

GOVERNMENT NOTICE

MEDICAL AID FUNDS

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 section 410 of the Financial Institutions and Markets Act, 2018 (Act No. X of 2018), made the standards set out in the Schedule.

Gersom Katjimune

**Chairperson
2018**

Windhoek,

DRAFT STANDARD

THE REQUIREMENTS FOR THE VOLUNTARY TERMINATION OR DISSOLUTION
OF A MEDICAL AID FUND PURSUANT TO SECTION 358, AND IN THE
CIRCUMSTANCES SPECIFIED IN ITS RULES

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

Standard No: MAF.S.7.8

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

**The requirements for the voluntary termination or dissolution of a medical aid fund
pursuant to section 358, and in the circumstances specified in its rules**

Standard No. MAF.S.7.8

*issued by NAMFISA under section 410(8)(bb) of the Financial Institutions and Markets Act,
2018*

Definitions

1. (1) In this Standard-
 - (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) “Companies Act” means the *Companies Act, 2004* (Act No. 28 of 2004);
 - (c) “final accounts” means the final revenues and expenses account and the final balance sheet; and
 - (d) “preliminary accounts” means the preliminary revenues and expenses account and the preliminary balance sheet.
- (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) medical aid fund;
 - (ii) NAMFISA;
 - (iii) principal officer; and
 - (iv) valuator;
 - (b) as defined in section 321 of the Act:
 - (i) board of trustees or board;

- (ii) fund;
- (iii) fund administrator;
- (iv) member; and
- (v) rules.

Applicability

2. This Standard applies to every medical aid fund registered under the Act, and to the board of trustees, fund administrator, if any, and principal officer of such medical aid fund and to a liquidator appointed under clause 11.

Requirements for voluntary dissolution

3. The rules of a medical aid fund must provide procedures for the voluntary dissolution of the medical aid fund.
4. A fund must dissolve, and its operations must be wound up, on the first to occur of the following events:
 - (a) an order of a court for voluntary dissolution; or
 - (b) a decision taken by at least 75% of the members present at a general, special or extraordinary meeting in favour of the dissolution of the fund, following which the board must arrange for each member to vote by ballot pursuant to clauses 6 – 9
5. Subject to an evaluation of the particular circumstances and the rules of the fund, NAMFISA must determine whether a medical aid fund meets the requirements for voluntary dissolution.
6. Following a decision by members pursuant to clause 4(b), the principal officer must, in consultation with NAMFISA, furnish every member with a memorandum containing the reasons for the proposed dissolution, together with a resolution to that effect as contemplated in clause 4(b) and a ballot paper.
7. The memorandum and ballot paper referred to in clause 6 must be submitted to NAMFISA for approval before being sent to the members.
8. Every member must be requested to return the ballot paper, duly completed, before a specified date, which date must not be later than 90 calendar days after the memorandum as contemplated in clause 6 is furnished to members.

9. If at least 75 % of all members return their ballot papers, duly completed, and the majority of the 75% is in favour of the dissolution of the medical aid fund, the board must dissolve the fund.
10. If two successive attempts to obtain a 75 % return of ballot papers fail, the board must refer the matter to NAMFISA for guidance.
11. (1) If the majority of members have voted in favour of dissolution pursuant to clause 9, a liquidator from the list, referred to in clause 13, must be appointed for the fund-
 - (a) in the manner directed by the fund's rules; or
 - (b) if the rules do not contain directions as to such appointment, by the board of the fund,
provided that such appointment is subject to approval by NAMFISA.(2) The dissolution of the fund shall be regarded to commence on the date of the approval by NAMFISA of the appointment of the liquidator.
12. A copy of the resolution by the members of the fund approving the dissolution of the fund and the remuneration of the liquidator must be submitted to NAMFISA and kept with the records of the fund.
13. NAMFISA may maintain a list of persons approved by NAMFISA to act as liquidators of medical aid funds, the purpose of the list being to expedite the appointment of a liquidator by a fund and the approval of such appointment by NAMFISA.
14. During the period of dissolution of the medical aid fund, the provisions of the Act shall continue to apply to the fund as if the liquidator is the board of the fund.
15. The liquidator must, as soon as possible but within 90 calendar days from the date of the approval of his or her appointment, deposit with NAMFISA the preliminary accounts in the form of Schedule 1 (*Forms A to C* to this Standard), signed and certified by the liquidator as correct and showing the assets and liabilities of the fund at the date of commencement of the dissolution and the manner in which it is proposed to realise the assets and to discharge the liabilities, including any liabilities and contingent liabilities to or in respect of members.
16. The liquidator must discharge from the assets of the medical aid fund all of the debts, liabilities and obligations of the fund (including all expenses incurred in liquidating the fund) or otherwise make adequate provision for payment and discharge thereof,

including, if the liquidator considers it necessary, the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine.

