

**AN UPDATE ON RETIREMENT REFORM  
DEVELOPMENTS, WHICH ARE ALIVE  
AND WELL  
PENSION LAWYERS ASSOCIATION CONFERENCE**

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**national treasury**

Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA



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# Retirement reform topics

- Two-pot system proposal
- Governance of umbrella funds
- Coverage of retirement funds
- COFI Bill
- Regulation 28

# Encouraging South African households to save more for retirement

- Treasury issued a paper in December 2021
- Primary proposal is to create a savings account within the retirement industry
- Motivation: People withdraw from funds by resigning in order to pay off debt. In creating a savings account we intend to enable preservation
- Contributions will be split into two pots for all retirement funds:
  - $\frac{1}{3}$  accessible savings pot and  $\frac{2}{3}$  retirement pot
  - $\frac{2}{3}$  retirement pot subject to full preservation
- A fund member can withdraw once a year from the savings pot, subject to a minimum. A member also incurs the cost of withdrawal and tax
- Vested rights accumulated pre-implementation of two-pot system may be protected
- Still considering:
  - Do we allow an immediate access? Many in industry are not for immediate access because Covid-19 immediacy is over and fund members have small balances
  - Taxation of withdrawals

# Governance of funds including umbrella funds

- Paper on governance was released in December 2021
- Government intention is to facilitate increased consolidation of retirement funds
- Governance concerns:
  - Locking in of service providers or other parties by fund rules
  - Use of service providers affiliated with the fund
  - Appointment of board members also contracted as consultants or service providers to the same fund
  - Over dependence on product/service providers for advise
  - Lack of member representation on the board of trustees of umbrella funds
  - Inability of employers to switch between umbrella funds
  - Employers not paying contributions
  - Costs

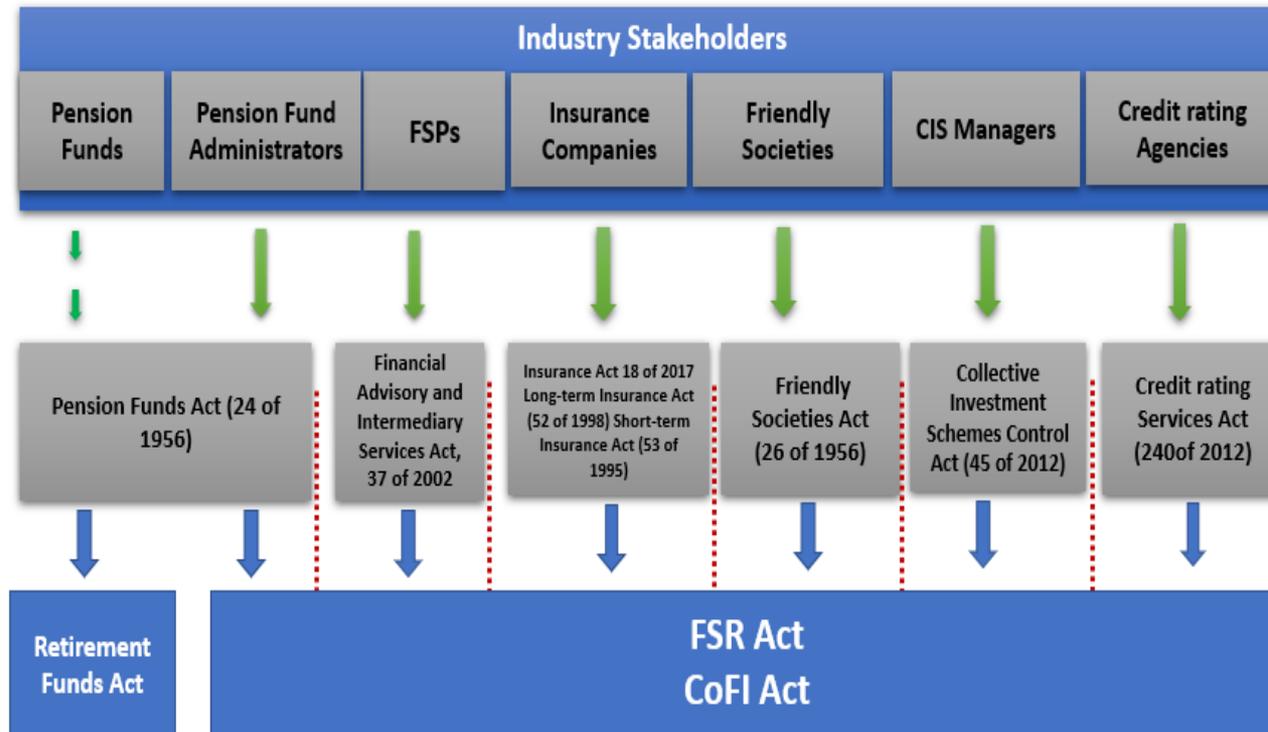
# Governance of funds including umbrella funds

