

Industry Comments Template

FIM Act – Subordinate Legislation

STANDARD: GEN.S.10.2 FIT & PROPER REQUIREMENTS

STD/REG No. & Section/Clause:	Comment/Description of issue:	Proposed Amendment/Solution:	NAMFISA Response
cc/2016/11 669	Lack of Financial Reporting by SMEs	Develop tailored financial reporting guidelines for small town businesses, making compliance easier through digital bookkeeping tools and NAMFISA-supported training programs.	NAMFISA takes note of the proposal.
	Consumer Protection & Education Gaps	Launch financial literacy campaigns in small towns to educate residents on insurance policies, consumer rights, and how to identify FIMA-compliant financial services.	NAMFISA takes note of the proposal.
General notice. Pg. 1 Par. 1	Reliance on Section 409 (3) of the FIMA, which is an Act not yet in operation, may not constitute authority to issue the standard.	NAMFISA to clarify <u>in the Act/Standard</u> whether reliance on Section 409(3) of the FIMA, which is not yet in operation, can validly serve as the authority to issue the standard or perhaps stipulate relevant authority for doing so.	Section 12(3) of the Interpretation of Laws Proclamation 37 of 1920 provides that: “(3) Where a law confers a power – (a) to make any appointment; or (b) to make, grant or issue any instrument, order, warrant, scheme, rules, regulations, or bylaws; or (c) to give notice; or (d) to provide forms; or (e) to do any other act or thing for the purpose of the law, that power may, unless the contrary intention appears, be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation at the commencement thereof, subject to this restriction that any instrument, order, warrant, scheme, rules, regulations, or bylaws, made, granted or issued under the power shall not, unless the contrary intention appears in the law or the contrary is

			necessary for bringing the law into operation, come into operation unless the law comes into operation. " (own bold for emphasis).
General Standard 10.2 Definitions Section 1 (1) (f)	Citation of the 'Financial Intelligence Act not inclusive of the Amendment Act.	NAMFISA to insert full citation.	By virtue of the interpretations statute, reference to an act includes any amendments.
General Standard 10.2 at Definitions 1 (1) (o) "Trustee Toolkit"	Reference is made in Section 1 (1) (o) to applicability of Trustee Toolkit to persons desirous to be appointed or elected as a trustee of a fund, friendly society or medical aid fund. However, there is no corresponding reference to the completion of a Trustee Toolkit for medical aid funds in Schedule 1 Part A For Purposes of Chapters 7 and 8 Medical Aid Funds and their Administrators. Will the online platform be at the behest of NAMFISA? And all costs in respect of the hosting, administration and development of the platform be solely for the account of NAMFISA? Is access to the platform granted to persons desirous to	Action: NAMFISA to clearly state the following points in the FIM Act, regarding the Trustee Toolkit requirements and implementation: Scope of Applicability: - Why does Section 1(1)(o) refer to the Trustee Toolkit for trustees of funds, friendly societies, or medical aid funds, yet there is no corresponding reference for medical aid funds in Schedule 1 Part A (Chapters 7 and 8)? Online Platform Hosting and Costs: - Will the online platform for the Trustee Toolkit be hosted, administered, and developed solely at NAMFISA's expense? - If not, how will costs be allocated or recovered? Access and Timing: - Will persons "desirous of being appointed" as trustees be granted access to the platform before their appointment, or only once they have been nominated for appointment or formally appointed? Assessment and Consequences: - Is completion of the Trustee Toolkit subject to an assessment? - What happens if someone fails the assessment? Would failure disqualify a trustee candidate from serving? Toolkit Variations: - Will there be different versions of the Trustee Toolkit tailored to funds, friendly societies, and medical aid funds, or will one version apply uniformly to all? Purpose and Overlap with Schedule 1:	- Reference to Completion of Trustee Toolkit to be inserted in Schedule 1 Part A for the purposes of Chapter 7. - The Trustee training program will be a free online learning program developed, hosted and administered by NAMFISA, at NAMFISA's expense. - The Trustee toolkit is a requirement for appointment. It is aimed at persons desirous to be appointed or elected as a trustee of a retirement fund, friendly society or medical aid fund. - Yes, upon completion of the study material, there will be an assessment. A trustee will be considered fit and proper only if they successfully complete the training program, after which they will be approved. - The toolkit platform will be the same; however, the study material will be tailored to the specific needs of each industry. The aim is to ensure that trustees of the respective industries are fit to manage the affairs of their respective Funds. We wish to ensure that the appointed persons despite having the relevant skill sets also have the knowledge required to exercise due diligence in their respective roles, thus, it is complementary to Schedule 1.

	be appointed or once they are appointed? Is the learning program subject to assessment upon completion? And what is the effect of failure of the learning program? Does it disqualify the appointee from serving as a trustee? Will toolkit be different across the industries (for Funds, Friendly Societies or Medical Aid Funds, if applicable)? Or will they all be the same? General comment on the toolkit is what does NAMFISA intend to achieve with the toolkit? Does Schedule 1 not serve the same purpose?	○ What is NAMFISA's overall intention or goal in introducing the Trustee Toolkit? ○ Does Schedule 1 not already achieve the same objectives, or is there an additional purpose served by the Toolkit?	6.The Act requires trustees to be fit & proper within the meaning of the Standard. The Standard provides that trustees of the concerned sectors, as part of the qualifications and training requirements, must complete the Trustee Training program. Trustee toolkit is specifically for trustees and its main focus is to make it easier for potential trustees in the three regulated industries to complete an interactive, effective, and efficient online training program.
General Standard 10.2 at 5 (3)	Language. Consider proposed amendment herein to replace relevant paragraph in the Standard, for ease of comprehension. i.e. repetition of terms including in the definition of 'key persons.'	Proposed amendment 'As part of the recruitment or appointment process of key persons, the appointing financial institution or financial intermediary must assess the fitness and propriety of such persons pursuant to this Standard and must maintain documentation supporting the assessment.'	Agree with the proposal. Definition of key persons includes POs, members of the Board, Directors etc.
General Standard 10.2 at 5 (2)(a) (i)	Language. Consider proposed amendment herein to replace relevant	(a) The fitness and propriety in accordance with the criteria set out in clause 4 in respect of – Key persons of the entity; and...	Agree with the proposal. Definition of key persons includes POs, members of the Board, Directors etc.

	paragraph in the Standard, for ease of comprehension. i.e. repetition of terms including in the definition of 'key persons.'		
General Standard 10.2 Schedule 3 Section H	Section H relates to compliance with the financial intelligence act, 2012 (fia) and other anti-money laundering (aml), combating the financing of terrorism (cft) and combating proliferation financing (cpf) legislation (where relevant) What is the applicability of above provisions to MAF or administrators with the exception of reporting STR/SAR? And perhaps sanctions screening but only where there is suspicion that a customer is a designated person or organization or associated to designated person or organization?	Recommended Action: That NAMFISA clarify the scope of Medical Aid Funds (MAFs) and their administrators' obligations under the Financial Intelligence Act, 2012 (FIA) and related AML/CFT/CPF legislation, beyond the requirements to file Suspicious Transaction Reports (STRs) or Suspicious Activity Reports (SARs), and to perform sanctions screening when there is suspicion of involvement with designated persons or organizations. Specifically, NAMFISA should indicate: 1. Due Diligence Requirements Whether MAFs and their administrators must conduct Know Your Customer (KYC) checks or ongoing customer due diligence. 2. Transaction Monitoring Any expectations for MAFs or administrators to monitor and flag unusual or potentially illicit transactions as part of broader AML/CFT/CPF compliance. 3. Sanctions Screening The extent to which routine sanctions screening (beyond suspicion-based screening) is required. 4. Record-Keeping and Other Obligations Any other applicable obligations (e.g., record-keeping, training, internal policies, and reporting lines) that MAFs or administrators must fulfill under FIA and related legislation.	It is the entity's duty to ensure it is well aware of its regulatory and supervisory landscape and that it has the required capacity to comply with all requirements 1. Yes, the administrators are subject to the relevant checks as they are not exempt from complying with FIA. 2. Yes, in compliance with FIA. 3. Yes, this should be done as well for purposes of due diligence. 4. Yes, this should be done as well for purposes of due diligence.

