

GOVERNMENT NOTICE

COLLECTIVE INVESTMENT SCHEMES

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. X

2018

STANDARDS MADE UNDER THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2018

The Namibia Financial Institutions Supervisory Authority has under sections 410(5)(p) and (bb) of the Financial Institutions and Markets Act, 2018 (Act No. X of 2018), made the Standards set out in the Schedule.

Estelle Tjipuka
Chairperson

Windhoek,

2018

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2018 [Act No. • of 2018]

DRAFT STANDARD

MINIMUM INVESTMENT PERIODS FOR INVESTMENTS IN A COLLECTIVE
INVESTMENT SCHEME IN UNLISTED SECURITIES

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

Standard No: CIS.S.4.5

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2018 [Act No. • of 2018]

Other information and material required for an authorized representative

Standard No. CIS.S.4.5

issued by NAMFISA under sections 410(5)(p) and (bb) of the Financial Institutions and Markets Act, 2018

Definitions

1. (1) In this Standard—

“Act” means the *Financial Institutions and Markets Act, 2018* [Act No. • of 2018], and includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;

“base currency” means the currency in which the assets are denominated;

“CIS” means a collective investment scheme as defined in section 168 of the Act;

“closed-end CIS” means a CIS that issues a fixed number of participatory interests that are not redeemable, that are traded in secondary markets and the market price of which may differ from its NAV price;

“constant NAV” means NAV per participatory interest that does not vary with changes in the assets and liabilities of a collective investment scheme

“fair-value of a security” means a price at which a security would sell in an orderly transaction to a willing buyer at the valuation date;

“fiduciary” has the same meaning as in the General Standards;

“fiduciary duty” has the same meaning as in the General Standards;

“functionary” means a principal officer, officers or employees of a manager or an individual acting for or representing an authorized representative that is a corporate body, including a director, principal officer or other officers of that corporate body;

“initial charge” means the costs incurred by the manager in the creation and issuance of a participatory interest and included in the price of the participatory interest;

“material information” has the same meaning as in the General Standards;

“NAV” means the “net asset value” of a participatory interest as determined in accordance with Standard CIS 5-11;

“offer” means to sell or offer to sell for cash any participatory interest to a client or a potential client;

“offer document” means a document containing information about a CIS or a portfolio of a CIS or offer of a participatory interest whether referred to as a prospectus, a fact sheet, notice, circular or by any other name and whether in printed or in electronic form;

“open-end CIS” means a CIS that issues and redeems participatory interests on an ongoing basis, changes its underlying assets from time to time and the NAV price of which is based on the value of assets;

“operator” means the operator of a foreign CIS;

“Rand” means the official currency of the Republic of South Africa;

“representative” means a representative appointed by a trustee or custodian of a CIS pursuant to subsection 189(6) of the Act;

“transaction” has the meaning ascribed thereto by section 78 of the Act, insofar as it is applicable in the context of these standards, and refers to a contract of sale and purchase of a participatory interest;

“underlying securities” means the assets of a portfolio;

“valuation date” means the date on which the value of a security is determined or the date at which the value of a transaction is determined; and

“variable NAV” means NAV per participatory interest that varies with changes in the assets and liabilities of a CIS.

- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including without limitation, the following—
 - (a) as defined in section 1 of the Act—

- (i) affiliate;
- (ii) associate;
- (iii) auditor;
- (iv) board;
- (v) client;
- (vi) corporate body;
- (vii) director;
- (viii) financial service;
- (ix) financial year;
- (x) NAMFISA;
- (xi) officer;
- (xii) principle office;
- (xiii) principal officer; and
- (xiv) person

(b) control as defined in section 3 of the Act

(c) as defined in section 78 of the Act —

- (i) exchange;
- (ii) issuer;
- (iii) investment manager;
- (iv) listed securities;
- (v) regulated person;
- (vi) security; and
- (vii) transaction.

(d) as defined in section 168 of the Act —

- (i) assets;
- (ii) authorized representative;
- (iii) collective investment scheme;
- (iv) custodian;
- (v) deed;
- (vi) designated representative;
- (vii) investor;
- (viii) manager;
- (ix) members of the public;
- (x) participatory interest;
- (xi) portfolio; and
- (xii) trustee;

- (e) collective investment scheme in participation bonds, as defined in section 201 of the Act;
- (f) collective investment scheme in unlisted securities, as defined in section 210 of the Act;
- (g) collective investment scheme in money market instruments, as defined in section 213 of the Act;
- (h) foreign collective investment scheme, as defined in section 218 of the Act; and
- (i) a person or manager connected with a foreign country or Namibia, as the case may be, as provided in section 220(2) of the Act.

Applicability

- 2. This Standard applies to a manager and a CIS in participation unlisted securities.

Minimum investment period

- 3.
 - (1) The deed of a CIS in unlisted securities must provide that investments in a CIS in unlisted securities must be for a period not less than seven years.
 - (2) Where, for any particular reason stated in the deed and in an offer document, the investment period is longer than seven years, the manager must disclose the minimum period of investment in such offer document and ensure that investors make an informed decision as to the investment in the CIS.
 - (3) An authorized representative of the manager must inform the potential investors of the minimum investment period when soliciting investments.
 - (4) Upon maturity or expiry of the minimum investment period, an investor has the right to redeem participatory interests unless the investor and the manager agree to extend the investment period, and the extended period is stated in the amended deed and offer document.
 - (5) Where an investor intends to redeem any participatory interest before the maturity or expiry of the minimum investment period, and a manager is able to redeem a participatory interest of an investor, the manager may redeem the participatory interest as long as the redemption does not in any way prejudice the other investors.