



Regulatory Update



3 November 2011

What is Regulation 28?

Regulation 28 impacts every member of every retirement fund. It limits the extent to which retirement funds can invest in particular assets or asset classes. The purpose of this regulation is to protect investors in retirement funds from the effects of poorly diversified investment portfolios, over-exposure to higher-risk asset classes as well as complex financial instruments and portfolios. The regulation aims to ensure that the savings South Africans contribute towards their retirement are invested in a prudent manner that not only protects the retirement fund member, but are channelled in ways that achieve economic development and growth. As the assets of your fund are invested in a policy of insurance, the policy's portfolio composition is required to comply with the asset limits of regulation 28.

Regulation 28 applies to retirement annuities, pension and provident funds and preservation funds, but excludes post retirement products such as living annuities.

Previous correspondence regarding Regulation 28 issued can be accessed by clicking on the links below:

- A [Newsbreak issued on 3 June 2011](#) provided information on how the regulation impacts Trustees, Funds and members.
- Application for extension of complying by 1 July 2011 by Liberty Corporate to the FSB, on behalf of the funds it administers, as well as the intended process and system changes. Please [click here](#) to view the generic letter.
- Communication to the Principal Officers and Appointed Representatives regarding the submission for extension to comply. Please [click here](#) to view the document.
- Implementation of Regulation 28 and media releases (transitional arrangements) issued by the [Financial Services Board](#) in June 2011.

Key Principles for consideration

Previously compliance with Regulation 28 was required at fund level; it is now extended to compliance at **individual member level**. This is to ensure that members are not overly exposed to certain high-risk asset classes and will ensure equal opportunity to invest in different asset classes.

Regulation 28 has also enforced a look through principle where funds are required to look through any linking structures such as insurance policies, debentures and Collective Investment Schemes (CIS) when managing asset allocations.

In addition, great responsibility is placed on the fund's Trustees to ensure that the Fund rules and Fund's Investment Policy Statements (IPS) are clear on the intended actions and ongoing monitoring of compliance. The IPS must be in place for all funds. The principles captured in the IPS must

include:

- Promoting relevant trustee education
- Monitoring compliance by the fund and its agents
- Performing appropriate due diligence on investment offerings, making sure there isn't an entire reliance on credit rating agencies for assessing credit risk
- Taking into account the long-term sustainability of investments, in particular considering the impact of Environmental, Social and Governance (ESG) aspects.

The revised regulation provides retirement funds with an opportunity to review the Fund's investment strategy and to engage with their financial adviser or their appointed asset consultants to evaluate the appropriateness of their strategy.

Actions required by Trustees

Trustees must ensure that the Fund rules and Fund's investment policy statement is clear on the intended actions and ongoing monitoring to ensure compliance with Regulation 28. Consideration should be given to the different options available to members in order to align to the requirements of the regulation. These options must be communicated to the Fund's members.

Actions for Liberty Corporate

Liberty Corporate, as the appointed administrator to your Fund will assist the Trustees and intermediaries in meeting certain requirements by adapting its administration platform and processes. These changes are related to being able to:

- Ensure member level compliance with Regulation 28.
- Reviewing existing investment portfolios to ensure compliance with revised asset limits.
- Identify instances where there is any Fund and member-level breaches of the revised asset limits.
- Report to the Fund's Trustees on non-compliance.
- To report quarterly to the FSB, on the Fund's behalf.

Next Steps

The following tasks are required to meet required deadlines:

- Liberty to communicate compliance status of investment portfolios to Trustees and Funds – October 2011
- Liberty to communicate compliance status of Funds and members with individual choice – October 2011
- Trustees/Funds/Members to advise new switch and election choices to comply with the limits set out in the revised Regulation 28 rules.

Please note that where no clear instruction is received from the respective boards of management or Trustees prior to 31 December regarding compliance, Liberty Corporate will have no choice but to report these Funds as being non-compliant to the FSB.

Remember FAIS

It is very important to remember that only authorised FAIS representatives and key individuals may provide advice and recommendations to clients. Any recommendation or proposal that could result in a financial transaction will be 'advice' under FAIS. Anyone who is not a Representative or a Key Individual may only provide factual and technical information. Therefore if you receive a query relating to investment portfolio selection or how to ensure their investment portfolio selection is Regulation 28 compliant and you are **NOT** a FAIS representative please refer the client to their

financial advisor for assistance.

Ongoing Communication with stakeholders

Due to the nature of the regulation it is our intention to direct all future correspondence to Trustees, Intermediaries and participating employers to allow ample time for engagement and communication.

Please contact your appointed intermediary, Liberty Corporate consultant or lc.communications@liberty.co.za should you require further information.

Regards,

Liberty Corporate

'Liberty Group Ltd - an Authorised Financial Services Provider (licence no. 2409)'