General Standard 10.2 Schedule 1 Part C (b)	Schedule provides that “An individual or key person is able to demonstrate financial soundness if that individual or key person declares under oath whether – (b) within a period of five years preceding the date of application, he/she has been adversely listed on a credit bureau (whether in Namibia or elsewhere); 1) This should be subject to the applicant being able to demonstrate an absence of wrongfulness with regards to the listing on ITC. It is common cause that due to the absence of regulations / <i>audi alterem partem</i> prior to being listed on ITC by an entity, it is possible in Namibia to be listed on ITC without prior notice of it to the detriment of numerous potential key personnel. 2) The law cannot work retrospectively- where an individual was not a key person prior to date of appointment, an ITC listing prior to appointment should be of no relevance. The emphasis should be compliance from date of appointment as a key person.	Recommended Action: That NAMFISA provide clarification and/or consider amendments to the requirements regarding financial soundness checks (particularly ITC listings), specifically: 1. Absence of Wrongfulness in ITC Listings Acknowledge that individuals can be listed on ITC without due process or prior notice, and clarify if applicants can present evidence to demonstrate they were wrongfully or unfairly listed. 2. Non-Retroactive Application Confirm whether past ITC listings (i.e., before an individual became a key person) would be relevant and, if so, explain how such listings should be weighed, given that the law should not operate retrospectively. 3. Declaration Under Oath vs. ITC Checks Justify the requirement for a sworn declaration when an ITC check of the preceding five years might suffice and is inherently more verifiable. 4. Excessive rehabilitation period Is the period of 10 years for rehabilitation not excessive whereas for insolvency it is only 5 years? 5. Immediate removal from ITC Listing If a Trustee is on ITC at date of application and applies for removal from the credit bureau, this should be duly considered by NAMFISA once the potential Trustee remedies the matter.	1. Agreed, parties should provide proof and evidence to demonstrate that they were wrongfully or unfairly listed. The following wording to be added to clause: “subject to the applicant being able to demonstrate an absence of wrongfulness with regards to listings on credit bureaus.” 2. Yes, historical ITC listings are relevant. A listing on ITC is not law, therefore retroactive changes to non-legal matters, like credit listing, wouldn’t apply as it does to laws or regulations. 3. A declaration under oath formally affirms that the information provided is truthful and provides clarification and context alluding to commenter’s earlier point requesting to provide an explanation - the declaration can help provide further explanation or context about the document, ensuring that it’s understood correctly or fully. 4. Comment not clear as the said section does not deal with insolvency. 5. The Standard states a period of 5 years. The period runs from the date of removal from credit bureau until the 5 years has lapsed.
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	3)Why is a declaration under oath required? An ITC check of the five years should be sufficient.		
Standard No. GEN.S.10.2			
Schedule and Section G, Operational Ability	Compliance Officer for AML	For small entities e.g. us microlenders in order to minimize costs a principal officer or branch manager can sense a compliance officer	Comment unclear.
		The Insurance Institute of Namibia ("IIN"), which was established by NIA and NIBA to provide STI industry training, would like to commend NAMFISA for their efforts made towards upskilling Namibia's financial industry participants. The IIN would ideally have liked to have had sight of comments to be put forward by NIA (STI insurers) and NIBA (STI Brokers) in order to be able to put forward specific constructive comment on the Fit and Proper Standard which was circulated for comment. We would have liked to have had the opportunity to discuss their respective comments/approaches to the Standard. However, we learnt that the insurers and brokers have been experiencing very busy schedules leaving them with very limited time to meet with the IIN in this regard and rather provide their comments timeously to the Regulator. Although the IIN shall not be providing specific comments on the Standard, we shall nevertheless like to bring the following to the Regulator's attention:	

		1.The Standard appears to uphold a “one size fits all approach” to the “Qualifications and Training” and “Experience” of an individual or key person of an entity. We trust that the various financial institutions/ Associations will provide sector specific recommendations appropriate to their respective operational sectors and that the Regulator will take cognisance and be led by practical requirements put forward by the industry players. 2.Although one is mindful that lengthy years of experience enhance the competence and capability of an individual or key person, one needs to also be mindful of not setting the barrier of entry for new entrants to the financial sector too high, being aware of many young Namibians struggling to find jobs and start careers. It was very gratifying to note that the Standard recognises the need for a Market Entry Exam. 3.We accept that the nature and extent of such a Market Entry Exam will still need to be developed recognising that it will need to be differentiated for application in different operational environments which required different skill-levels, e.g. the level of a Market Entry Exam should be different for an individual selling an insurance policy for a microwave oven or cell phone in a retail shop to that of an individual establishing a policy to underwrite marine or aviation risks. The years of experience should also differ. 4.It is also important to differentiate between short-term and long-term insurance for this purpose.Thus, different Market Entry Exams are suggested: different Long Term and Short Term, classes of insurance, the level within that class and the correct application applicable on individuals registering	1.The Standard in its entirety considered each section or market on its own. The variations are not an error, but take into consideration the sector size and its intricacies. 2.These factors were taken into consideration and hence the matric certificate requirement. 3. The content of the Market Entry Exam has been determined and it does carry NQF accreditation. 4.We do not agree with the split, it is necessary that capacitation happen for both the long-term and short-term insurance sectors. Knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. Also note that FIMA will still differentiate the insurance licenses. The standard however need not go into the
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		We have taken note of certain comments (not all) that might have reached your offices and are open for discussions along with those associations to work on a final solution and specifically in this case to assist with the development of the “wish list” criteria/curriculum that will form the suggested Market Entrance Exam. The IIN is currently also a registered, accredited entity with the NTA and NOA as a matter of interest. We trust that the above is received in good light as it is intended by the IIN. 5. Please be reminded that the IIN is willing to assist NAMFISA in areas of training issues regarding the Namibian financial sector, bearing in mind that our focus to date has been on STI — however, the IIN is also planning to expand into LTI as was realised to be ended.	details to that extent as its dealing with FAP for key persons and not licensing requirements for intermediaries etc. 5. NAMFISA takes note of the comment.
Clause 1(1)(i)	Reference is made in the definition to ‘officers’ which creates ambiguity as to which specific individuals are being referred to.	It is proposed that NAMFISA provides clarification on the concept ‘officer’. Perhaps consideration can be given to using the term ‘Executive’ or ‘Senior Management’ then proceed to define who would be considered a senior officer / Senior Management. If consideration is given to the definition applied by the Bank of Namibia in the Banking Institutions Act, an executive officer who would be subject to formal Fit and Proper Assessments would be classified as: (a) Could exercise significant influence over the institutions; (b) Is in the direct employment, or acting for or by arrangement for the institution; and Is principally responsible for the management and conduct of functions such as ‘credit, risk management, compliance, accounting and auditing, secretarial, treasury and operations’	The term “officer” is defined in Chapter 1 of the FIM Act. Kindly have regard for clause 1(2)(a)(xii) of the standard.
Clause 2(c) & (e)	Kindly refer to comment made under Clause 1(1)(i)		The term “officer” is defined in Chapter 1 of the FIM Act. Kindly have regard for clause 1(2)(a)(xii) of the standard.

	regarding the use of the term 'other officers'.		
Clause 4(1)(a)	<i>Competency and Capability:</i> How does this impact existing board members, principal officers, valuers, auditors etc. already appointed. Furthermore, the provision reads 'training and experience' where if consideration is given to the provisions of Schedule 1 makes no reference to the 'training' component.	It is recommended that the provisions of the Act only be applicable for new appointments following promulgation of the Standard and should not have any retrospective effect.	The Standard applies to all persons who are required to be fit & proper within the meaning of the Standard and this refers to all key persons of financial institutions and financial intermediaries registered or to be registered under the Act. FIMA does provide for a transitional period after the commencement date of the Act, to allow for an adequate timeframe within which persons must comply with the new legislation.
Clause 4(2)	What is meant by 'and on an ongoing basis'. Is there an expectation for reassessment and if so, at what intervals.	It is recommended that the reassessment frequency required by NAMFISA be clearly articulated to avoid ambiguity and that the frequency of reassessment also be included into the provisions of this proposed Standard.	This means that the requirements set in sub-clause 1 should not only be demonstrated upon registration, but key persons must maintain the requirements under clause 4(1) whilst in Office. Furthermore, It means that a key person must act in accordance with the requirements set and in adherence to the principles and criteria of the assessments. Compliance will be assessed during normal supervisory processes (on-site and off-site surveillance/inspections).
Clause 4(3)(a)	What would constitute 'Proof of relevant experience' seeing that Clause 4(3)(b) already requires a detailed up-to-date curriculum vitae.		A curriculum vitae is not proof of experience but a document that outlines one's professional and academic history. Proof of experience would be, for example, employment verifications, certificates of service, reference letters, testimonials etc.
Clause 4(4)(b)	Under what circumstances would a List Applicant be required to submit the Fit and Proper Documentation to	It is recommend that submission of documentation by a List Applicant in respect of a Listed Individual should either be mandatory (if their appointment remains subject to NAMFISA	There may be instances where the information is required by NAMFISA e.g. to assess/verify the compliance of the list applicant to clause 4(4) (a).