17. NAMFISA may, at its discretion and at its own cost, direct the liquidator to submit a report, drawn up by an independent valuator or other competent person nominated by NAMFISA, on the preliminary accounts referred to in clause 15.
18. The preliminary accounts and report (if any) referred to in clauses 15 and 17 must be open for inspection by members and other interested parties for a period of 30 days at the office of NAMFISA and at the principal office of the medical aid fund.
19. The liquidator must publish a notice, at the cost of the fund, in the Government Gazette and in a national or regional/local newspaper in the English language or, if the liquidator deems it necessary in the circumstances, in any other language, circulating in the district in which the principal office of the fund is situated, stating the period during which and the places at which the preliminary accounts and report (if any) shall be open for inspection by members and other interested persons, which period shall be 30 days as contemplated in clause 18.
20. The notice referred to in clause 19, must state that any member or other interested person who has any objection to the preliminary accounts and report (if any), may lodge their objections in writing with NAMFISA within a period stated in the notice, which period shall be 30 days calculated from the last day on which those documents are open for inspection.
21. The text of the notice referred to in clause 19 must be approved by NAMFISA prior to its publication.
22. If no objections are lodged with NAMFISA pursuant to clause 20, and NAMFISA is satisfied with the preliminary accounts, NAMFISA may direct the liquidator to complete the dissolution.
23. If objections are lodged with NAMFISA pursuant to clause 20, NAMFISA may, after considering the objections, direct the liquidator to amend the preliminary accounts or give such other directives relating to the dissolution as NAMFISA consider fit, provided such directives are not inconsistent with the rules of the fund, and any such directive shall be binding upon the liquidator.
24. The liquidator must forthwith, upon the receipt of any directive of NAMFISA pursuant to clause 23, send a copy of the directive to every member, beneficiary, shareholder (where applicable) and creditor of the fund if it is practically possible, else publish a notice of the directive, at the cost of the fund, in a national or regional/local newspaper in the English language or, if the liquidator deems it necessary in the circumstances, in

any other language, and the liquidator or any person aggrieved by any such directive may appeal to the Appeal Board in terms of section 38 of the NAMFISA Act.

25. If NAMFISA is satisfied that its directives, in so far as they have not been varied or set aside by the Appeal Board, have been given effect by the liquidator, NAMFISA may direct the liquidator to complete the dissolution.
26. Not later than 30 days after completion of the dissolution, the liquidator must lodge with NAMFISA the final accounts in the form of Schedule 1 (*Forms A to C* of this Standard), signed and certified as correct by the liquidator and showing the assets and liabilities of the fund at the commencement of the dissolution and the manner in which the assets have been realised and the liabilities (including any liabilities and contingent liabilities to or in respect of members), have been discharged.
27. The provisions of the Companies Act relating to a voluntary winding-up, shall apply *mutatis mutandis* to the dissolution of a fund in accordance with this Standard.
28. All claims against the fund must be proved to the satisfaction of the liquidator, subject to the decision of the Adjudicator, and the liquidator may require any claim to be made on affidavit.
29. If satisfied that the final accounts prepared by the liquidator in respect of the fund are correct and that the dissolution has been completed, NAMFISA must, subject to clause 34, cancel the registration of the fund and thereupon the fund must be regarded to be dissolved.
30. The provisions of this Standard shall not apply to a fund if the dissolution of the fund is a result of an amalgamation or transfer approved by NAMFISA pursuant to Part 8 of Chapter 10 of the Act.
31. In exercising its powers and functions under this Standard, NAMFISA may request any additional information not provided for in this Standard that NAMFISA considers necessary or desirable.

Application to be listed on the list of approved liquidators for medical aid funds

32. In order to be approved by NAMFISA to act as liquidator of a medical aid fund and added to the list referred to in clause 13, a person must submit an application to NAMFISA in the form of Schedule 2 (*Form A*).

