national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

AMENDMENTS TO REGULATION 28 OF THE PENSION FUNDS ACT TO ENCOURAGE INVESTMENT IN INFRASTRUCTURE: REQUEST FOR PUBLIC COMMENT

The National Treasury today publishes the second draft amendments to Regulation 28 of the Pension Funds Act for a two-week public comment period.

The first draft was published in February 2021. Thirty-nine (39) submissions were received via the public comment process. Most submissions welcomed the proposed amendment of the regulation. Several comments pointed out shortcomings in the 'infrastructure' definition. This definition limited infrastructure to installations, structures, facilities, systems, services, or processes relating to the matters specified in Schedule 1 of the Infrastructure Development Act (Act 23) of 2014. A further limitation is that the infrastructure must be part of the national infrastructure plan, which excludes private sector infrastructure and infrastructure in the rest of Africa or abroad.

The definition of infrastructure has been revised in the second draft of Regulation 28. The new revised definition is that infrastructure is "any asset class that entails physical assets constructed for the provision of social and economic utilities or benefit for the public". This definition takes better account of the United Nations' Principles for Responsible Investment (UNPRI) and the input from Association for Savings and Investment South Africa (ASISA). The 'social' aspect of the definition will accommodate impact investing by retirement funds. Impact investments are investments made with the intention to generate positive, measurable social and environmental impact alongside a financial return.

The second area of concern was with respect to infrastructure limits set out in the regulation. Some submissions argued the limits were too low, and others that the limits were too high, or the adjustments were not going to have any impact on infrastructure investment by retirement funds. A further comment was that the infrastructure columns introduced in the first draft caused confusion and that it was more important to deal with availability of bankable projects for retirement funds to invest in. The revised draft removes the infrastructure columns. However, the overall investment in infrastructure across all asset categories will be kept at 45% in respect of domestic exposure and an additional limit of 10% in respect of the rest of Africa.

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The first draft regulation required retirement funds to provide reports on their investment in infrastructure. This requirement was perceived by some respondents to be too onerous. The second draft eases the reporting requirements and provides for reporting only on the top twenty infrastructure investments by a retirement fund.

A new restriction in Regulation 28 on retirement funds' investment in crypto assets has been introduced, because they are seen to be of very high risk. This restriction is in line with the Intergovernmental Fintech Working Group (IFWG) policy proposal of not allowing collective investment schemes and pension funds to have exposure to crypto assets be maintained until further notice.

Comments are requested with regards to the updated definition, applicability of the proposed infrastructure limit across all asset classes, reporting requirements and proposed limits in the format provided on the National Treasury website. Comments on the draft notice will be accepted until 16 November 2021. Comments can be sent to Basil Maseko at retirement.reform@treasury.gov.za in the prescribed format.

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