	NAMFISA, given the discretionary nature of the wording ' <i>may be required</i> '. Is it the intention of NAMFISA to no longer require formal application for Listed Individuals prior to commencement of duties?	approval) alternatively, that the provisions be removed as it creates ambiguity as to when documentation would be required and when not.	Using the word "may" implies that the circumstances on which a list applicant will be required to submit information depends on certain factors and will be decided on a case-by-case basis.
Clause 5(1)(c)	In terms of the circular issued by NAMFISA in July 2023 (MC/AML/2/2023), short term insurance companies are no longer subject to the provisions of FIA. To what extent would the provision ' <i>efforts for reduction and deterrence of financial crime</i> ' be applied on STI applicants?		Whilst STIs are exempt from direct compliance with certain Anti-Money Laundering (AML) provisions under Namibia's Financial Intelligence Act (FIA), the broader regulatory principle of "efforts for the reduction and deterrence of financial crime" can still apply to them under prudential, market conduct, and governance frameworks enforced by NAMFISA. Examples: 1. Governance and Internal Controls – risk management systems to detect suspicious or unusual claims, payments etc and internal controls to prevent fraud and abuse, misconduct by staff 2. Market Conduct Expectations - Insurer to act with integrity and transparency, to report misconduct and criminal behaviour, avoid business relationships that expose insurer to legal and reputational risks. 3. Fit and Proper Requirements - key persons demonstrate integrity, honesty, not involved in financial crime, money laundering.
Clause 5(2)(a)(i)	See comment made under Clause 1(1) regarding ' <i>other officer</i> '. It is recommended that the specific officers that NAMFISA requires to comply with the provisions of the		The term "officer" is defined in Chapter 1 of the FIM Act. Kindly have regard for clause 1(2)(a)(xii) of the standard.

	Standard be clearly articulated to avoid ambiguity.		
Clause 5(7)(b)	See comments made under Clause 4(4)(b) above		There may be instances where the information is required by NAMFISA e.g. to assess/verify the compliance of the list applicant to clause 4(4) (a). Using the word “may” implies that the circumstances on which a list applicant will be required to submit information depends on certain factors and will be decided on a case-by-case basis.
Clause 7	What criteria has been used to determine the disqualification period of 10 years?		The maximum disqualification period of 10 years has been determined based on a combination of regulatory best practices, proportionality, and the need to uphold the integrity of the financial system. 1. Severity and Nature of Misconduct The maximum 10-year disqualification period reflects the gravity of offences or misconduct that undermine public trust in the financial sector, including fraud, dishonesty, gross negligence, or repeated non-compliance with regulatory requirements. 2. Regulatory Consistency and Deterrence The period aligns with international norms and domestic regulatory approaches aimed at deterring unfit individuals from participating in the management or control of financial institutions. It further serves as a credible deterrent while promoting responsible conduct. 3. Safeguarding Financial Stability Given the critical role that key persons play in the governance, risk management, and conduct of NBFIs, the maximum 10-year period provides adequate regulatory assurance that individuals who have demonstrated unfitness are removed from positions of influence for a meaningful duration. 4. Proportionality and Possibility of Rehabilitation While the period is sufficiently long to reflect the seriousness of disqualification, it is not indefinite, thus

			allowing for potential rehabilitation and reconsideration where an individual can demonstrate restored fitness and propriety after the disqualification period lapses. 5. Comparative Benchmarks The 10-year period is consistent with disqualification provisions found in similar sectors and jurisdictions, ensuring regulatory coherence across financial services.
Clause 9(2)	Reference to Clause 8 in the proposed provisions is not relevant as Clause 8 merely refers to the notice of engagement that is to occur prior to NAMFISA taking a decision as per Clause 7.		Agreed. Reference to clause 8 to be deleted.
Chapter 2: Insurer	Would qualification trump experience (in other words would both the qualification and experience requirements need to be met) or is the intention either/or (i.e. either relevant qualification or relevant number of years).		Both qualification and experience should be met.
	Should both qualification and experience be mandatory, no reference is made to experience in the areas of Law and or accounting while these degrees are regarded as relevant from a qualification perspective.		Both qualification and experience should be met. For the purpose of the standard, key persons are deemed to operate within the financial services/markets sector, hence irrespective of the academic qualification (as listed), key persons need to have experience in the financial services/markets sector.
	In respect of the Valuator's experience, would ' <i>corporate sector</i> ' imply working for a firm or is the intention that		Deleted the term "corporate sector", as the term "financial services and markets sector" is sufficient.

	<i>'corporate sector'</i> implies should have been involved in a corporate entity other than his/her place of employment.		
	In respect of Other Key Persons, it is recommended that there shouldn't be a distinction between tertiary education and secondary education. Secondary education can be considered when the concept <i>'other key persons'</i> has been more appropriately defined.		The entry criteria is the NQF 7 level and provision has been made for persons without tertiary qualifications to be able to enter the system (school-leaving certificate and relevant number of years of experience). Some key persons such as agents and brokers require lower qualifications such as secondary education certificates while other key persons require higher qualifications. It would be inappropriate not to make the differentiation given the different needs of the different sectors and/or entities.
Chapter 2: Insurance Agent (including micro-insurance agents) & Insurance Brokers	No consideration is given to possible exemption for insurance agents that have been affiliated to the industry for more than 10 years from the Market Entry Exam or is the expectation that all agents, not in possession of secondary qualification should undergo the examination. Has consideration been given to secondary certificates obtained under the previous regimes?	It is recommended that NAMFISA considers possible grounds for exemption for the minimum competency and capability requirements.	All intermediaries must complete the examination if they are not in possession of secondary qualifications. Provision has been made for secondary certificates that are deemed equivalent to the NSSCO certificate, with business subjects.
	What consideration is given to formal training obtained? It is noted that Clause 4(1)(a) references to training but not reference is made thereto in the proposed schedule. Furthermore, what consideration is given to professional accreditations (both		Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience. Any additional formal training and/or accreditations are encouraged, but is not mandatory.

	locally and internationally (i.e. ACAMS or ISACA)).		
	Has the content of the Market Entry Exam been determined and if so, does the proposed entry exam carry a NQF accreditation.		Yes, the content of the market entry exam has been determined, and it is NQF accredited.
	Which the requirement associated to secondary education, what is the minimum results that should have been achieved by an individual to be consider to have meet the competency and capability requirement.		Mimimum results would be a pass rate according to the Namibian curriculum, or its equivalent.
Chapter 3 to 8:	It is recommended that ' <i>other key persons</i> ' per individual market impacted by FIMA be clearly articulated to apprecaite the inconsistent application of the qualification expectations. In some instances, no provision is made for the Makert Entry exam, which in some instances secondary qualification is accepted and in some instances only teritary qualifications or similar equivalent to NQF7.		This is a general chapter Standard and must be broad and all encompassing for all non banking financial institutions and intermediaries. Qualification expectations cannot be the same across all key persons for all industries. The Standard in its entirety considered each sub-sector or market on its own. The variations take into consideration the differences in sector size and intricacies.
	Should both qualification and experience be mandatory, no reference is made to experience in the areas of Law		Both qualification and experience should be met. For the purpose of the standard, key persons are deemed to operate within the financial services/markets sector, hence irrespective of the academic qualifications (as