Application for approval of the appointment of a liquidator under clause 11

33. Upon the appointment of a liquidator by a medical aid fund and the acceptance by the liquidator of the appointment, the following documents must be submitted to NAMFISA for purposes of approving the appointment of the liquidator:
- (a) an application in the form of Schedule 2, *Form B*, completed by the board of the fund;
 - (b) an application in the form of Schedule 2, *Form C* completed by the appointed liquidator; and
 - (c) a copy of the resolution by the members approving the dissolution of the fund.

Application for cancellation of the registration of a fund pursuant to clause 29

34. Before NAMFISA may cancel the registration of a fund pursuant to clause 29, the liquidator must submit an application to NAMFISA in the form of Schedule 2, *Form D*.

SUPPORTING SCHEDULES

The following supporting schedules are attached to and form part of this Standard:

Schedule 1

Form A Preliminary/Final Dissolution Accounts

Form B Preliminary/Final Dissolution Accounts

Form C Preliminary/Final Dissolution Accounts

Schedule 2

Form A: Application to be added to the list of liquidators approved by NAMFISA to act as liquidators of funds pursuant to clause 13

Form B: Application by the board of a fund for the approval of the appointment of a liquidator pursuant to clause 11

Form C: Application by the liquidator to be appointed to a fund pursuant to clause 11

Form D: Application for the cancellation of the registration of a fund pursuant to clause 29

Schedule 1

FORM A
PRELIMINARY/FINAL DISSOLUTION ACCOUNTS pursuant to clause 15 and clause 26 of Standard No. MAF.S.7.8 made under the Financial Institutions and Markets Act, 2018 [Act No. • of 2018]

..... (name of fund)

REGISTRATION NUMBER: 25/7/7/.....

Preliminary/Final Statement of Funds and Net Assets at the commencement of the dissolution as on (date)

1 FUNDS

- 1.1 ACCUMULATED FUNDS
- 1.2 RESERVES
- 1.2.1 (Specify)
- 1.2.2 (Specify)
- 1.2.3 (Specify)

TOTAL FUNDS AND RESERVES

2 FIXED ASSETS AND INVESTMENTS

- 2.1 FIXED ASSETS
- 2.2 INVESTMENTS
- 2.3 CURRENT ASSETS
- 2.3.1 Accounts receivable
- 2.3.2 Income accrued
- 2.3.3 Arrear contributions
- 2.3.4 Cash at bank
- 2.3.5 Other (specify)

TOTAL ASSETS

3 LESS: LIABILITIES

3.1 LONG TERM LIABILITIES

3.1.1 (Specify)

3.1.2 (Specify)

