



## **FSCA COMMUNICATION 31 OF 2023 (RF)**

### **Publication of draft Prudential Standard – Regulation 28 Quarterly Reporting Requirements for Pension Funds**

#### **1. PURPOSE**

The purpose of this Communication is to inform stakeholders that today the Financial Sector Conduct Authority (FSCA) published the following documents for public comment:

- 1.1 Draft Prudential Standard – Regulation 28 Quarterly Reporting Requirements for Pension Funds (draft Prudential Standard);
- 1.2 Draft Determination of Format and Manner of Regulation 28 Quarterly Reports (draft Determination);
- 1.3 Statement supporting the draft Prudential Standard;
- 1.4 Comments Template for the draft Prudential Standard; and
- 1.5 Comments Template for the draft Determination.

#### **2. BACKGROUND**

- 2.1 Regulation 28 of the Regulations under the Pension Funds Act, 1956 (Act No. of 1956) (“PFA Regulations”) protects retirement fund member savings by limiting the extent to which funds may invest in a particular asset or in particular asset classes. Regulation 28(8)(a) provides that the FSCA, “... *may prescribe the format, content and any other particulars in respect of disclosure of compliance with this Regulation*”. The disclosure reports are currently prescribed in different Notices.
- 2.2 In respect of Regulation 28, funds are currently only required, as prescribed in different Notices, to report instances of non-compliance with Regulation 28 on a quarterly basis. Holistic quarterly reporting of assets held in accordance with Regulation 28 is therefore not required and funds are only obliged to compile, as part of its annual financial statements, an audited report on assets held in compliance with Regulation 28 (see Schedule IB of Board Notice 77 of 2014, published in Government *Gazette* No. 37844 of 18 July 2014).
- 2.3 After Regulation 28 was revised and amended with effect from 3 January 2023, requiring additional reporting in relation to infrastructure assets and other amendments to the asset spreading requirements, the FSCA published a draft

Prudential Standard titled “Regulation 28 quarterly reporting requirements for pension funds” (Prudential Standard 1 of 2023) for public comment on 4 November 2022, to ensure alignment with the amendments to Regulation 28. This opportunity was also used to change the “exception reporting” approach as per the current Board Notices to an approach where pension funds report on assets held in compliance with Regulation 28 (holistic reporting).

- 2.4 However, public comments received on Prudential Standard 1 of 2023 raised concerns in relation to the change in approach, timing pressures as well as some of the specific proposed reporting obligations.
- 2.5 The FSCA was of the view that the concerns related to the timing pressures, created because of the inclusion of the requirement to also report assets held in compliance with Regulation 28 (and not only non-compliance with Regulation 28), were valid. In addition, the FSCA was also of the view that further industry consultation had to occur before holistic (unaudited) quarterly reporting on assets in terms of Regulation 28 could be implemented.
- 2.6 However, the FSCA also remained of the view that the current non-compliance with Regulation 28 quarterly reporting should be aligned with the amended Regulation 28 as soon as possible. As such, the FSCA decided to remove the requirement to report on assets held in compliance with Regulation 28 from Prudential Standard 1 of 2023 and to proceed with submitting the draft Prudential Standard to Parliament in accordance the Financial Sector Regulation Act, 2017. The Prudential Standard to be submitted to Parliament (exception reporting Prudential Standard) therefore ensures alignment with the amended Regulation 28 and merely perpetuates the current approach of quarterly reporting on non-compliance with Regulation 28.
- 2.7 However, the current “exception reporting” approach remains problematic in the sense that it does not allow for or enable proactive and preemptive supervision in the context of Regulation 28. It results in a very reactive approach to supervising compliance with Regulation 28 which creates risk and is ineffective. Further, it also results in boards of pension funds not proactively and effectively managing compliance with Regulation 28.
- 2.8 Holistic Regulation 28 quarterly reporting will assist the FSCA to proactively monitor and manage potential and actual Regulation 28 breaches. It will also force boards of pension funds to proactively monitor compliance with Regulation 28 and take timely corrective action.
- 2.9 The FSCA is therefore of the view that there is a need to provide for holistic (unaudited) quarterly reporting on assets in terms of Regulation 28 in conjunction with the current quarterly “exception reporting” approach. As such,

the FSCA is publishing another draft Prudential Standard (holistic reporting Prudential Standard) for public consultation, which incorporates both non-compliance reporting and reporting on assets held in compliance with Regulation 28.

2.10 In summary, the envisaged approach is as follows:

- The exception reporting Prudential Standard will be submitted to Parliament and the FSCA will attempt to finalise that Prudential Standard as soon as possible after the requisite Parliamentary period has elapsed.
- Concurrently, the FSCA will start consulting on the draft holistic reporting Prudential Standard. Consultation and refinement of the draft holistic reporting Prudential Standard as well as a submission to Parliament is envisaged to occur throughout 2024 and this Prudential Standard will likely only be made final early in 2025.
- Once the holistic reporting Prudential Standard is made final, it will repeal the exception reporting Prudential Standard.

### 3. INVITATION TO COMMENT ON DRAFT PRUDENTIAL STANDARD

3.1 The draft Prudential Standard is to be made in terms of regulation 28(8)(a) of the PFA Regulations and is published for comment in terms of section 98(1)(a)(iv) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).

3.2 Interested parties are invited to submit comments on the draft Prudential Standard by **31 January 2024** to [FSCA.RFDStandards@fsca.co.za](mailto:FSCA.RFDStandards@fsca.co.za).

### 4. AVAILABILITY OF INFORMATION AND ENQUIRIES

4.1 The documents referred to in paragraph 1 is available on the FSCA's website at [www.fsca.co.za](http://www.fsca.co.za).

4.2 For more information regarding the draft Prudential Standard and/or this Communication please contact the Regulatory Frameworks Department of the Authority at [Marianne.Vanrooyen@fsca.co.za](mailto:Marianne.Vanrooyen@fsca.co.za) or [Andile.Mjadu@fsca.co.za](mailto:Andile.Mjadu@fsca.co.za).



**UNATHI KAMLANA  
COMMISSIONER  
FINANCIAL SECTOR CONDUCT AUTHORITY**

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