	and or accounting while these degrees are regarded as relevant from a qualification perspective.		listed in Schedule 1), key persons need to have experience in the financial services/markets sector.
Par. (a) & (b) (Schedule 1 Part C)	The provisions of the paragraphs would need to be reconsidered. Paragraph (a) refers to judgements that have a direct impact on Paragraph (b), while paragraph (b) might not be as a result of events listed in paragraph (a). Furthermore, under the provision of Paragraph (a) what would be considered a reasonable period? This needs to be clearly determined.	Recommended that the provisions of paragraph (a) and (b) be reconsidered. Proposed rewarding can be: <i>(a) within a period of 10 year preceding the date of application, they have been subject to any judgement, debt or award that remains outstanding or has not been satisfied within a period of 12 (twelve) months since becoming aware of the judgement.'</i> <i>within a period of 5 years preceding the date of application, they have been adversely listed on a credit bureau (whether in Namibia or elsewhere) <u>for reasons other than what is contained in Paragraph (a).</u></i>	In relation to paragraph (a), reasonable period may depend on many factors and specifying a period may not take this into account. Regarding paragraph (b), adverse listings on credit bureaus are not necessarily as a result of judgments etc. One can have an adverse listing on a credit bureau without judgment having being obtained. Both paragraphs serve different purposes in demonstrating financial soundness. The paragraphs are independent of each other.
Par. E	Would recommend that the reasons for the penalty be determined and that it should not be left open-ended.	Recommended that consideration be given to the following proposed wording <i>With or without an appeal lodged, within a period of 10 years preceding the date of application, the entity has been subject to an investigations or has administrative actions been taken or administrative penalties been imposed by an regulatory authority, professional or government body or agency, and exchange or self regulatory organisations (whether in Namibia or elsewhere) <u>on account of fraud, unprofessional conduct, negligence or mismanagement.</u></i>	Part B(e) states "any", meaning it could apply to any situation, and the intention is not to limit it to specific types of misconduct. Limiting it in this manner could make it difficult to implement the provision. Note that this is only a consideration and any investigation that is not relevant would not result in a key person being found to not be fit and proper.
	i. What is the purposes of having to submit budgets for a period of 3 years preceding the latest AFS required under Par. (a).		Paragraph (a) requires Annual Financial Statements (AFS) of entities that have operated for more than a year. Paragraph (b), meant for start-ups, requires budget projections to assess the entity's (projected) financial soundness, while assumptions provide insight for

	ii. What is the purposes of considering the assumptions for the budget if AFS can be provided to illustrate the financial soundness of the organisation. iii. Is the statement under par. (c) and (g) not a duplication as capital and staff costs are known items in budget preparation. Under Par. (h), surely this is applicable to new entities only and that for existing entities confirmation of existing systems, infrastructures and governance principals should be provided.		reasonability checks, as well as assessing potential risks. Paragraph (c) to be amended to require AFS , as (c') is intended for entities operating for more than a year. The statement required in (c) pertains to past financial years, while the one in (g) is a projection and thus forward-looking. Agreed that (h) should only be for new entities. Amendment to be made.
Schedule 2: Par. A.7	Given that Schedule 2 references to the FAP Statements for a natural person, should Section A.7 not only reference to Tax Registration Number and not necessarily the Certificate of Registration.		Agreed. Amendment to be made.
Schedule 2: Section B Par. 12 and 13	It is recommended that the provision be made for including the details of previous appointments and current involvements in entities. Currently there is no sufficient space to provide the information. It is furthermore		Noted, however the opening paragraph of Section B requires full details on a separate page and the attachment of relevant certified documents to the form.

	recommended that the declaration be specific on the information needed under these paragraphs and not be left open-ended.		
Schedule 2: Par. 16	What criteria will need to be considered by the applicant to answer this question given the subjective nature of the question being posed.	It is recommended that what constitute 'bad repute' needs to be clearly articulate to ensure that there is no subjective consideration when answering the questions.	Agreed. Provision to be amended to include specific factors that could result in a key person being considered of bad repute.
Schedule 2: Section C.2	Is reference letters required for all previous employers or only the most recent / current employer?		Reference letters must be sufficient to demonstrate that the key person meets the minimum requirements in terms of experience for the role that the key person will play in the regulated entity.
Schedule 2: Section D	Please consider comments made under Schedule 1 – Part C Par. (a) & (b)		In relation to paragraph (a), reasonable period may depend on many factors and specifying a period may not take this into account. Regarding paragraph (b), adverse listings on credit bureaus are not necessarily as a result of judgments etc. One can have an adverse listing on a credit bureau without judgment having being obtained. Both paragraphs serve different purposes in demonstrating financial soundness. The paragraphs are independent of each other.
Section B: Conduct Par. 5	Please see comments under Schedule 1 - Part D Par. (e)		Schedule 2, Part B(5) states "any", meaning it could apply to any situation, and the intention is not to limit it to specific types of misconduct. Limiting it in this manner could make it difficult to implement the provision. Note that this is only a consideration and any investigation that is not relevant would not result in a key person being found to not be fit and proper.
Section C:	Kindly advise when a shareholder will be required to complete Section C? Would this	Comment: Context to be provided on what was the reason for including all shareholders	Only shareholders that are considered key persons under FIMA are required to complete Schedule 3, section C.

	be based on the provisions of FIA, which categories beneficial ownership or are all shareholders required to complete, even if below the threshold of beneficial ownership as determined by the Financial Intelligence Amendment Act (2023).		
Section F:	Please see comment made under Schedule 1 – Part E		Schedule 3, Section F, Paragraphs 2 – 2.9 is required regardless of the number of years in operation.
Section H:	Provision to be made to reference to Short Term Insurance Company being exempted from compliance with FIA as per circular MC/AML/2/2023 – would this exemption also extend to insurance brokers (entities). See comment made under Clause 5(1)(c).		Schedule 3: section H only to be completed where relevant. If FIA does not apply to the entity, then it is not relevant.
	Are the provisions of Question (1) and (12) not duplication where the requirement is to have a AMLCO registered with the FIC?		There is no duplication here, as the functionary is different from the function.
	What is NAMFISA positions surrounding Beneficial Ownership confirmation as no provision is made for confirmation of BIPA BO compliance status in the FAP Statement for Entities.	It is recommended that NAMFISA considers the inclusion of a <i>‘Checklist for Required Information’</i> similar to what has been incorporated under Banking Institutions Determination 1.	The Schedules are included to ascertain compliance with FIA. BO confirmation are not a necessity especially considering the questions posed in the Schedule.

General Standard 10.2 Definitions Section 1 (1) (f)	Citation of the 'Financial Intelligence Act not inclusive of the Amendment Act.	NAMFISA to insert full citation.	By virtue of the interpretations statute reference to an act includes amendments.
General Standard 10.2 at Definitions 1 (1) (o) "Trustee Toolkit"	Reference is made in Section 1 (1) (o) to applicability of Trustee Toolkit to persons desirous to be appointed or elected as a trustee of a fund, friendly society or medical aid fund. However, there is no corresponding reference to the completion of a Trustee Toolkit for medical aid funds in Schedule 1 Part A For Purposes of Chapters 7 and 8 Medical Aid Funds and their Administrators. Will the online platform be at the behest of NAMFISA? And all costs in respect of the hosting, administration and development of the platform be solely for the account of NAMFISA? Is access to the platform granted to persons desirous to be appointed or once they are appointed?	NAMFISA to provide clarity on issues listed.	1. Reference to Completion of Trustee Toolkit to be inserted in Schedule 1 Part A for the purposes of Chapter 7. 2. The Trustee training program will be a free online learning program developed, hosted and administered by NAMFISA, at NAMFISA's expense. 3. The Trustee toolkit is a requirement for appointment. It is aimed at persons desirous to be appointed or elected as a trustee of a retirement fund, friendly society or medical aid fund. 4. Yes, upon completion of the study material, there will be an assessment. A trustee will be considered fit and proper only if they successfully complete the training program, after which they will be approved. 5. The toolkit platform will be the same; however, the study material will be tailored to the specific needs of each industry. The aim is to ensure that trustees of the respective industries are fit to manage the affairs of their respective Funds. We wish to ensure that the appointed persons despite having the relevant skill sets also have the knowledge required to exercise due diligence in their respective roles, thus, it is complementary to Schedule 1. 6. The Act requires trustees to be fit & proper within the meaning of the Standard. The Standard provides that

	Is the learning program subject to assessment upon completion? And what is the effect of failure of the learning program? Does it disqualify the appointee from serving as a trustee? Will toolkit be different across the industries (for Funds, Friendly Societies or Medical Aid Funds, if applicable)? Or will they all be the same? General comment on the toolkit is what does NAMFISA intend to achieve with the toolkit? Does Schedule 1 not serve the same purpose?		trustees of the concerned sectors, as part of the qualifications and training requirements, must complete the Trustee Training program. Trustee toolkit is specifically for trustees and its main focus is to make it easier for potential trustees in the three regulated industries to complete an interactive, effective, and efficient online training program.
General Standard 10.2 at 5 (3)	Language. Consider proposed amendment herein to replace relevant paragraph in the Standard, for ease of comprehension.	'As part of the recruitment or appointment process of key persons, the appointing financial institution or financial intermediary must assess the fitness and propriety of such persons pursuant to this Standard and must maintain documentation supporting the assessment.	Agree with the proposal. Definition of key persons includes POs, members of the Board, Directors etc.
General Standard 10.2 at 5 (2)(a) (i)	Language. Consider proposed amendment herein to replace relevant paragraph in the Standard, for ease of comprehension.	(b) The fitness and propriety in accordance with the criteria set out in clause 4 in respect of – Key persons of the entity; and...	Agree with the proposal. Clause to be amended. Definition of key persons includes POs, members of the Board, Directors etc
General Standard 10.2 Schedule 3 Section H	Section H relates to COMPLIANCE WITH THE FINANCIAL INTELLIGENCE ACT, 2012 (FIA) AND OTHER ANTI MONEY LAUNDERING	NAMFISA to clarify.	It is the entity's duty to ensure it is well aware of its regulatory and supervisory landscape and that it has the required capacity to comply with all requirements.

