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REGULATION 28 – A LENGTHY ROAD TO FINALISATION

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National Treasury released its final gazetted amendments to Regulation 28 of the Pension Funds Act on 1 July 2022. This follows two rounds of comments from the market following the release of its first draft in March 2021. These amendments come into effect on 3 January 2023.

The changes were largely driven by National Treasury's aim to create a more enabling legislation for retirement funds to invest in infrastructure and related assets, notwithstanding the fact that funds could previously invest in these opportunities off the back of Regulation 28's unlisted asset allowance of 35%.

In the context of infrastructure, Futuregrowth supports the drive to make retirement funds more aware of alpha adding opportunities in this space - and thus the real role that the retirement fund industry can play in assisting economic growth through such investments, while earning risk-adjusted returns.

Concerns remain

We are, however, still of the view that the final definition of infrastructure as now defined within Regulation 28 remains broad and, as a result, could have unintended consequences. Listed instruments (both equity and debt) could be considered as infrastructure (e.g. MTN, Vodacom, Netcare, etc.), which is especially problematic given that National Treasury has placed an overall 45% cap on infrastructure investments. It is therefore likely that many retirement funds will bump into these limits very quickly without the release of any guiding principles from National Treasury on what is considered infrastructure.

Futuregrowth did provide comments through both ASISA and our own submission, highlighting these specific concerns and their possible consequences.

There is also an obligation on retirement funds to report on their top 20 infrastructure assets in terms of a new table which will give National Treasury insight into allocations to infrastructure; however, it is noted that ASISA members already provide meaningful data to this industry body on their infrastructure investments.

Infrastructure funding shortfall

The infrastructure funding shortfall over the next two decades is around R1.8 trillion, encapsulating a range of infrastructure and developmental projects. Pension funds can play a meaningful role in this regard - particularly those that haven't made much investment in this sector, due to lack of understanding and/or fear. We congratulate those pension funds that have already made meaningful investments in infrastructure and related investments and we know that they are willing to invest further.

Ultimately, legislation can only go so far and bankable deal flow is a requirement to feed the market. The long-term success of these deals largely depends on a coherent and succinct policy within government and that also addresses how budgeted capital is spent across all spheres of government. We are seeing the green shoots and some success stories coming out of the creation of both Infrastructure SA and the Infrastructure Fund under the DBSA - but more can and needs to be done.

Futuregrowth has been a longstanding institutional investment partner in infrastructure and developmental finance, funding projects for close on 25 years. It manages the largest debt fund of this nature in sub-Saharan Africa, the Futuregrowth Infrastructure and Development Bond Fund, which has a market value of more than R17 billion. It has funded various transactions over the last two decades to the benefit of all South Africans – and will continue investing in projects that provide the impetus the domestic economy needs to lift its economic growth rate to sustainable levels in the future, while earning risk-adjusted returns for investors.