

# Memorandum

**To** Members of the Odyssey Retirement Funds

**From** PD Odyssey

**Date** 14 December 2011

**Subject** **Amendment to Regulation 28 of the Pension Funds Act, 24 of 1956**

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## **Introduction**

On 23 February 2011 the Minister of Finance, Pravin Gordhan, made the following observation when introducing the amendments to Regulation 28 of the Pension Funds Act: “The aim of these regulations is to ensure that the savings South Africans contribute towards their retirement, in an approved retirement savings vehicle regulated by the Pension Funds Act, are invested in a prudent manner that not only protects the fund member of an approved Pension or Retirement annuity fund, but is channeled in ways that achieve economic development and growth.”

Regulation 28 of the Pensions Fund Act therefore sets prescribed guidelines for asset class investment with the objective of protecting members of retirement funds.

The first point to note therefore is that the Regulation will affect investment/s in the following retirement products:

- Retirement Annuities,
- Pension Preservation funds,
- Provident Preservation products.
- Pension Funds
- Provident Funds

Post-retirement products such as Living Annuities are not governed by the Regulation.

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The second point of note is that the amendments to Regulation 28 of the Act prescribe the maximum exposure that retirement fund investments may have to various asset classes, most importantly:

- 25% to property,
- 25% to offshore assets,
- 75% to equities;

The final and most important point of note is that prior to these amendments, compliance with the Regulation was the duty of the Trustees of Retirement Funds and compliance was required at a Retirement Fund level only. As a result of the amendments, compliance to the Regulation is now required at a member contract level. Put simply, each Retirement Annuity Policy or Preservation Fund policy must be fully compliant with the provisions of Regulation 28.

The affected Odyssey Retirement Funds are:

- Moorgate Retirement Annuity Fund
- Protea Preservation Provident Fund
- Protea Preservation Pension Fund
- Prosure Retirement Annuity Fund

On 1 July 2011, a decision was made to close the Odyssey book to new business.

### **Summary of amendments to Regulation 28**

The amendments to Regulation 28 which are effective as of 1 January 2012, will apply to all new business sold as of that date. In addition to this, a contract which was not required to be compliant with the amendments may be required to become compliant if an alteration is done to the contract.

The type of alterations which will require a contract to become compliant are:

- Adding contributions (whether single or recurring) onto an existing contract
- Changing the current contribution split
- Adding or increasing a regular contribution
- Switching part or all of the underlying portfolio
- Extending the term of the contract, except where this option is a part of the

initial contract. Open ending an Odyssey Investment Retirement Annuity will not therefore qualify as this is a part of the initial contract.

- Reinstating a paid up or lapsed contract
- Increasing or adding a regular annual contribution increase rate

Where such an alteration occurs the contract must in its entirety comply with the provisions of Regulation 28 of the Pension Fund Act.

In addition, contracts which are required to be compliant with the Regulation will need to do so on a continuous basis. It is possible for a contract to be compliant at point of alteration, but later become non-compliant due to market movements. If a contract is non-compliant for three consecutive quarters, the fund member will have to make amendments to the asset allocation by the fourth quarter in order to ensure compliance with the regulation.

### **Proposal for Dealing with Regulation 28**

Alterations on Prospector and Odyssey Investment Plan contracts will only be allowed if the alteration is directed into Regulation 28 compliant portfolios. A list of Regulation 28 compliant portfolios will be published on the Odyssey website. The portfolios listed are those which have been confirmed by the Asset Manager as being Regulation 28 compliant in terms of its portfolio mandate. This restriction will only apply to alterations which require a contract to become compliant. Other alterations such as contribution decreases will not be restricted.

The implementation will be phased in. The first phase will restrict the increased exposure to only Regulation 28 compliant portfolios. For example, if you wish to redirect future contributions to new portfolios, then only the future contributions will be restricted to Regulation 28 compliant portfolios. The existing funds built up will not be required to be Regulation 28 compliant. The contract will therefore not in its entirety be Regulation 28 compliant in this phase. Should a member wish to be Regulation 28 compliant then he or she could either:

- redirect the total contract to the Regulation 28 compliant portfolios.
- use the fund fact sheets which can be obtained on the Odyssey website to determine the contract's total exposure at an asset class level.

While this phase does not meet all the requirements of the amended Regulation, this proposal does recognise the fact that the Odyssey book is closed to new business. Offering a new contract for the purposes of the alteration is not therefore an option. The intent of this approach is to place a member in exactly the position that member

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would have been had a new contract been allowed to be effected on the increased exposure. The new contract would have been Regulation 28 compliant, while the existing contract would not be required to be compliant with the requirements of the amended Regulation 28.

A conversion of the Odyssey book to the Momentum platform is planned in the last quarter of 2012. The Momentum platform has been developed to ensure all aspects of Regulation 28 can be adhered to. Once this conversion is done then all contracts issued under the Odyssey Retirement Funds will comply with all requirements of the new Regulation 28.

Contracts issued under the Moorgate Retirement Annuity Fund will be treated very differently. The mandates of the portfolios will be changed to ensure that all these portfolios will at all times be Regulation 28 compliant. All Commercial Union contracts will fall into this category.

For more information, please speak to your Regional Manager or e-mail [Regulation28@Momentum.co.za](mailto:Regulation28@Momentum.co.za).