	(AML), COMBATING THE FINANCING OF TERRORISM (CFT) AND COMBATING PROLIFERATION FINANCING (CPF) LEGISLATION (WHERE RELEVANT) What is the applicability of above provisions to MAF or administrators with the exception of reporting STR/SAR? And perhaps sanctions screening but only where there is suspicion that a customer is a designated person or organization or associated to designated person or organization?		
General Standard 10.2 Schedule 1 Part C (b)	Schedule provides that “An individual or key person is able to demonstrate financial soundness if that individual or key person declares under oath whether – (b) within a period of five years preceding the date of application, he/she has been adversely listed on a credit bureau (whether in Namibia or elsewhere); 1) This should be subject to the applicant being able to demonstrate an absence of wrongfulness with regards to the listing on ITC. It is common cause that due to the absence	NAMFISA to clarify.	1. Agreed, parties should provide proof and evidence to demonstrate that they were wrongfully or unfairly listed. The following wording to be added to clause:

	of regulations / <i>audi alterem partem</i> prior to being listed on ITC by an entity, it is possible in Namibia to be listed on ITC without prior notice of it to the detriment of numerous potential key personnel. 2)The law cannot work retrospectively- where an individual was not a key person prior to date of appointment, an ITC listing prior to appointment should be of no relevance. The emphasis should be compliance from date of appointment as a key person. 3)Why is a declaration under oath required? An ITC check of the five years should be sufficient.		“Provided that the person may submit evidence/explanations in respect of any adverse listings that may be unfair or wrong.” 2. Yes, historical ITC listings are relevant. A listing on ITC is not law, therefore retroactive changes to non-legal matters, like credit listing, wouldn't apply as it does to laws or regulations. 3. A declaration under oath formally affirms that the information provided is truthful and provides clarification and context alluding to commenter's earlier point requesting to provide an explanation - the declaration can help provide further explanation or context about the document, ensuring that it's understood correctly or fully.
Schedule 1 Fit and Proper Requirements Part A Competence and capability" Individual or key person	PLEASE SPLIT BETWEEN LONG TERM AND SHORT TERM INTERMEDIARIES	No context given- no basis provided for recommendation	We do not agree with the split, it is necessary that capacitation happen for both the long-term and short-term insurance sectors. The principle is to set the minimum entry requirement and NSSCO is suitable for both ST and LT, subject requirements are same i.e both need finance and management related subjects, thereafter changes can be introduced in requirements depending on seniority and complexity of functions i.e. board member of insurer vs board member of agent/broker firm or director vs manager etc.

Insurance Broker or Corporate Insurance Broker			
Insurance Broker and member of the board of a corporate insurance Broker SHORT TERM INSURANCE BROKER	Namibia Senior Secondary Certificate Ordinary (NSSCO) or Equivalent	Minimum of three years' related experience in business management, insurance or the financial services or markets sector	Not clear what the comment tries to address.
	Market Entry Exam (This exam will be split into different classes of insurance, levels, etc. Association to consider which market exam relevant to registering Broker)	Minimum of two years' experience as an insurance intermediary or related experience in the financial services or markets sector	Disagree with the split, knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. However, with regard to whether an agent is to write both ST and LT exam, it should not be mandatory to require both, the businesses are split, and FIMA recognises them as such. The products being sold are distinct. However the standard does not go into the details of classes.
	Industry Related qualification minimum level NQF 4 or higher or Equivalent	Minimum of two years' experience as an insurance intermediary or related experience in the financial services or markets sector	Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience. Any additional formal training and/or accreditations are encouraged, but is not mandatory.
	Currently registered Broker (Current and active for 2 or more years)	N/a (As per registration comment - Minimum of two years' experience would have been obtained / can be proven, therefore not applicable)	Not clear what the comment tries to address. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience

			for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory.
	Current Industry and function related experience with none of the above	Minimum of three years' experience as an insurance broker or related experience in the financial services or markets sector plus Market Entry Exam	Not clear what the comment tries to address. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory
Principal Officer - Short Term Insurance	Same as above	Same as above	Not clear what the comment tries to address. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory
Other Key Person - Short Term Insurance and member of the board of a corporate insurance Broker	Not Applicable	Not Applicable	Not clear what the comment tries to address. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory
LONG TERM INSURANCE BROKER	Group Schemes: Funeral cover, savings, clients earning N\$7,000 or more per month	Minimum of three years' experience in Long Term Insurance and related experience	Disagree with the split, knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. The minimum requirement is Grade 11 (school leaving certificate) and more or higher requirements can be added, depending on the function/position of specific key person. Requirement cannot be lower than Grade 11 or equivalent for all key persons even those in charge of intermediaries.

			Regarding training/courses and IIN that should be specific, ST courses for ST intermediaries and LT courses for LT intermediaries because you apply and register as such. A ST agent /broker has no business learning about a life insurance business/ products and vice versa etc unless they want to sell both ST and LT but they will have to be licensed separately for each. The standard however need not go into the details to that extent as its dealing with FAP for key persons and not licensing requirements for intermediaries.
	Retail Affluent: Unit trusts, life cover, retirement, study savings, Will and Estate Planning, Investments	Minimum of 2 years' experience in Long Term Insurance and related plus Industry Related Qualification with minimum level NQF 4 or higher	Disagree with the split, knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory. Don't understand the proposal though, because you only register as a ST/LT agent and not for the specific product you ought to sell for example. The standard is setting the FAP of a key person, and for that the setting out the minimum competence requirements and not the licensing requirements to register as an agent or broker.
	Pension Funds: Proposing and managing of Pension Funds	Minimum of 2 years' experience in Long Term Insurance and related plus Industry Related Qualification with minimum level NQF 4 or higher	Disagree with the split, knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory
	New entrant in Market (This exam will be split into different classes of insurance, levels, etc. Association to	Minimum of 3 years experience in Long Term Insurance and related OR	Disagree with the split, knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does.

	consier which market exam relevant to registering Broker)	Minimum of 2 years experience in Long Term Insurance and related plus Market Entry Exam	Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory. The standard is setting the FAP of a key person, and for that the setting out the minimum competence requirements and not the licensing requirements to register as an agent or broker.
Principal Officer - Long Term Insurance	Same as Above	Same as Above	Disagree with the split, knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory
Other Key Person - Long Term Insurance and member of the board of a corporate insurance Broker	Not Applicable	Not Applicable	Not clear what the comment tries to address. Disagree with the split, knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. Schedule 1 sets out the minimum mandatory requirements in terms of qualifications and experience for all key persons. Any additional formal training and/or accreditations are encouraged, but is not mandatory
General Standard 10.2 Definitions Section 1 (1) (f)	Citation of the 'Financial Intelligence Act not inclusive of the Amendment Act.	NAMFISA to insert full citation.	By virtue of the interpretations statute, reference to an act includes any amendments.
General Standard	Consider proposed amendment herein to replace 5 (2) (a) (i) as	a) The fitness and propriety in accordance with the criteria set out in clause 4 in respect of –	Agree with the proposal. Definition of key persons includes POs, members of the Board, Directors etc.

