



## **NEWS RELEASE**

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### **REGULATION 28 FINALLY UP FOR REVIEW**

Regulation 28 of the Pension Funds Act of 1956, which has been left behind by modern investment product development and an altered exchange control regime, is finally under review with National Treasury and The Financial Services Board (FSB) due to engage stakeholders on proposed definitions, investment categories and category limits.

Leo Vermeulen, Head of Operations at Novare, notes that: "Regulation 28 limits the amount and extent to which retirement funds can invest in particular assets or categories of assets. It was promulgated in 1962 and last amended in 1998. Industry developments since then have necessitated a comprehensive review.

"Recent years have seen a proliferation of new, more complex investment options, including derivatives, hedge funds and structured products. These have become available to pension funds and there is a need to explicitly accommodate them in Regulation 28."

According to a National Treasury memorandum, proposed amendments are not intended to relax restrictions and facilitate more risky investments. Instead the idea is to allow for more efficient portfolio management and to guard against "abusive" practices, for example, using derivatives to gear portfolios.

National Treasury makes the point that the global financial crisis has exposed funds to greater risk, "and hence the need to update the investment channels that prudent pension funds can invest in."

In terms of the proposed amendments, new categories and limits are, where possible, aligned with legislation governing collective investments, but whether these are appropriate for pension funds as prudential entities remains open for discussion.

According to Vermeulen, "Amongst the objectives behind the proposed amendments is protection for funds against irresponsible borrowing, especially in terms of their exposure to liquidity risk. Proposals relating to foreign investments seek to align with exchange controls that allow retirement funds to invest up to 20% of their assets outside of the country, with an additional 5% for investments in Africa."

In the interests of generating an income for funds and to promote market liquidity, it's proposed that retirement funds be permitted to engage in securities lending, subject to limits and conditions.

Derivatives are similarly accommodated on the basis that they can contribute to efficient portfolio management and hedging against an investment held by the fund. Derivatives will not be allowed for gearing or leverage.

Where derivatives and foreign exposures are concerned, the proposals envisage application of the "look-through principle" for calculating and reporting purposes. This means that asset managers will not be able to circumvent prudential limits by investing in layers to mask to underlying exposure.

Regulation 28 in its current form allows insurers to offer retirement annuity policies which incorporate a guarantee and that enable funds to exceed the prescribed limits, effectively allowing for the prudential limits to be by-passed. This exemption has been removed from the new draft.

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#### **Notes to Editors**

Among the maximum amounts currently stipulated by Regulation 28 include:

- No more than 75% in equities
- No more than 25% in property
- No more than 90% in a combination of equities and property
- No more than 5% can be invested in the sponsoring employer
- No more than 25% may be invested offshore (following revised exchange control regulations)
- No more than 2.5% may be invested in other assets