

GOVERNMENT NOTICE

MINISTRY OF FINANCE

No.

2018

**REGULATION MADE IN TERMS OF THE FINANCIAL INSTITUTIONS AND MARKETS
ACT, 2018**

The Minister of Finance has, under subsection 465(9) of the Financial Institutions and Markets Act, 2018 (Act No • of 2018), made the regulations set out in the Schedule.

MINISTER OF FINANCE

WINDHOEK

2018

SCHEDULE

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

DRAFT REGULATION

THE MINIMUM OR MAXIMUM OR BOTH THE MINIMUM AND MAXIMUM AMOUNTS
WHICH A FRIENDLY SOCIETY MAY INVEST

MINISTRY OF FINANCE

Regulation No: FS.R.6.2

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

The minimum or maximum or both the minimum and maximum amounts which a friendly society may invest

Regulation No. FS.R.6.2

issued by the Minister under section 465(9)(d) of the Financial Institutions and Markets Act, 2018

Definitions

1. (1) In these Regulations-
 - (a) “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;
 - (b) “stock exchange within the common monetary area” means any stock exchange authorized by or under the laws of a country of the common monetary area to function as, or carry on the business of, a stock exchange in that country;
 - (c) “banking institution” means an institution registered under the *Banking Institutions Act, 1998* (Act No. 2 of 1998), and includes a banking institution authorised as such under the laws of a country other than Namibia;
 - (d) “building society” means a building society registered under the *Building Societies Act, 1986* (Act 82 of 1986), and includes a building society authorised as such under the laws of a country other than Namibia;
 - (e) “common monetary area” means the Republic of Namibia, the Kingdom of Lesotho, the Kingdom of Swaziland and the Republic of South Africa;
 - (f) “domestic asset” means an asset in a company incorporated in Namibia and includes assets in a company incorporated outside Namibia if such assets have been acquired on a stock exchange registered under the Act and any other asset designated as a domestic asset by the Minister of Finance by notice in the Gazette;

- (g) “local authority council” means any municipal council, town council or village council as defined in section 1 of the *Local Authorities Act, 1992* (Act No. 23 of 1992);
- (h) “market value” means the price as quoted on an exchange registered under this Act or any other law of another country, within a period of three months immediately preceding the date to which the quotation relates, which value shall be shown in the statement at an amount not exceeding the value determined according to the price last so quoted, provided that if such quotation relates to a date other than the date to which the statement of assets relates, the said amount shall be properly adjusted in the case of:
- (i) interest-bearing assets, by the difference between the amount of the interest which had accrued from the last date on which interest was payable up to the date of the quotation in question and the corresponding amount of interest accrued up to the date to which the statement relates; and
 - (ii) any share on which dividends have been declared, by the difference between the amount of any dividend which had been declared but not paid on the date of the quotation and the amount of any dividend which had been declared but not paid on the date to which the statement relates;
- (j) “Post Office Savings Bank” means the Savings Bank controlled and managed by the Namibia Post Limited established by section 2(1)(a) of the *Posts and Telecommunications Companies Establishment Act, 1992* (Act No. 17 of 1992), and includes a savings bank or similar institution authorised as such under the laws of a country other than Namibia;
- (k) “property company” means a company:
- (i) of which 50 per cent or more of the market value of its assets consists of immovable property, irrespective of whether such property is held directly by the company as registered owner or indirectly by way of ownership of the shares of the company which is the registered owner of the property or which exercises control over the company which is the registered owner of the property; or
 - (ii) of which 50 per cent or more of its income is derived from investments in immovable property, or from an investment in a company 50 per cent or

more of the income of which is derived from investments in immovable property;

- (l) “regional council” means a regional council as defined in section 1 of the *Regional Councils Act, 1992* (Act No. 22 of 1992); and
- (m) “state-owned enterprise” means an entity that is named in Schedule 1 to the *State-Owned Enterprises Governance Act, 2006* (Act No. 2 of 2006);
- (2) Words and phrases defined in the Act have the same meaning in these Regulation, unless the context indicates otherwise, including without limitation the following-
 - (a) as defined in section 1 of the Act-
 - (i) auditor;
 - (ii) board;
 - (iii) friendly society;
 - (iv) NAMFISA; and
 - (v) principal officer;
 - (b) “policy” as defined in section 2 of the Act;
 - (c) as defined in section 168 of the Act-
 - (i) collective investment scheme;
 - (ii) portfolio; and
 - (d) “society” as defined in section 284 of the Act;

Applicability

- 2. This regulation applies to all friendly societies registered under the Act, and to their auditors, boards of trustees, administrators, and principal officers.

