current accounts and custody arrangements with central banks of States which are Members of the Fund;

(b) The Managing Director may in addition open and operate current accounts, time deposits and custody arrangements with commercial banks having at least an AA or equivalent credit rating from a major rating service, and with the Bank for International Settlements and the International Monetary Fund;

Rule 108.2

Deposits placed with individual commercial banks shall be limited to US \$20 million or 10 per cent of the bank's total net worth, whichever is less.

Rule 108.3

The Managing Director shall report each year to the Executive Board on the arrangements he has made pursuant to rules 108.1 and 108.2.

Rule 108.4

Promissory notes issued by a Member pursuant to Article 11.3 of the Agreement may, at the request of that Member, be deposited in the Member's central bank; or in any other agency designated by the Member which meets the requirements of rule 108.1 (b).

Rule 108.5

Cash, sight deposits and marketable securities shall be sufficient to cover at least three months' operational requirements of the Fund.

Rule 108.6

The Managing Director, or any such representative as he shall designate, may in the name and on behalf of the Fund purchase and resell publicly issued, unsubordinated and marketable bonds, notes and other obligations issued or unconditionally guaranteed by a national government or international organization. The Fund will ensure that all purchases of such securities are in accordance with its aim to maintain the strongest possible financial standing. In particular:

- (a) Any security purchased must have a high degree of liquidity and be widely traded in established financial markets;
- (b) The backing provided to the security must be such that, in the general opinion of market analysts or bond rating authorities, it offers the Fund a high level of safety with respect to the value of the principal and the income generated;
- (c) Subject to paragraphs a) and b) of this rule the security should provide the Fund with the maximum rate of return;
- (d) Bonds, notes and other obligations
 - (i) shall have a maximum remaining maturity of ten years from the date of purchase;
 - (ii) shall, taken as a whole, have a weighted average remaining maturity of no more than five years from the date of purchase;

- (e) The aggregate principal amount of any issue held by the Fund shall at no time exceed ten percent of the aggregate principal amount outstanding of the issue involved.

Rule 108.7

For liquidity purposes or to respond to changing market conditions, whenever there are clear advantages in doing so, the Managing Director is authorized to buy, sell, trade and switch investments from short term to long term maturities and vice versa.

REGULATION IX. BORROWING

1. *In the light of the operational activities foreseen, as approved by the Governing Council pursuant to Regulation VI.3, the Executive Board shall approve borrowing programmes for each Account, and the terms of the borrowing arrangements to be entered into by the Fund. These terms normally shall specify the Account, the lender, the objective of the borrowing, the amount of principal and interest, the repayment schedule, and the maturity.*
2. *Before any borrowing is undertaken by the Fund, the Executive Board shall adopt a policy on the relationship between the Fund's borrowing costs and the interest earned by the Fund.*
3. *Any borrowing agreement and any security issued by the Fund shall contain a statement on the security itself that it does not constitute an obligation of any Member of the Fund.*
4. *Accrued earnings from operations and investments of the loan account established in accordance with Article 18.4 (b) of the Agreement shall remain assets of that account and may be used to meet losses and liabilities arising from its operations.*
5. *In undertaking its borrowing activities, the Fund will ensure that the maximum contingent liability of any Member does not exceed the value of its payable capital and any capital guarantees it may have provided as part of an association*

agreement between the Fund and an international commodity organization.

Rule 109

The Executive Board shall establish a target interest coverage ratio for each account, and shall review the target annually in the light of the Fund's financial position.

REGULATION X. LOANS

- 1. Guidelines for loans under the First Account operations shall be included, as appropriate, in the relevant Association Agreements approved by the Governing Council.*
- 2. For Second Account operations, the Executive Board shall approve the terms of each loan agreement in accordance with the operational Regulations and Rules for the Second Account.*
- 3. When the normal value of grants and loans in the First or Second Accounts reaches 95 per cent of the overall lending limit for loans and grants in the account in question, the Executive Board will not give final authorization for any new commitments under that account.*
- 4. Loans undertaken by the Fund in the course of operations under the Second Account shall require suitable guarantees. Such guarantees, in the case of loans to institutions other than governments, shall normally be provided by the responsible authorities of a country that is a Member of the Fund.*
- 5. Within a year of the first loan being agreed by the Fund, the Executive Board shall adopt a policy for dealing with overdue payments on Fund loans, covering both principal and interest.*