3.2 CURRENT LIABILITIES

3.2.1 Contributions in advance

3.2.2 Accounts payable

3.2.3 Claims/Benefits due

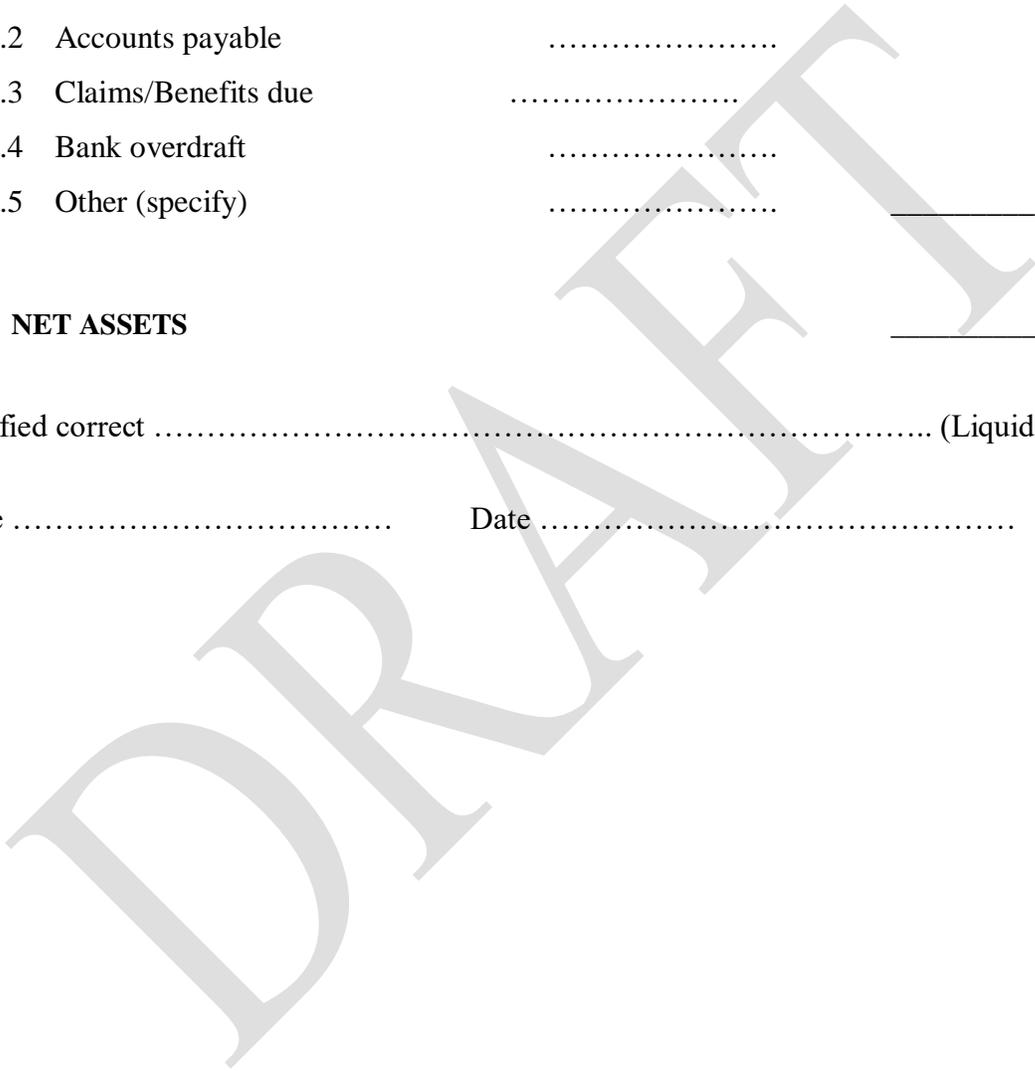
3.2.4 Bank overdraft

3.2.5 Other (specify)

NET ASSETS

Certified correct (Liquidator)

Place Date



FORM B

PRELIMINARY/FINAL DISSOLUTION ACCOUNTS pursuant to clause 15 and clause 26 of Standard No. MAF.S.7.8 made under the Financial Institutions and Markets Act, 2018 [Act No. • of 2018]

..... (name of fund)

REGISTRATION NUMBER: 25/7/7/.....

Preliminary/Final Realisation Account at(date)

1. RECEIPTS

(Details of amounts realised by assets in accordance with the Preliminary/Final Statement of Funds and Net Assets as per Form A)

Description	Value as per statement	Realisable value
.....
.....
Other receipts		<u>.....</u>
.....	
.....	

2. LESS: LIABILITIES

(Details from the Preliminary/Final Statement of Funds and Net Assets in Form A)

Description

.....
.....
.....

DISTRIBUTION ACCOUNT AS PER FORM C

N\$

Certified correct (Liquidator)

Place Date

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Total as per Preliminary/Final realisation account in Form B	N\$
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Certified correct (Liquidator)

Place Date

Schedule 2

FORM A			
APPLICATION TO BE ADDED TO THE LIST OF LIQUIDATORS APPROVED BY NAMFISA TO ACT AS LIQUIDATORS OF FUNDS			
pursuant to clause 13 of Standard No. MAF.S.7.8 made under the Financial Institutions and Markets Act, 2018 [Act No. • of 2018]			
I, hereby apply to be added to the list of liquidators approved by NAMFISA to perform dissolutions of funds, pursuant to clause 13 of Standard No.MAF.S.7.8			
1.	Surname:		
2.	Full Names		
3.	Identity / passport Number		
4.	Postal address:		
5.	Registered address (<i>domiculum citandi et executandi</i>) where documents and records will be kept in safe custody or where legal documents can be served:		
6.	Telephone number:		
7.	Cell phone number:		
8.	E-mail address:		
		Yes/ No	Comments
9.	Are you fully conversant with the provisions of the Act, Regulations and Standards as well as the relevant requirements, policies and procedures in respect of the dissolution of funds?		
10.	Have you ever been convicted of an offence resulting from dishonesty, fraud or embezzlement? If so, give details:		

11.	Has your estate ever been sequestrated or a business in which you had a financial interest been dissolved? Are you a rehabilitated insolvent? If so, kindly provide details.		
12.	Have you been involved as a controlling shareholder or director of a company or close corporation at the time it was placed under judicial management or in liquidation/dissolution?		
13.	Have you been subject to disciplinary proceedings by an employer or regulatory body? If so, kindly provide details.		
14.	Have you ever been barred from entry into any profession or occupation? If so, kindly provide details.		
15.	What experience have you had in the liquidation/dissolution of a medical aid fund or other financial institution? Describe		

A copy of my Curriculum Vitae in relation to medical aid funds is attached hereto.

