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## **New reg 28 and your investments**

By Laura du Preez

### **New retirement annuity (RA) policies have to comply with the revised regulation**

All retirement fund policies issued after April 1 this year must comply with regulation 28. Policies bought before April 1 will be allowed to continue as they were before regulation 28 was revised.

Christo Terblanche, the head of product development at Allan Gray, says that Allan Gray and, he expects, other large product providers will continue to offer the range of funds that are available to retirement fund members now. However, your investments into these funds will have to comply with the new regulation 28.

Providers that cannot monitor compliance with regulation 28's investment limits may, however, be forced to restrict their underlying fund offerings to those that comply with the revised regulation 28 - such as asset allocation funds that comply with regulation 28's guidelines.

Mark Kitching, the general manager at Aims, says that Aims will limit its offering to retirement fund clients to collective investments that comply with regulation 28 and to more conservative funds in the fixed-interest sub-categories. This may limit your ability to structure more aggressive portfolios or select specialist funds, he says.

### **Underlying investments for RAs or other retirement funds may have to change to comply with regulation 28**

Existing regulation 28-compliant funds will adapt to the revised investment limits.

Money market funds may also have to adapt. At a recent National Treasury presentation on regulation 28, it was pointed out that, as they near retirement, many RA members cash out of their underlying investments and move into a money market fund.

In terms of the Collective Investment Schemes Control Act, a money market fund can have up to 30 percent of the fund exposed to money market instruments from a single bank. However, regulation 28 restricts retirement funds to an exposure of 25 percent of the fund to a single issuer of investment instruments.

Adri Messerschmidt, a senior policy adviser at the Association for Savings & Investment SA, says it is likely that money market funds will be separated into those that comply with regulation 28 and those that do not, and only compliant funds will be offered to retirement funds and their members.

## **Changes to policies will trigger the need for you to comply**

The revised regulation 28 states that any investments that you have made before April 1 in terms of the previous regulation 28 can remain compliant with the earlier version of the regulation. This means that fund members whose investment choices allow them to breach the investment limits at member level will be allowed to keep their investments as they are.

If you have a debit order into a fund with an investment choice that does not comply with the revised regulation 28, you may continue to make those ongoing investments.

However, should you increase your contributions above the historic annual increase, switch underlying funds or make an ad hoc top up to your contributions after April 1, this will be regarded as a substantive change to your investment contract, and it will trigger the need for your investments to comply with revised regulation.

Roland Grabe, the chief investment officer at Old Mutual's Symmetry Multi-Manager, says you may want to consider "ring-fencing" your existing holdings to ensure that no changes are made to them.

If you are forced to bring your investments in line with regulation 28, it may not always be at a suitable time. For example, as offshore equities are currently generally regarded as offering better value than local ones, now is not a good time for members to reduce over-the-limit exposure to 25 percent of their savings, Marius Fenwick, the chief operating officer of Mazars Financial Services, says.

## **If your policy becomes non-compliant**

Market movements could result in your policy becoming non-compliant. In terms of the revised regulation 28, your fund will be expected to report this breach to the Financial Services Board, and you will be expected to bring your investments back in line within 12 months.

Product providers may want the right to keep your investment in line

Your fund will be responsible for ensuring that any retirement fund policy bought after April 1 this year complies with the revised regulation 28, and your fund will probably expect you to give it the right to rebalance your investments if they breach the levels allowed by regulation 28.

Product providers will have to ensure that, once your underlying investments are in breach of regulation 28, any further investment you make - for example, your next monthly contribution - is not invested in a way that it exacerbates the breach.

For example, if you have breached the permitted equity investment level of 75 percent of the fund, your future contributions should not be invested in equities until your equity level falls below 75 percent.

Terblanche says that the Allan Gray RA and preservation fund rules already cater for rebalancing in the event that a fund breaches the regulatory limits.

Allan Gray will notify fund members who become non-compliant with the revised regulation 28. Only if they have not rectified the breach within 12 months will the administrator rebalance the portfolio on the member's behalf.

Kitching says that it will be a challenge for linked-investment services providers to manage the investments of fund members who are making regular contributions into funds or portfolios that do not comply with regulation 28. He says the administrator would be prohibited by the Financial Advisory and Intermediary Services Act from making unilateral changes to the member's portfolio.

Johann de Wet, the head of business solutions, and Elsjemar Bronn, a legal adviser at Sanlam's Glacier, says retirement funds might refuse to accept unit trust fund units when transfers take place between funds in terms of section 14 of the Pension Fund Act if the transfers will result in the accepting fund not complying with regulation 28.

Messerschmidt says that complying with the revised regulation 28 introduces a massive administrative burden for product providers and administrators of funds with member-level investment choice. This could result in increased costs, De Wet and Bronn point out.