REGULATION XI. INTEREST

1. *Interest paid or received by the First Account shall be market-related and shall not be discriminatory vis-a-vis different Associated ICOs. The First Account shall maintain a spread between interest paid on its own borrowings and interest received on loans to Associated ICOs to cover expenses directly linked to the operation of the Association Agreements, bearing in mind the requirements contained in Articles 16.4, 17.4, 17.6 and 26.1 of the Agreement. Changes in interest rates shall take place at quarterly intervals, in the light of movements in market indicators.*

2. *Interest rates on loans for the Second Account shall be determined by the Executive Board on the recommendation of the Managing Director. In so doing, the Executive Board will take into account the objectives of the Second Account, as set out in Article 18 of the Agreement; the revenue and other benefits resulting from the project, as well as the recipient's ability to pay; and the need for adequate servicing of borrowings made under this account.*

Rule 111.1

In respect of First Account operations, the Executive Board shall review and determine the interest spread on a yearly basis, to ensure that the interest earned on the re-lending of the proceeds of the borrowings is sufficient to cover the costs of borrowing by the Fund and to establish the special reserve required under Article 16.4.

Rule 111.2

In determining interest for Second Account operations, the Executive Board shall bear in mind the need for the rate of interest to be sufficient to cover, over time, the related costs of the Fund.

Rule 111.3

In respect of both the First and Second Accounts, the Executive Board shall conduct annual reviews of the Fund's overall interest policy. The annual review shall include the assessment of the adequacy of loan reserves, and consideration of the rate at which such reserves should accumulate, together with the annual reviews of the ICR target and interest spread.

Rule 111.4

For the purpose of paragraph 1 of Regulation XI, the relevant market indicator shall be LIBOR.

REGULATION XII. NET REVENUES OF THE FIRST ACCOUNT

- 1. Interest accrued on bank deposits, investments and loans under the First Account shall be counted as income of that Account.*
- 2. Interest paid on First Account borrowings, and bank commissions or fees paid in connection with First Account transactions, shall be counted as expenditure of that Account. Operational expenses, including legal costs, directly linked to specific transactions of the First Account shall also be counted as expenditure of that Account.*
- 3. The revenues of the First Account, to be used to cover the expenses referred to in Article 17.3 (c) of the Agreement, shall be the balance of the income and expenditure defined in paragraphs 1 and 2 of this Regulation.*

REGULATION XIII. THE ADMINISTRATIVE BUDGET

- 1. The administrative expenses of the Fund shall be covered by the revenues of the First Account as defined in Regulation XII.*
- 2. No later than 30 September each financial year, the Managing Director shall submit to the Executive Board a proposed Administrative Budget for the ensuing financial year. The Executive Board shall then transmit the Administrative Budget together with its comments and recommendations to the Governing Council for its approval.*
- 3. The appropriations voted by the Governing Council for the ensuing financial year shall constitute an authorization to the Managing Director to incur obligations and make payments*

for the purpose for which the appropriations were voted and up to the amount so voted. Unobligated appropriations at the close of the financial year shall be cancelled.

4. *The Managing Director may in the interest of the Fund reallocate funds within the main chapters of the Administrative Budget. Reallocation between such chapters shall require the agreement of the Executive Board.*

5. *All receipts and expenditures of the Fund relating to the Administrative Budget shall be brought to account, shall be shown separately and in full in the Administrative Budget and shall be shown in the same manner in the annual accounts. The Administrative Budget shall include:*

(a) *All estimated receipts for the budget year and for the current fiscal year, together with appropriate footnotes and an explanatory memorandum including the calculation of the contributions payable by Members;*

(b) *Actual expenditure for the current and for the previous years, and estimated expenditure for the current year, subdivided into various budgeting headings and subheadings explained in the footnotes or an explanatory memorandum;*

(c) *An organizational chart with explanatory notes setting the authorized posts and the posts filled in the budget year as well as the posts requested for the budget year in which case it shall be indicated on which date of that budget year these posts are anticipated to be filled. All information on posts shall be subdivided into grades, services, etc. as part of an approved Personnel Management Policy;*

(d) *The staff chapter for the Budget shall include a programme of work, showing the specific tasks of the Secretariat for the financial year.*

6. *No costs of the Headquarters and staff, nor expenses paid or incurred by them in the course of their duties, shall be directly charged to any loan or grant made by the Fund.*

REGULATION XIV. PROCUREMENT

Pursuant to Article 16.10 of the Agreement:

- (a) The Governing Council shall establish rules governing the procurement of goods and services from the proceeds of loans or grants made by the Fund through its Second Account;*
- (b) The Managing Director shall procure equipment, supplies and other requirements under the Administrative Budget. When necessary, he may dispose of such assets.*

Rule 114.1

Tenders under the Administrative Budget for equipment, supplies and other requirements, and sales of surplus property, shall be invited by advertisement, except:

- (a) In the case of commitments involving, or surpluses estimated at, less than US\$ 10,000, provided that the award is made after a documented assessment of competitive quotations and other relevant circumstances;
- (b) where the Managing Director takes a documented decision to the effect that a departure from the principle of advertisement is desirable in the interest of the Fund.

