



*EXTRAORDINARY*

**OFFICIAL GAZETTE**

**THE BAHAMAS**

PUBLISHED BY AUTHORITY

---

NASSAU

22<sup>nd</sup> August, 2012

---

# INVESTMENT FUNDS (SMART FUNDS) (SFM 007) RULES, 2012

## Arrangement of Sections

---

### Section

1.	Citation.....	2
2.	Interpretation.....	2
3.	Definition .....	2
4.	Parameters and requirements .....	2

# MINISTRY OF FINANCE



S. I. No. 86 of 2012

## INVESTMENT FUNDS ACT (CHAPTER 369A)

### INVESTMENT FUNDS (SMART FUNDS) (SFM 007) RULES, 2012

The Securities Commission, in exercise of the powers conferred by section 5(3) of the Investment Funds Act, Chapter 369A, makes the following rules –

**1. Citation.**

These rules may be cited as the Investment Funds (SMART Funds) (SFM 007) Rules, 2012.

**2. Interpretation.**

In these Rules, “SFM 007” means a SMART Fund Model SFM 007 as defined in Rule 3.

**3. Definition.**

No fund shall be licensed to operate as a SFM 007 unless –

- (a) the investment fund is limited to having no less than one investor and no more than fifty investors who hold equity interests in the fund; and
- (b) the minimum initial investment of every investor in the fund is five hundred thousand United States dollars (USD 500,000).

**4. Parameters and requirements.**

- (1) Subject to paragraph (2), the Investment Funds Act and regulations made pursuant to the Act shall apply to a fund operating as a SFM 007.
- (2) SFM 007, in relation to the items set out in column 1 of the table appearing in the Schedule, shall comply with the provisions prescribed in Column 2 of that table.

**SCHEDULE**

**(Rule 4)**

<p><b>OFFERING DOCUMENT</b></p>	<p>A SFM 007 shall have an offering document or term sheet containing the following information:</p> <ul style="list-style-type: none"><li>i. Name of Fund</li><li>ii. Date established</li><li>iii. Structure of the Fund</li><li>iv. Name and address of operators</li><li>v. Nature of Equity Interests</li><li>vi. Investment objective and policy</li><li>vii. Dealing policy</li><li>viii. Distribution policy</li><li>ix. Name and address of all parties related to the fund</li><li>x. A statement that the financial statements of the fund shall be audited annually unless unanimously waived by the holders of the equity interests in the fund and that if there is such a waiver a performance report of the fund shall be filed with the Commission every six months for as long as the waiver is valid.</li><li>xi. Fees and Expenses</li><li>xii. Termination</li></ul>
---------------------------------	---

	<p>xiii. A statement that “The fund is licensed as a SFM 007 pursuant to the Investment Funds Act, Chapter 369A, operating as a fund –</p> <p>(1) with a minimum of one investor and a maximum of fifty investors holding equity interests in the fund;</p> <p>(2) where the minimum initial investment per investor in the fund is five hundred thousand United States Dollars (USD 500,000)”.</p> <p>xiv. A statement that “The operators of the fund accept responsibility for the information contained in the offering document or term sheet as being accurate”.</p>
SUBSCRIPTION AGREEMENT	<p>The Subscription Agreement of the fund shall contain confirmation that the investor(s) in the fund agree with the regulatory requirements applicable to the SFM 007.</p>
ADMINISTRATOR	<p>The fund is not required to appoint an administrator. Where the fund does not appoint an administrator the operators of the fund will administer the fund.</p> <p>Where the operators of the fund administer the fund, the fund shall not be treated as a self-administered fund.</p> <p>Where the fund does not appoint an administrator it shall be licensed by the Commission.</p> <p>The administrative functions may be outsourced to any reputable person in a jurisdiction on an as needed basis.</p>

	The responsibility for ALL administrative functions relating to the fund shall remain with the Administrator of the Fund or the Operators of the fund, as applicable.
<b>FINANCIAL REPORTING REQUIREMENTS</b>	<p>(a) The Financial Statements of the funds shall be audited unless all of the holders of equity interests in the fund unanimously agree to waive the annual audit of the funds' financial statements.</p> <p>(b) Where the annual audit of the financial statements of the fund has been waived, the fund shall file with the Commission within six months of the waiver a performance report of the fund and shall file such a report every six months thereafter as long as the waiver exists.</p> <p>(c) The administrator of the fund, or if there is no administrator, the operators shall make the NAV reports available to investor(s) upon request.</p>
<b>ANNUAL CERTIFICATION</b>	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 007.

**Made this 10<sup>th</sup> day of August, 2012.**

**Signed**  
**TONYA BASTIAN GALANIS**  
**Chairman**  
**The Securities Commission of The Bahamas**