10.2 at 5 (2)(a) (i)	reflected in the Standard. 5 (2) (a) (i) lists all classifications of persons whom are included in the definition of 'key persons' at 1 (1) (i) and thus the proposal is to remove the above list of persons / officials and simply refer to 'key persons.' See proposed amended herein.	(i) Key persons of the entity; and...	
General Standard 10.2 at 5 (3)	Consider proposed amendment herein to replace 5 (3) as reflected in the Standard. 5 (3) makes reference to 'members of the board' and also 'principal officers' These two terms are included in the definition of 'key persons' at 1 (1) (i) and thus the proposal is to remove the above and simply refer to 'key persons' only. See proposed amended herein.	'As part of the recruitment or appointment process of key persons, the appointing financial institution or financial intermediary must assess the fitness and propriety of such persons pursuant to this Standard and must maintain documentation supporting the assessment.	Agree with the proposal. Definition of key persons includes POs, members of the Board, Directors etc.
General Standard 10.2 Schedule 1 Part C (b)	Schedule provides that "An individual or key person is able to demonstrate financial soundness if that individual or key person declares under	NAMFISA to clarify.	

	oath whether – (b) within a period of five years preceding the date of application, he/she has been adversely listed on a credit bureau (whether in Namibia or elsewhere); 1) This should be subject to the applicant being able to demonstrate an absence of wrongfulness with regards to the listing on ITC. It is common cause that due to the absence of regulations / <i>audi alterem partem</i> prior to being listed on ITC by an entity, it is possible in Namibia to be listed on ITC without prior notice of it to the detriment of numerous potential key personnel. 2) The law cannot work retrospectively- where an individual was not a key person prior to date of appointment, an ITC listing prior to appointment should be of no relevance. The emphasis should be compliance from date of appointment as a key person. 3) Why is a declaration under oath required? An ITC check		1. Agreed, parties should provide proof and evidence to demonstrate that they were wrongfully or unfairly listed. The following wording to be added to clause: “Provided that the person may submit evidence/explanations in respect of any adverse listings that may be unfair or wrong.” 2. Yes, historical ITC listings are relevant. A listing on ITC is not law, therefore retroactive changes to non-legal matters, like credit listing, wouldn't apply as it does to laws or regulations. 3. A declaration under oath formally affirms that the information provided is truthful and provides clarification
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	of the five years should be sufficient.		and context alluding to commenter's earlier point requesting to provide an explanation - the declaration can help provide further explanation or context about the document, ensuring that it's understood correctly or fully.
Definitions 1. (g) functionary is defined but nowhere mention in the standard. (i) "key person" means the directors, members of a board, principal officers, officers, trustees, custodians, auditors, valuers, and includes those individuals or other entities holding more than	Key person is a repeat of Functionary with additional persons added.	Throughout the standard, requirements are placed on "individual or key person". It may be unclear to which individual is referred to. We believe it is the intention of the standard to include all persons as defined under functionary. It is proposed to remove Trustees, custodians, auditors and valuers as "Key Persons" as these are independent functions of a financial institution/intermediary Proposed to include under the definition of "key Person" the roles within the financial services provider. And as "Functionary" Trustees, custodians, auditors and valuers with a dedicated and relevant questionnaire in the Schedules.	"functionary" is defined because the term is used in the definition of "fiduciary". The term functionary speaks to individuals that are required to form part of the governance and management functions of the entity, whereas key persons would include external key parties such as auditors and valuers..

25% of the financial institution or financial intermediary's voting rights;			
Schedule 1 Part F	Refers to Representative. There is no definition for representative. FIMA also does not refer to representatives but rather Agent and Broker.	Add definition of representative. Or is the intention to include all persons under the "key person" definition.	No need to define "Representative". The word should be given its ordinary meaning. A representative is any person who represents the applicant/entity in any capacity, and such representatives must be trained, must comply with the Act, and must represent the entity with fairness and honesty.
		Clear and consistent definitions i.e. Key Person – managing or overseeing the financial institution and "representatives" Representative – person providing the financial services (e.g. Listed Individuals, agents brokers, etc.)	No need to define "Representative". The word should be given its ordinary meaning. A representative is any person who represents the applicant/entity in any capacity, and such representatives must be trained, must comply with the Act, and must represent the entity with fairness and honesty.
Schedule 1 Part A		Proposed to add a clear description to be able to differentiate between the Principal Officer, Key Person, Other Key person and Officer.	Key person includes a principal officer and officer.
	INSURANCE AGENT OR CORPORATE INSURANCE AGENT Insurance agent and member of a board of a corporate insurance agent INSURANCE BROKER OR CORPORATE INSURANCE BROKER	Proposed to separate the experience requirements for a member of the board and the insurance agent. 5 years' experience seems overkill for an insurance agent – proposed 2 years.	We do not agree with the split, it is necessary that capacitation happen for both the long-term and short-term insurance sectors. Knowledge across all classes ensures that customer get a wider range of product exposure and this also equips the broker to move around depending on how each sector does. The 5 year requirement is only applicable if the person does not have a school leaving certificate (NSSCO), else it is only 3 years.
	Fund Administrator (and other)	10 years' experience requires no qualification or Market Entry exam. Will this dispensation be available to other persons as well?	It is not clear where references are made because nowhere under fund administrator does it refer to 10 years.

General comments and questions: It is noted that the standard is applicable to all persons already registered / authorised or applying to be registered / authorised. Does this mean that current registered persons may have to do the Market Entry exam? What if a person does not have the required experience as per Part A? Some persons will receive dispensation of the qualification and market entry exam where a certain number of years' experience is met. Why is this dispensation not available to all persons? It may appear as if a person with a qualification less than NQF7 is prejudiced in the number of years' experience. Will a qualification obtained outside of Namibia be considered? Financial Soundness is easy to evidence, however efforts to reduce and deter financial crime	We support and welcome a focused and formalised Fit and Proper standard for the relevant people in financial services provider firms. In summary, we propose that clear and concise definitions are required to eliminate duplication and uncertainty, and that the definitions and persons referred to, are aligned to FIMA. Examples described above.	It to Clause 6 – Failure by an individual or key person to meet any one of the criteria set out in clauses 4 and 5 will not necessarily lead to a refusal of an application for registration, a revocation of registration or of an exemption or disqualification, and the significance and relevance of an individual, key person, entity, listed individual, listed entity or listed company failing to meet specific criteria will depend on the conditions stated under clause 6. The dispensation is not available to all persons because the criteria for exemption are based on specific benchmarks of experience, which typically vary depending on the industry, role, and regulatory requirements. Standard requires Namibia Qualifications Authority (NQA) accredited qualification – obtained outside or not as long as its accredited. We acknowledge the challenges involved in proving the effectiveness of anti-financial crime measures, hence we
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	will be difficult to proof. How will NAMFISA deal with this requirement? We have researched and could not find an authority that issues a Certificate of Competence. Only police clearance is available currently. Please can NAMFISA advise. Lastly, the categories of stock broker vs securities advisor vs securities dealer may create a risk that one may overstep boundaries of authorisation. We proposed that clear descriptions, definitions and roles be provided for the correct registration and performance of functions. We thank NAMFISA for the opportunity to comment. We also extend an invitation should NAMFISA require more details.		prioritize the importance of proactive steps in minimizing such risks through this standard and active supervision.
Std. GEN.S.10. 2 clause 1(1)(o) definition of "Trustee Toolkit"	Who will develop the "Trustee toolkit" in consultation with NAMFISA?	For retirement funds and beneficiary funds, the Trustee toolkit should be developed by NAMFISA in consultation with the Retirement Funds Institute of Namibia ("RFIN"), which is the industry's representative body.	The Trustee training program will be a free online learning program developed, hosted and administered by NAMFISA, at NAMFISA's expense.
Std. GEN.S.10.	How do we prevent unnecessary duplication in	NAMFISA should compile and maintain a live FAP database of all persons whom it considers to be FAP to serve as	While it is important to ensure that a functionary or key person is the right fit for each specific fund, the primary