Rule 114.2

Contracts shall be awarded to either the lowest bidder or the bidder who in terms of the specific evaluation criteria set forth in the notices or tender documentation is determined to be the most advantageous. The Managing Director may reject all bids, on the basis of a documented assessment, if he deems that the interest of the Fund so requires.

REGULATION XV. INTERNAL CONTROL

Consistent with well recognized international standards of financial management and accounting and established internal financial rules and procedures, the Managing Director shall ensure the effective, economical and efficient administration of the resources of the Fund. He shall designate the officers who may receive monies, incur obligations and make payments on behalf of the Fund.

Rule 115.1

No officer who has the authority to incur obligations shall at the same time have the authority to make payments in respect of those obligations.

Rule 115.2

Written authority shall be required for each obligation. The authority shall specify that the obligation is incurred for the purposes, and within the limits, approved by the Governing Council.

Rule 115.3

Written authority shall be required for each payment. The authority shall specify the supporting evidence on the basis of which the payment is made.

Rule 115.4

After appropriate investigation, the Managing Director may propose to the Executive Board the writing-off of losses of cash or other assets in the Administrative Budget. The investigation shall in each case fix the responsibility, if any, attaching to any official of the Fund for the loss.

Rule 115.5

Consistent with well-recognized international standards of financial management and accounting, the Managing Director shall:

- (a) establish detailed rules and procedures in order to:

- (i) provide effective financial administration and the exercise of economy;
 - (ii) ensure effective custody of the physical assets of the Fund; and
 - (iii) ensure that all payments are made on the basis of relevant supporting evidence;
- (b) establish and maintain appropriate internal control and audit systems.

REGULATION XVI. ACCOUNTING

1. *The Managing Director shall maintain such records as are necessary to show the financial position of each of the two Accounts. Such records shall reflect, for each Account, its operations, income and expenditure.*

2. *Prior to 31 March each year, the Managing Director shall prepare and certify the financial statements of the Fund for the preceding financial year.*

3. *Accounting records shall be kept in accordance with international accounting standards. Statements shall provide comparison with those of the preceding financial year. The statements of the Fund's financial position for presentation to the Executive Board and the Governing Council, together with the Fund's annual accounts, shall be expressed in US dollars and in Units of Account.*

Rule 116

For internal purposes, the Fund's accounting records shall be expressed in US dollars.

REGULATION XVII. EXTERNAL AUDIT

1. *The annual accounts, certified by the Managing Director, shall be audited once a year by an independent*

external auditor or auditors appointed for this purpose by the Governing Council on the recommendation of the Executive Board. The Managing Director shall provide the external auditors the facilities and information required to perform the audit.

2. The external auditors may make observations with respect to the efficiency of the financial procedures, the budgetary and accounting systems and the internal financial controls.

3. The audit shall be conducted in conformity with generally accepted international auditing standards, and any special directives of the Executive Board.

4. The Governing Council or the Executive Board may request the external auditors to undertake specific audits or tasks and to issue separate reports thereon.

5. The audited financial statements of the Fund, with the report or reports of the External Auditor and the related comments, if any, of the Managing Director, shall be submitted to the Governing Council through the Executive Board.

REGULATION XVIII. DISCLOSURE OF INFORMATION

1. The Managing Director shall make all information regarding the operations of the Fund readily available to Members of the Fund on request, except that information regarding drawings, loans or repayments made by an Associated ICO from the First Account shall, if requested, be made available only three weeks after such drawing, loan or repayment was made.

2. In addition, the Managing Director shall promptly report to the Executive Board any significant or extraordinary development which could undermine the financial soundness of the Fund.

3. Notwithstanding paragraph 1 of this Regulation, the external auditors of the Fund may have immediate access to all

information required for the performance of their functions.

REGULATION XIX. GENERAL PROVISIONS

- 1. The Managing Director may from time to time prescribe such procedures and guidelines as may be required to give further effect to the Financial Regulations and Rules. Such procedures and guidelines shall be reported to the Executive Board.*
- 2. Pursuant to Articles 20.6 and 22.1 of the Agreement, the adoption or amendment of the Financial Regulations shall require a Highly Qualified Majority of the Governing Council. Adoption or amendment of the Financial Rules by the Executive Board shall require the same majority.*