- Proposed solutions
  - All board members (including independent board members) must not belong to more than 3 boards in any year
  - Independent board members should not be contracted as consultants/service providers to the same fund of which they are trustees
  - Employer advisory/management committees must be formalized and standardised
  - Conducting ongoing value for money of the umbrella fund as shall be prescribed
  - Adopt elements of the UK Master Trust scheme suitable to South Africa's umbrella fund structure
  - A disclosure-based initiative that would require funds to provide information on their cost structures
  - Standardised provision of information to enable comparison between funds and to promote effective competition
  - An auction system, akin to the Chilean Pension System one, must be conducted under the auspices of the FSCA to enable stand-alone funds to select and appoint default 'consolidation' or auto-enrolment funds when they need it

# Coverage of Retirement Funds

- Paper was released in December 2021
  - As an annexure to Encouraging South African households to save more for retirement
- Intention is to address the lack of retirement savings by a high number of South African workers currently not covered by occupational schemes
  - Mostly contract workers and gig economy workers
- Government acknowledges challenge with retirement coverage for informal and seasonal workers
  - Retirement systems tend to be regular income based
- Proposal is to phase in auto-enrolment starting with formal salaried workers
  - Estimated that around 30 percent of workers in the formal sector are currently not participating in a retirement fund
- Alternatively, mandatory retirement provision for all formally employed workers can be introduced
  - Legislation could be proposed to compel all employers to deduct contributions to an occupational fund or any other approved fund, for all their employees
  - No requirement for employers to establish new funds

# Current sectoral laws which will be included in FSRA/COFI consolidated and simplified legal structure



# Conduct of Financial Institutions (CoFI) Bill

- Conduct of Financial Institutions (CoFI) Bill provisions (if enacted) will apply to all retirement funds
  - ***Final amendments in process following consideration of public comments***
  - ***Bill expected to be tabled in Parliament this year***
- The Pension Funds Act (the PFA) is amended to align the Act with the Conduct of Financial Institutions Bill (CoFI Bill), and with the overall framework in terms of the FSRA
- The Act will be renamed the “Retirement Funds Act”, to better reflect the scope of types of funds which are provided for and regulated in terms of that Act
- References to “pension fund organisation” and “fund” are amended to refer to “retirement fund”
- The term “registered” will be substituted with references to “licensed”, to better align with the terminology used in the licensing framework in the FSRA
- Umbrella funds and employers as supervised entities will in the future be recognised as per the amendments

# Incorporation of public sector funds within the COFI Bill/PFA framework

- Proposal is to include the GEPF/public sector retirement funds within the jurisdiction of the regulatory framework of the Pension Funds Act and the forthcoming CoFI Bill
  - All public sector retirement funds, including the GEPF, must be subject to the same legislative and regulatory requirements, in the interest of ensuring that members of all retirement funds enjoy similar protections and rights
- Discussions underway with the FSCA and GEPF to continue engagements and work on appropriate measures to reasonably accommodate the GEPF within the regulatory framework
- National Treasury is aware of some of the unique features of the GEPF, e.g. fund size, potential impact in complying with asset limits under regulation 28, impact on bond and equity markets, etc.
- Consequently, potential granting of exemptions from the application of certain provisions of the PFA or regulations in terms of the PFA, either for a specified period or on a permanent basis

# Regulation 28

- Regulation 28 amendments finalised and awaiting review by Parliament before Minister can issue gazette
- Regulation 28 amendments previously released for two rounds of commentary periods
- Final amendments:
  - Investment in crypto assets for retirement funds prohibited until the regulation of these assets is formalised
  - Definition of infrastructure clarified and broadened to include both public and private infrastructure. Definition in the first draft of the regulation implied that only government infrastructure was included
  - Limit applicable to the aggregate holding of other debt instruments not listed on an exchange increased to 40%
    - This limit is currently 35%. The motivation is that most of the impactful infrastructure investment by the private sector takes place through unlisted investments

# Regulation 28

- In line with the overall private equity exposure increase from 10% to 15%, the limit applicable to the aggregate private equity exposure is being increased from 15% to 20%
- Housing loans limit reduced to 65%
  - In line with Government's policy stance of not allowing lending through retirement funds
  - Reduced limit will NOT apply retrospectively but only to new applications
- Exposure in respect of investment in infrastructure is 45%
  - Excludes debt instruments issued by or guaranteed by the government
  - Reference to infrastructure investment in respect of Africa left to the determination through SARB regulations
  - 45% infrastructure investment (in Regulation 28) is separate from the 45% offshore investment limit (SARB Circular 10/2022)

# Conclusion

- Retirement Reform is ALIVE AND WELL
- We still need to CONSOLIDATE, CONSOLIDATE, CONSOLIDATE (even though I have not dealt with it today!)
- Treasury will release a draft bill on pre-retirement withdrawals by July, and likely to further consult before then in May/June
- Coverage: Some work still needs to be done on this topic
- Governance: Further works still has to be done
- Cofi: Legislation will be before Parliament during 2022
- Regulation 28 to be gazetted within next two months