



## FSB Board Notice No.1 and 2 of 2017

The FSB has issued two Board Notices in 2017, namely:

- Board Notice No. 1 of 2017: Pension Funds Act, 1956 – Regulation 28 – Exemption in respect of debt instruments issued or guaranteed by a South African Bank.
- Board Notice No. 2 of 2017: Pension Funds Act, 1956 – Rate of Interest for Purposes of Section 19(5)(b)(iii)

This legal update gives a summary of these Board Notices.

### A. Board Notice No. 1 of 2017: Regulation 28 – Exemption in respect of debt instruments issued or guaranteed by a South African Bank.

Regulation 28(3)(a) of the regulations to the Pension Funds Act (the Act) provides that a retirement fund may only hold assets and categories of assets referred to in Table 1 in Regulation 28 and that a fund must comply with the limits set out in the regulation.

Items 2.1(c)(i), (ii) and (iii) of Table 1 provide that funds may invest in debt instruments issued or guaranteed by a listed South African bank against its balance sheet, subject to limits based on the market capitalisation of the South African bank (issuer). In practice, the controlling company is often the listed entity and not necessarily the South African bank.

The Registrar of Pension Funds (Registrar) has issued an exemption to funds from applying the limits set out in items 2.1(c)(i), (ii) and (iii) of Table 1 of Regulation 28 to a South African bank where such South African bank is not listed on an exchange. The exemption is on condition that the:

- bank's controlling company (as defined in section 44 of the Banks Act) is listed; and
- limits in items 2.1(c)(i), (ii) and (iii) are applied, taking into account the market capitalisation of the controlling company.

### B. Board Notice No. 2 of 2017: Pension Funds Act, 1956 – Rate of Interest for Purposes of Section 19(5)(b)(iii)

Section 15(5)(b)(iii) provides that a loan granted by a fund in terms of the section can only be granted if the rate of interest on the loan is equal to or higher than the rate of interest which may be prescribed from time to time.

The Registrar has determined the rate of interest referred to in section 19(5)(b)(iii) as the repurchase rate (commonly referred to as the repo rate) as determined by the South African Reserve Bank from time to time, plus 2 percent per annum.

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