2 clauses 3, 4 and 5 Assessment requirements	those instances where a retirement fund or beneficiary fund: (a) wishes to appoint a functionary or key person who is also a functionary or key person of another retirement fund or beneficiary fund, e.g., a trustee, principal officer or valuator? While there is an element of ensuring the “right fit” between a retirement fund/beneficiary fund and its functionaries and key persons, a functionary or key person should also be fit and proper to be appointed as such by any retirement fund/beneficiary fund. Wishes to appoint an entity such as a fund administrator, investment manager or insurer.	functionaries and key persons of retirement funds/beneficiary funds so that such a fund would only have to satisfy NAMFISA as to the suitability of appointing a particular person on the database to that fund. Similarly, an individual on the database seeking subsequent approval as a FAP person for appointment by another retirement fund/beneficiary fund should be able to rely on their existing FAP status and only be required to submit an abridged FAP application to prove that they should be considered FAP in relation to the latest fund, assuming nothing has occurred which would affect their FAP status. Since clause 4(2) requires an individual or key person to demonstrate that they meet the FAP requirements upon registration or authorisation for registration and on an ongoing basis, if they are FAP in relation to one retirement fund/beneficiary fund, they are likely to be FAP in relation to all retirement funds/beneficiary funds in respect of honesty, integrity, fairness and ethical behaviour and financial soundness. It may well be that they might lack the competence and capability for appointment in a particular role at a specific retirement fund/beneficiary fund. If an entity has been registered under FIMA and satisfies the FAP requirements on an ongoing basis, it should not be necessary for a retirement fund/beneficiary fund wishing to appoint that entity as a service provider to submit/require the entity to submit a FAP application if the entity is on the FAP database. The FAP database should detail the roles for which an individual is considered to be FAP and the functions which a FAP entity is considered to be able to undertake. Will NAMFISA issue another Standard with further guidelines on the intervals at which and the means by which individuals and entities must confirm that they are still FAP after their initial approval by NAMFISA? We propose that written declarations be used in which to an individual or entity declares that nothing has changed or they indicate those items which have changed. The	concern is that the individual continues to meet the “fit and proper” criteria required for the role. If a Trustee is appointed to more than one board, then such Trustees should only complete the Training program once. Moreover, the profile of the Trustee on the Training program should be linked to the various profiles of the respective Funds on our Electronic Regulatory System (“ERS”) and indicate on ERS that the appointed trustee has completed the Training program With regards to demonstrating FAP on an ongoing basis, the words on an ongoing basis demonstrate that compliance is not a one-time event, but a regular or continuous obligation. The key person must ensure that they continue to meet the required criteria throughout their role, with the expectation that their qualifications, competence, and conduct are regularly reviewed or monitored to ensure they remain in compliance with the standards over time. This will be done through supervision and regulatory actions and measures of the Authority, and no further Standard is required.
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		process should be automated and updating should be able to be completed online.	
GEN.S.10.2 Fit and proper Schedule 1 Part E Financial soundness: Entity	The requirements in Schedule 1 Part E Financial soundness: Entity are not aligned to the checklist for these requirements in Schedule 3 Section F. Schedule 3 Section F distinguishes between entities operating for more than one year (in which case there is only one requirement as per 1. to be met). The remaining requirements (2. – 2.9) are applicable to start-ups/ entities operating for less than one year. Schedule 1 Part E distinguishes between entities operating for more than one year and less than one year only in requirements a) and b). It is not specified for which the requirements (c) to (k) apply. Requirements (c) to (k) should only be applicable to entities operating for less than one year.	Align the requirements in Schedule 1 Part E Financial soundness: Entity to the checklist in Schedule 3 Section F to reduce the requirements for entities operating for more than one year. Entities operating for more than one year should only be required to submit a copy of its audited financial statements of the most recent financial year end. Both Schedule 1 Part E as well as Schedule 3 Section F should make this clear.	Schedule 1, Part E, Paragraphs (c') to (k) is required regardless of the number of years in operation.
GEN.S.10.2 Fit and proper Schedule 1 Part C Financial soundness: Individual	The introductory paragraph to this section does not make sense. It reads that an individual is able to demonstrate financial soundness if it declares under oath one or more of the items listed. The opposite is probably	Reword the introductory paragraph as follows (delete struck-through words and insert underlined words): An individual or key person is able to demonstrate financial soundness if that individual or key person declares under oath whether <u>must declare under oath whether</u> –	Agree. Amendment to be made.

or key person	true, i.e. if one or more of the items listed applies, the individual is likely not to meet the financial soundness requirements.		
GEN.S.10.2 Fit and proper 1) Schedule 1 Part C Financial soundness: Individual or key person paragraph (c) Schedule 2 Section D item 3	As per Schedule 1 Part C paragraph (c) one of the factors that will be considered when determining the financial soundness of an individual is whether the individual has made an arrangement with creditors within a period of 10 years preceding the date of application. Making arrangements with creditors for alternative payment terms is fairly common, even for solvent and creditworthy individuals, and this should therefore not impact the financial soundness of an individual. The same as above applies to Schedule 2 Section D item 3.	1) Reword Schedule 1 Part C paragraph (c) as follows (insert underlined words): (c) within a period of 10 years preceding the date of application, they have made arrangements with creditors <u>due to insolvency as envisaged in the Insolvency Act</u> or had assets confiscated or repossessed or have been involved with proceedings relating to any of the aforementioned; 2) Reword Schedule 2 Section D item 3 as follows (insert underlined words): Have you, within the period of 10 years preceding the date of application, made arrangements with creditors <u>due to insolvency as envisaged in the Insolvency Act</u> or had assets confiscated or repossessed or has been involved with proceedings relating to any of the aforementioned?	An entity might be facing serious financial constraints, yet it has not been declared insolvent. So, adding the words “due to insolvency” as suggested would remove the distinction and purpose.
GEN.S.10.2 Fit and proper Schedule 1 Part A Competence and Capability: Individual or key person	One of the qualification requirements listed several times in Schedule 1 Part A is the following: “Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification)”	Reword the qualification requirement (57 instances) in Schedule 1 Part A as follows (insert underlined words): Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification or equivalent (in Finance, Commerce, Accounting, Law, Economics or other related qualification)	Agree. Amendment to be made.

	The qualification requirement does not make provision for equivalent qualifications obtained before the NQF was established or for equivalent qualifications obtained outside of Namibia.		
STANDARD NO. GEN.S10.2 CLAUSE 1 (i) Definition of “key person”	A “key person” in relation to an investment manager cannot be the custodian, auditors, valutors. A “key person” has a distinct duty in FIMA and this cannot be extended for one company beyond the boundaries of the corporate veil to another entity or person undertaking liability for their actions.	Removal of custodian, auditors, valutors from the definition of a “key person” and limit the definition to the institution or company being referred to. The valuator should be the key person for the entity he works for and not for the investment manager.	This is a general chapter Standard and the definition of key person must be broad and all encompassing to include all key persons in the non banking financial services industry. Therefore, this Standard is not exclusive to investment managers only. Custodians, auditors and valutors are deemed key persons due to the role they play in providing third party assurance to the regulator. Please have regard for the definition of valuator, especially insofar as it relates to investment management.
CLAUSE 1 (j) Definition of “list applicant”	Section 78 of FIMA does not contain a definition of a list applicant hence we cannot introduce new terms through subordinate legislation and refer to definitions in the Act which are not there. Sec 91 of FIMA also does not refer to a “list applicant” Section 168 of FIMA limits the definition of a “manager” to public company so registered.	Define term in substantive legislation or remove term from the subordinate legislation. Do not create new legislative creatures with rights and obligations in subordinate legislation which is not catered for in the main legislative instrument. Remove limitation to only public companies and include private companies to also be “managers”	The definition of “list applicant” is defined in the standard only for the purposes of the said standard. Such definition can thus not be used in a context other than the said standard. In this case, “list applicant” is defined in the standard because it includes different entities which are defined separately throughout FIMA. Please refer to section 91(5) of FIMA for the meaning of list applicants for investment managers.
CLAUSE 1 (o) Definition of	This Toolkit has not been shared with industry yet, hence it would be proper to share it	Share proposed Trustee Toolkit and reasoning behind the criteria therefore.	The Trustee Toolkit will be a free online learning program developed, hosted and administered by NAMFISA, at NAMFISA’s expense.

and reference to "Trustee Toolkit"	and obtain input before reference is made to such in a Standard		Once the Toolkit is availed to industry, NAMFISA will consider any input suggested by industry.
CLAUSE 3: Assessment requirements: individual or key person	Reference is made to reasonable grounds on which NAMFISA is of the opinion that the person is not likely to negatively affect the sound and prudent management of the financial institution or financial intermediary.	Reference to reasonable grounds to vague and too far reaching. This may well result in double standards and as far as the assessment of key individuals are concerned, it would be better to qualify exactly what this would entail and remove ambiguity and uncertainty in such way and avoid interpretational conflict of the same term in various manners.	It is common cause that reasonableness is the test in law which is fair and flexible. It is fair because it ensures that the decision is grounded in facts and evidence that would make sense to an ordinary, rational person and flexibility allows the law to adapt to a wide variety of situations and a rigid, one-size-fits-all approach may not be appropriate. Moreover, Namfisa will be guided by other factors and requirements provided in the Standard.
CLAUSE 4 (2) An individual or key person must demonstrate that they meet the requirements referred to in sub-clause (1) upon registration or authorisation for registration, and on an on-going basis	Reference is made to meeting requirements for fit and propriety as stipulated in sub clause (1) on an on-going basis. There is no reference made to how often an on-going basis would amount to and what would satisfy these requirements to NAMFISA expectations	Include that fit and propriety be submitted annually or include a specific timeframe for submission of this proof to the satisfaction of NAMFISA. Also include instances where there is a substantial change in the position of the individual or key person during the year, so that these updates be provided within a specified timeframe after the occurrence of specific events which may change the status of person's fitness and propriety	This means that the requirements set in sub-clause 1 should not only be demonstrated upon registration, but key persons must maintain the requirements under clause 4(1) whilst in Office. Furthermore, It means that a key person must act in accordance with the requirements set and in adherence to the principles and criteria of the assessments. Compliance will be assessed during normal supervisory processes (on-site and off-site surveillance/inspections).

