

GOVERNMENT NOTICE

FINANCIAL MARKETS

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. X

2021

STANDARDS MADE UNDER THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

The Namibia Financial Institutions Supervisory Authority has under section 410(5)(x) of the Financial Institutions and Markets Act, 2021 (Act No. X of 2021), made the Standards set out in the Schedule.

Gersom Katjimune
Chairperson

Windhoek,

2021

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021 [Act No. • of 2021]

DRAFT STANDARD

MEANING OF “NET ASSET VALUE” FOR THE PURPOSES OF SECTION 238 OF THE ACT

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

Standard No: CIS.S.4.11

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021 [Act No. • of 2021]

Meaning of “net asset value” for the purposes of section 238 of the Act

Standard No. CIS.S.4.11

issued by NAMFISA under section 410(5)(x) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard—
 - (a) “Act” means the *Financial Institutions and Markets Act, 2021* [Act No. • of 2021], 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) “CSD” means a central securities depository as defined in the Act;
 - (d) “equity securities” means shares as defined in section 1 of the Companies Act;
 - (e) “material” means any factual information about an issuer or securities issued which is likely or reasonably expected to influence and investor’s decision
 - (f) “non-equity security” means securities that are not equity securities;
 - (g) “offer” means to sell or offer to sell any security to a client or potential client for valuable considerations;
 - (h) “offer document” means a document containing information about an issuer or offer of securities whether referred to as a prospectus, a term sheet, notice, circular or by any other name and whether in printed or in electronic form, and includes the particulars specified in subsection 109(6) of the Companies Act;
 - (i) “prospectus” means a prospectus within the meaning of section 1 of the Companies Act; and

- (j) “transaction” has the meaning ascribed thereto by section 78 of the Act, but for the purposes of this Standard also includes any other transfer, e.g., by way of a gift, testamentary disposition, cession, or pledge, of listed securities outside the registered exchange on which such securities are listed
- (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) board;
 - (iv) client;
 - (v) director;
 - (vi) financial year;
 - (vii) foreign entity;
 - (viii) Generally Accepted Accounting Practice;
 - (ix) International Accounting Standards;
 - (x) NAMFISA;
 - (xi) officer; and
 - (xii) person
 - (b) control as defined in section 3 of the Act
 - (c) As defined in section 78 of the Act —
 - (i) central securities depository;
 - (ii) exchange;
 - (iii) foreign exchange;
 - (iv) issuer;
 - (v) listed security;
 - (vi) regulated person;
 - (vii) security; and
 - (viii) transaction.

Applicability

- 2. This Standard applies to collective investment schemes, managers and operators, trustees and custodians

Meaning of NAV

3. (1) For the purposes of section 238 of the Act:
 - (a) NAV means the fair value of total assets less the fair value of total liabilities, including permissible deductions of a CIS, other than a CIS in money market instruments, determined in accordance with Standard No. CIS.S. 4.14 or the rules for a CIS as determined in a Standard;
 - (b) the NAV per participatory interest in a CIS, other than a CIS in money market instruments, equals the NAV divided by the total participatory interests outstanding on the valuation date, including participatory interests created in lieu of income accruals up until the valuation date;
 - (c) the NAV per participatory interest in a CIS in money market instruments must be based on amortized costs and interest and equals a constant NAV per participatory interest of 100 cents or other constant NAV per participatory interest as set out in the CIS deed

Determination of NAV

4. (1) Where a manager or operator, trustee or custodian determines the NAV of a participatory interest of a security held in a foreign currency, other than the Rand, the manager or operator, trustee or custodian may use the exchange rate on the transaction or valuation date, the marked-to-market value, bid prices or the average of bid-asked prices, or the fair value for translation purposes and must specify the method used in the CIS deed.
- (2) Where the assets of a collective investment scheme decrease in value and the decrease is not expected to be temporary, the manager must write down the assets, and where the solvency of assets deteriorated significantly or if more than 90 days passed since the maturity of assets without the CIS receiving the assets, the manager must write down the assets for the purpose of determining the NAV of a participatory interest.
- (3) Where a portfolio of a collective investment scheme has more than one class of participatory interest, the manager must determine a portfolio NAV per participatory interest on a pro-rata basis of classes, or both a class NAV and a portfolio NAV, after taking

into consideration the expenses incurred in respect of classes and appropriately allocating assets and liabilities to each class to ensure the fair treatment of investors of the same class and different classes.

(4) In determining the NAV per participatory interest, the manager or operator, trustee or custodian owe a fiduciary duty of skill, diligence and care to avoid pricing errors and prejudice to investors.

(5) Where pricing errors occur, the manager must report to NAMFISA and to the investors any error in excess of 0.5% of the NAV per participatory interest, state the nature of the error, provide an explanation for the error, and provide a statement of remedial action.

(6) The manager must determine and publish a class or portfolio NAV per participatory interest in an open-ended CIS on a daily basis, or such other regular intervals suitable to a CIS, in terms of the disclosed valuation and pricing basis adopted by the CIS in accordance with the CIS deed as may be amended from time to time.

(7) In the case of a closed-end CIS, the manager must determine and publish a class or portfolio NAV per participatory interest at least once a year at the financial year end of the CIS, unless the manager shows cause why a NAV cannot be determined and published at financial year end: Provided that the manager determines and publishes a class or portfolio NAV per participatory interest not later three months from the financial year end of the CIS.

(8) The calculation of the NAV of a participatory interest in a CIS, other than a CIS in money market instruments, must be in accordance with Appendix X.

(9) Where the calculation of the NAV, for whatever reason, deviates from Appendix X, a manager and trustee or custodian must forthwith notify NAMFISA of this with a proposed manner of calculation of the NAV and reasons therefor in writing.

Appendix X

	A		Assets, including write downs
Less	B		Liabilities, including permissible deductions
Equals	C	$C=A - B$	Net asset value (NAV)
Divided by	D		Outstanding participatory interests
Equals	E	$E=C / D$	NAV per participatory interest

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