



INFORMATION CIRCULARS 3 AND 4 OF 2018 – RETIREMENT FUNDS

- A. Increased foreign portfolio investment limits
- B. Effective date for the acceptance of gratification Directive

A. FOREIGN INVESTMENT LIMITS (INFORMATION CIRCULAR 3 OF 2018)

Aligned to the National Budget announcement, the South African Reserve Bank (SARB) has issued an Exchange Control Circular indicating that the foreign investment limits have been increased and has amended the Currency and Exchange Manual for Authorised Dealers. Regulation 28 provides that the SARB can determine the maximum allowable amount that a fund may invest in foreign assets.

In terms of the SARB Exchange Control Circular, retirement funds may now acquire foreign exposure up to a limit of 30 per cent in respect of foreign portfolio investments and an additional ten per cent for foreign portfolio investments in Africa.

B. EFFECTIVE DATE FOR THE PROHIBITION ON THE ACCEPTANCE OF GRATIFICATION DIRECTIVE (INFORMATION CIRCULAR 4 OF 2018)

On 8 March 2018, the Registrar issued Directive 8 called "Prohibition on the Acceptance of Gratification". The Directive is aimed at combating and preventing bribery and corruption and imposed conditions on persons such as: principal officers, deputy principal officers, board members, valuers, auditors, employees of retirement funds and administrators, administrators and other service providers to funds. These fund officials and service providers may not be involved in any conduct constituting bribery,

fraud or corruption if they wish to remain fit and proper to hold office or provide a service. The Directive sets out reporting requirements and defines what constitutes gratification.

The Deputy Registrar of Pension Funds has since issued Circular 4 of 2018 clarifying that:

Directive 8 is effective from 8 March 2018;
Commitments by officials and service providers that were entered into prior to 8 March 2018 and which are prohibited by the Directive (that is, prior-commitments) should be withdrawn or declined by the regulated persons or entities, where possible; and
If it is not possible to withdraw or decline such prior-commitments, the regulated persons or entities can honour such prior-commitments. This should not be interpreted as the FSB endorsing the prohibited action, but should be seen within the context of the effective date being 8 March 2018.

An example: on 3 January 2018, an administrator extended an offer to pay the costs for a trustee of a fund it administers to attend a conference on 30 April 2018. The Directive is issued on 8 March 2018. In this case, the administrator must immediately contact the trustee and withdraw the offer. Alternatively, the trustee must contact the administrator and decline the offer to attend the conference at the administrator's expense. We strongly encourage fund officials and service providers to take a conservative approach to extending or accepting any form of gratification as well as to the interpretation of the commencement date of this Directive.