Investment limits

3. Subject to sub-regulations 4, 6 and 7, a friendly society may only invest in assets set out in column 2 of Annexure 1 and only to the extent set out in Column 3 of that Annexure in respect of such asset, but -
 - (a) the aggregate of the market value of investments in assets referred to in items 6 and 7 in Column 2 of that Annexure, expressed as a percentage, may not exceed 85 per cent; and
 - (b) the aggregate of the market value of investments in assets referred to in items 6, 7, 8 and 9 in Column 2 of that Annexure, expressed as a percentage, may not exceed 90 per centof the total assets of the friendly society.
4. Despite sub-regulation 3, a friendly society must keep invested in domestic assets not less than 35 per cent of the market value of its assets.
5. A friendly society must within 90 days or such shorter period as determined by NAMFISA by written notice, after the end of each calendar quarter, submit to NAMFISA a statement of investment holdings in such form as NAMFISA may determine.
6. In the application of this regulation with regard to the total assets of a friendly society, a policy issued to the society by an insurer carrying on long-term insurance business or short-term insurance business as contemplated in Chapter 2 of the Act is regarded not to be an asset of the society.
7. In the application of this regulation with regard to the total assets of a friendly society where a friendly society invests in a collective investment scheme as defined in Chapter 4 of the Act, such investment is regarded as a proportionate investment in the unit portfolio's underlying securities.
8. Any investment made outside the common monetary area must comply with such limitations as may be determined under Chapter 3 of the Act from time to time.
9. NAMFISA, on written application by a friendly society, may grant such friendly society written exemption from any of the provisions of this regulation upon such conditions as NAMFISA may impose.

SUPPORTING ANNEXURE

The following supporting annexure is attached to and form part of this Regulation:

1. Annexure 1 - Limits of investments

DRAFT

ANNEXURE 1
LIMITS OF INVESTMENTS

(Regulation FS.R.6.2)

Column 1	Column 2	Column 3
Kind of Asset	Definition of Asset	Maximum percentage of aggregate market value of total assets
1. Credit Balances	<p>Deposits with and balances in current and savings accounts with banking institutions or a building society, including negotiable deposits and money market instruments in terms of which such a bank or mutual building society is liable including paid up shares of a building society, or deposits and savings accounts with the Post Office Savings Bank:</p> <p>(a) Per banking institution (b) Per building society (c) Post Office Savings Bank</p> <p>Total investments of a society in assets in this category</p>	<p>20% 20% 20%</p> <p>100%</p>
2. Government Bonds	Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Government of the Republic of Namibia.	95%
3. State owned enterprise, local authority and regional council Bonds	<p>Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by state owned enterprise, local authority or regional council in the Republic of Namibia:</p> <p>(a) Per local authority authorized by law to levy rates upon immovable property (b) Per regional council authorized by law to levy rates upon immovable property (c) Per state owned enterprise (d) DBN Development bank of Namibia</p> <p>Total investments of a society in assets in this category</p>	<p>20% 20% 20% 20%</p> <p>30%</p>
4. Corporate Bonds	<p>Bills, bonds or securities issued by or loans to an institution in Namibia:</p> <p>Per institution</p> <p>Total investments of a society in assets in this category</p>	<p>20%</p> <p>50%</p>

5. Foreign bonds	<p>Bills, bonds or securities issued by the government or any other institution in a country other than Namibia:</p> <p>Per government 40%</p> <p>Per institution 10%</p> <p>Total investments of a society in assets in this category 50%</p>	
6. Property	<p>Immovable property and shares in, loans to and debentures both convertible and non-convertible, of property companies</p> <p>(a) Per single property 5%</p> <p>(b) Per property development project 5%</p> <p>Total investments of a society in assets in this category 10%</p>	
7. Shares	<p>Preference and ordinary shares in companies(excluding shares in property companies), convertible debentures whether voluntary or compulsorily convertible (but excluding debentures of property companies):</p> <p>Provided that-</p> <p>(a) shares and convertible debentures in a single company or related party listed on a stock exchange within the common monetary area -</p> <p>(i) with a market capitalization of N\$ 5 000 million or less are limited to 5%</p> <p>(ii) with a market capitalization of more than N\$ 5 000 million are limited to 10%</p> <p>(b) shares and convertible debentures in a single company or related party listed on a stock exchange licensed under Chapter 3 of the Act -</p> <p>(i) with a market capitalization of N\$ 500 million or less are limited to 5%</p> <p>(ii) with a market capitalization of more than N\$ 500 million are limited to 10%</p> <p>(c) shares and convertible debentures in a single company or related party listed on a stock exchange outside the common monetary area -</p> <p>(i) with a market capitalization of N\$ 5 000 million or less are limited to 5%</p>	

	(ii) with a market capitalization of more than N\$ 5 000 million are limited to	10%
	Total investments of a society in assets in this category	75%
8. Other Claims	<p>Debentures (listed and unlisted but excluding convertible debentures) and any other secured claims against natural persons and companies (excluding loans to and debentures of property companies):</p> <p>Provided that –</p> <p>(a) Claims against any one natural person are limited to</p> <p>(b) Claims against any single company are limited to</p> <p>Total investments of a society in assets referred to in this item</p>	<p>0.25%</p> <p>5%</p> <p>25%</p>
9. Other Assets	<p>Any other asset not referred to in this Annexure, per category or kind of asset, excluding –</p> <p>(a) Moneys in hand; and</p> <p>(b) Any other asset designated by the Minister by notice in the <i>Gazette</i>.</p>	2.5%