CLAUSE (4)(3) refers to submission of Certificates of Conduct in (d)	Certificates of Conduct provides broad information which may not all be relevant to the nature of the fitness and propriety of a person.	Limit or stipulate the criteria which NAMFISA would consider in the determination of the fitness and propriety of an individual or key person. These should be limited to insolvency status and dishonesty or financial crimes.	A certificate of conduct is one issued by a law enforcement authority, typically a police department or government agency and mostly referred to as a criminal record certificate or police clearance certificate. In order for NAMFISA to be able to conduct a reasonable assessment of a person's fitness or propriety, NAMFISA will consider the relevance of any information provided to it. The decision of whether or not information is relevant cannot be made at this stage.
CLAUSE (4)(3)(f) refers to any other relevant information ... or that NAMFISA deems reasonably necessary and communicated to the individual or key person.	Reference to what NAMFISA may deem reasonably necessary is too vague and may open the door for interpretational issues which could have been avoided if the details were provided upfront.	Provide details and remove the discretion that NAMFISA would have to request information. What may be reasonably necessary for one person might not be what is reasonably necessary for the next person and thus clarity is better and remove the reasonability requirement	NAMFISA has a mandate in terms of FIMA and this mandate does require some discretion. Removal of the discretion would undermine the ability of NAMFISA to achieve the goals and aims of the Act. Also see response to clause 3 comment above.
CLAUSE 5 refers to the reasonable satisfaction of sound prudent management	These terms are vague and open to interpretation in many ways. These relative terms are not concrete enough to determine whether an entity is fit and proper.	Be specific in terms of what the entity would need to provide to prove financial soundness and stability and what the protection of consumers would entail. Do not leave terms open for interpretational disputes.	NAMFISA has a mandate in terms of FIMA and this mandate does require some discretion. Removal of the discretion would undermine the ability of NAMFISA to achieve the goals and aims of the Act. Also see response to clause 3 comment above.

CLAUSE 5(2)(b) refers to the conduct of the entity	An entity is a juristic person and cannot act of its own accord, hence this reference to actions of an entity cannot be considered as this is physically impossible.	Remove reference to conduct of an entity.	A juristic person can have conduct too, as it is treated as a separate legal entity with rights and responsibilities. The conduct of an entity would refer to how the entity behaves and carries out its activities as governed by its management, directors, etc.
CLAUSE 5(6)(c) refers to any other relevant information ... or that NAMFISA deems reasonably necessary and communicated to the individual or key person.	Reference to what NAMFISA may deem reasonably necessary is too vague and may open the door for interpretational issues which could have been avoided if the details was provided upfront.	Provide details and remove the discretion that NAMFISA would have to request information. What may be reasonably necessary for one person might not be what is reasonably necessary for the next person and thus clarity is better and remove the reasonability requirement.	NAMFISA has a mandate in terms of FIMA and this mandate does require some discretion. Removal of the discretion would undermine the ability of NAMFISA to achieve the goals and aims of the Act. Also see response to clause 3 comment above This is exactly why we cannot have a rigid approach because what may be reasonably necessary for one person might not be what is reasonably necessary for the next person
CLAUSE 7 refers to reasonable grounds of NAMFISA satisfaction	Reasonable grounds are vague and not defined. What would the test of the reasonable regulator in the position of NAMFISA entail in assessing whether a person or entity should be disqualified?	Provide clear and unambiguous guidelines and criteria for which the Regulator would determine their satisfaction on and remove reasonability.	NAMFISA has a mandate in terms of FIMA and this mandate does require some discretion. Removal of the discretion would undermine the ability of NAMFISA to achieve the goals and aims of the Act. Also see response to clause 3 comment above This is exactly why we cannot have a rigid approach because what may be reasonably necessary for one person might not be what is reasonably necessary for the next person
CLAUSE 8 refers to submission	These submissions are heard by the same entity that has required the need for the	Provide clarity as to where the submissions and who at NAMFISA would take ownership of these determinations? There should be segregation of duties in determining the need to act	This clause relates to a decision that NAMFISA is yet to take.

s being made to NAMFISA and being heard by NAMFISA	submission in the first place regarding the disqualification of a key person or entity, how would this work logistically? Will NAMFISA determine if they acted fairly in disqualifying an entity or key person, and if so, based on what?	against a key individual and the actual hearing of the arguments to the contrary.	Clause 8 is necessary to comply with the principles of natural justice, particularly giving a party audi - The right to a fair hearing (audi alteram partem), to give a party an opportunity to present their case before any decision is made.
CLAUSE 10(g) refers to reasonable grounds that NAMFISA may deem relevant or appropriate	Reasonability is problematic and this opens the door for wide variety of unrelated information and interpretational issues and disputes.	Codify instances in which rehabilitation criteria will be met or satisfied in the eyes of NAMFISA and remove reasonability allowance from NAMFISA's position.	Sub clauses (a) – (f) of this provision indicate when the rehabilitation criteria have been met, i.e. the instances. Sub clause (g) is an umbrella clause that seeks to cater for any instances that we cannot have foreseen to allow the Regulator to cater for those instances.
CLAUSE 11 Refers to reasonable grounds of satisfaction of NAMFISA	Reasonable grounds are vague and not defined. What would the test of the reasonable regulator in the position of NAMFISA entail in assessing whether a person or entity should be disqualified?	Provide clear and unambiguous guidelines and criteria for which the Regulator would determine their satisfaction on and remove reasonability.	NAMFISA has a mandate in terms of FIMA and this mandate does require some discretion. Removal of the discretion would undermine the ability of NAMFISA to achieve the goals and aims of the Act. Also see response to clause 3 comment above This is exactly why we cannot have a rigid approach because what may be reasonably necessary for one person might not be what is reasonably necessary for the next person
SCHEDULE 1 PART A refers to the 25% shareholding in the entity	In the previous rendition this was 20%, what informed the shift to the increased shareholding requirement?	Rationale for the increase of 5% from 20% to 25%. The Companies Act 28 of 2004 refers to one twentieth of the total voting rights in section 189. Why this discrepancy?	The shareholding requirement is aligned with similar requirements of the Financial Intelligence Act.

SCHEDULE 1 PART A refers to Portfolio managers and Investment managers having a Principal Officer	This schedule provides for the requirements of a principal officer for a portfolio manager and an investment manager.	Remove requirement for the Principal Officer and look at portfolio manager rather.	Agreed, the portfolio manager does not need to have a principal officer because it is deemed to be the principal officer in terms of the definition of principal officer in FIMA.
SCHEDULE 1 PART A assumes all entities and even key individuals have Principal Officers.	This is not practical and with the level of skill required with the qualification, the pool of candidates become smaller.	Only require principal officers from the entities which make use of such positions for their executive function.	It is a requirement of FIMA that every financial institution must have a Principal Officer.
SCHEDULE 1 PART B (e) refers to an appeal being lodged.	No reference as to where the appeal is to be lodged and no reference as to who the panel for the appeal would be	Provide clarity in as far as the appeal process and panel is concerned. In SA there is an ombud that would deal with these matters, in our case there is none, clarity hence required.	The Namibia Financial Institutions Supervisory Authority Act, 2021 (Act No. 3 of 2021), provides for an appeal Board. The Appeal process is contained under section 45 of the 2021 NAMFISA Act.
GENERAL OVERALL COMMENTARY	Too much discretion allowed for NAMFISA to determine what is required to satisfy criteria and not enough clarity as what these criteria would be and how exactly these would be provided for the acceptance of NAMFISA.	Overall clarity and removal of ambiguity is needed for the industry to know exactly what they need to do in order to satisfy NAMFISA requirements.	NAMFISA has a mandate in terms of FIMA and this mandate does require some discretion. Removal of the discretion would undermine the ability of NAMFISA to achieve the goals and aims of the Act. Also see response to clause 3 comment above . This is exactly why we cannot have a rigid approach because what may be reasonably necessary for one

			person might not be what is reasonably necessary for the next person
Clause 7	We appreciate NAMFISA doing perfect work, but there is something we appeal for NAMFISA to look at some issues, especially when sending attachments to the individual or company.	Please NAMFISA make sure that you contact individuals or companies to ask if they have gotten the attachment before due date arrives.	NAMFISA takes note of the comment.