

## REGULATION 28 CHANGES ALL THE RULES

October 2005  
Star Business Report

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Kevin French

In the distant past, the pension fund market had access to a small range of products that were mostly prescribed by The Pension Fund Act regulation 28. However, in the years since that regulation was last amended, the product choice offered by asset and Multi-Managers has increased significantly and the regulation has not kept pace.

Trustees today have access to a far wider range of specialist products and managers. It means that with increased choice comes increased responsibility to choose not only the right product, but the right manager as well. Trustees need to make investment decisions around asset-class exposure, benchmarks and mandates that are suitable for their members' particular needs and characteristics.

Regulation 28, however, remains focused on what trustees should not do, rather than what they should. The government is now considering relaxing the prescriptive nature of pension-fund regulations with a draft Regulation 28.

Kevin French, head of manager research at SYmmETRY Multi-Manager and a keynote speaker at the Retirement Investment Conference hosted by Absa Consultants and Actuaries explains: "Regulation 28 has been around many years now, and was intended to act as a guide for trustees covering certain maximums allowed in different investments, such as no more than 75 percent of total assets in equities, no more than 2,5 percent in alternative investments and no more than 10 percent of assets in be in any single company.

"But it doesn't give any guidance as to the different types of strategies that trustees should follow in view of their particular membership."

In addition, the intent of Regulation 28 can also be quite easily circumvented by issuing a guarantee as part of an insurance policy on the assets, says French, allowing a fund to exceed those prescribed limits.

"The revision of Regulation 28 was therefore to now offer some guidelines to trustees on how they should be structuring an investment strategy, as opposed to a list of rules, as well as plugging such loopholes in its application," he adds.

This is the direction Regulation 28 is taking the market: it starts by focusing on trustees' obligations and taking cognisance that each fund has its own unique requirements.

"It covers the need of trustees to appoint professional fund managers and how trustees can verify that they are complying with their investment strategy," says French. Further, it has implications for all four stakeholders: trustees, asset managers, members and investment consultants.

"The most urgent need of trustees is that they have a process for what they are doing and must seek professional advice where necessary. The Regulation creates clarity on what they're accountable for and how to handle issues such as member investment choice.

"The proposed Regulation 28 forces asset managers to understand their clients' liabilities a lot better, and moves the retirement fund investment industry away from the herd mentality of performance tables produced by asset consultants and the media. It will create less of a peer focus and a greater focus on meeting the client's specific needs," explains French.

The new Regulation is also likely to lead to greater product innovation - but in the direction of simplicity for the sake of member investment choice. It recognises that many member investment choice products currently err on the side of complexity, with members simply not using them. There has been much discussion on Socially Responsible Investments and their possible inclusion in the revised Regulation 28, and this will form a new area of innovation, says French.

"Of all four stakeholders, members are the big winners with the proposed Regulation 28. They should gain comfort that their investments are being managed more responsibly, and also benefit from greater emphasis in the case of member investment choice on education. They ought to be empowered as to which options they should be choosing," says French.

The investment consultant industry will be presented with the opportunity to assist trustees with setting up processes to demonstrate they have thought through their solution design, and in helping them in their manager selection and monitoring of the investment strategy once it is in place.

Proposed Regulation 28 may also cause some shake-up of the consulting industry, as it specifically demands disclosure of actual or potential conflicts of interest, such as those where the same institution provides investment consulting and fund management, or instances where consultants are remunerated by the investment manager.

"It is likely to shine the spotlight on transparency in consulting," says French.

Revised Regulation 28 appears to be close to finalised and due to be implemented in the near future. French says he hopes it will be implemented "early next year".

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