

1. Updated draft amendments to regulation 28 of the Pension Funds Act

The Minister of Finance in February 2021 published draft amendments to regulation 28, which were aimed at making it easier for retirement funds to invest in infrastructure. The Minister has on 29 October 2021 published updated draft amendments.

The most important differences between the new draft and the previous draft are as follows.

A definition of “crypto-asset” is introduced, and it is stipulated that “*a fund may not invest in crypto-assets directly or indirectly*”.

The definition of “infrastructure” is broader. “Infrastructure” was defined in the previous draft as having “*the meaning assigned to it in section 1 of the Infrastructure Development Act*”, which limited it to installations, structures and facilities which are part of the national infrastructure plan. The “national infrastructure plan” is a plan adopted by the Presidential Infrastructure Coordinating Commission for the development of public infrastructure.

In the updated draft “infrastructure” is defined as “*any asset class that entails physical assets constructed for the provision of social and economic utilities or benefit for the public*”, which is much broader than the previous definition.

It was stipulated in the previous draft that the overall investment in infrastructure may not exceed 45% in respect of domestic exposure and an additional 10% in respect of the rest of Africa. In the updated draft the investment in infrastructure, including in the rest of Africa, is limited to 45%. The 10% in respect of the rest of Africa has accordingly fallen away, and is now included in the 45% limit. South African government instruments and government guaranteed instruments are not included in the 45% limit.

A new Table 2 is inserted in regulation 28, which must be used for reporting investments in infrastructure. Unlike the previous draft, retirement funds will in terms of the new draft only have to report the top 20 holdings in infrastructure investments.

Comments on the draft amendments had to be submitted to National Treasury by 16 November 2021.