I hereby certify that the abovementioned information is true, correct and complete and further undertake to advise NAMFISA of any important changes to the above information.

I hereby agree that NAMFISA may perform reference checks and verification of qualifications, as well as require me to submit a police clearance certificate to NAMFISA.

SIGNATURE OF APPLICANT		DATE
FULL NAMES IN BLOCK LETTERS		

FORM B			
APPLICATION BY THE BOARD OF A FUND FOR THE APPROVAL OF THE APPOINTMENT OF A LIQUIDATOR			
pursuant to clause 11 of Standard No. MAF.S.7.8 made under the Financial Institutions and Markets Act, 2018 [Act No. • of 2018]			
Name of Fund:			
Fund Registration Number:			
Rule Reference number:			
Full Name of Liquidator:			
Identity / passport number of Liquidator:			
		Yes/No	Comments
1.	Are the rules and all rule amendments, in respect of the fund submitted?		
2.	Are all transfers (if any) in respect of the fund until the date of appointment of the Liquidator approved?		
3.	Are all valuation reports submitted?		
4.	Are all financial statements submitted?		
5.	Are there any arrear contributions outstanding?		

6.	Are there any outstanding tax liabilities?		
8.	What is the average benefit per member of the fund as at date of the application?		
9.	What is the number of members participating in the fund as at date of the application?		
10.	What is the total value of the assets of the fund as at date of the application?		

Kindly provide any additional information, of which you are aware and which may be of assistance to NAMFISA:

.....

We, the board of the Fund hereby confirm that we have considered the fit and proper requirements in connection with the Liquidator and confirm that we are satisfied with such appointment.

SIGNATURE OF CHAIRPERSON		SIGNATURE OF BOARD MEMBER
FULL NAMES IN BLOCK LETTERS		FULL NAMES IN BLOCK LETTERS

DATE		DATE
SIGNATURE OF PRINCIPAL OFFICER		
FULL NAMES IN BLOCK LETTERS		
DATE		

Note: The duly signed board resolution by a properly constituted board of trustees must be attached hereto.

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FORM C

APPLICATION BY THE LIQUIDATOR TO BE APPOINTED TO A FUND

pursuant to clause 11 of Standard No. MAF.S.7.8 made under the Financial Institutions and Markets Act, 2018 [Act No. • of 2018]

Name of Fund:	
Fund Registration Number:	
Full Names of Liquidator:	
Identity / passport number of Liquidator:	

1 I have not been involved in the management, administration, valuation or auditing of the abovementioned Fund, except for the following (where applicable):
·
.....
.....

2 My appointment would not cause any conflict of interest in performing my duties as Liquidator of the Fund, except for the following (where applicable):
·
.....
.....

3 I am aware of the provisions of clause 14 of Standard No. MAF.S.7.8 whereby I will be appointed in my personal capacity and will take responsibility for the Fund in the place of the board of the Fund and undertake to safeguard the assets of the Fund;
·

4 I will discharge my duty to the best of my ability and act in the best interest of members of the Fund;
·

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5	<p>All information previously provided and my declaration made in respect of my application to be added to the list of liquidators approved by NAMFISA to act as liquidators of funds (Form A)</p> <p>have/has not materially changed. Provide details in respect of any material changes:</p> <p>.....</p> <p>.....</p>
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I hereby certify that the abovementioned information is true, correct and complete and further undertake to inform NAMFISA about any important changes to the above information.

.....

.....

LIQUIDATOR AS APPLICANT		FULL NAMES IN BLOCK LETTERS
DATE		

FORM D**APPLICATION FOR CANCELLATION OF REGISTRATION OF THE FUND**

pursuant to clause 29 of Standard No. MAF.S.7.8 made under the Financial Institutions and Markets Act, 2018 [Act No. • of 2018]

Name of Fund:	
Fund Registration Number:	
Full Names of Liquidator:	
Identity / passport number of Liquidator:	
Name of Administrator	
I, hereby declare that all benefits have been paid in terms of the dissolution accounts and that there are no members, assets or liabilities remaining in the fund and the Fund ceased to exist on .../...../ 20.....	
I hereby declare that the abovementioned is true and correct.	
SIGNATURE OF APPROVED LIQUIDATOR / ADMINISTRATOR	FULL NAMES IN BLOCK LETTERS
DATE	