

**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 145 and subsection 410(4)(p) 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

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ANNUAL REPORT OF SELF-REGULATORY ORGANIZATION

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NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

**Standard No: FM.S.3.2**

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

**Annual report of self-regulatory organization**

**Standard No. FM.S.3.2**

*issued by NAMFISA under section 86 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 f 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 every registered exchange, and includes an exchange referred to in section 86 of the Act, and every registered central securities depository.

### **General requirements**

3. (1) A self-regulatory organization must submit to the registrar within 90 days after the end of its financial year an annual report that must contain the following information:

- (a) a list of the members of the board of the self-regulatory organization and any changes thereto over the last financial year;
- (b) a list of members of the executive management of the self-regulatory organization and any changes thereto over the last financial year;
- (c) a list of authorized users or participants of the self-regulatory organization and any changes thereto over the last financial years;
- (d) a report by the chairperson of the board or the principal officer responsible for reviewing the operations of the self-regulatory organization, including delegated functions, over the last financial year;
- (e) the auditor's report on financial statements;
- (f) a summary of market information which must reflect the salient features of the trading, clearing and settlement, depository or other activities, as applicable, of the self-regulatory organization and disciplinary or remedial actions taken or penalties imposed by the self-regulatory organization;
- (g) a report detailing the self-regulatory organization's initiatives and plans to comply with governance requirements under the Act or to implement any recommended governance principles or standards; and
- (h) a report on risk management, operational integrity and related issues.

#### **Requirements for registered exchange**

- 4. (1) Where the self-regulatory organization is a registered exchange, the annual report must also contain:
  - (a) the surveillance program and compliance plan with respect to the exchange rules, including trading, clearing and settlement of securities transactions;
  - (b) compliance by issuers with the listing requirements and disclosure requirements, and a summary of applications refused, suspended or removed with reasons;
  - (c) capital raised during the financial year;

- (d) a summary of the appropriation of penalties imposed, if any;
- (e) any levy imposed under section 105 of the Act and appropriation thereof;
- (f) segregation and management of trust property of clients; and
- (g) any other matter pertaining to the operation of the registered exchange.

### **Requirements for registered CSD**

- 5. (1) Where the self-regulatory organization is a registered CSD, the annual report must also contain:
  - (a) a description of supervisory developments in relation to the depository rules, repository of securities, and the central securities account;
  - (b) a reconciliation of central securities accounts with the records of the issuers;
  - (c) a list and a description of uncertificated securities administered and maintained by its participants;
  - (d) a description of any matter pertaining to the ownership, registration, transfer or pledge or cession of securities or any attachment of interest; and
  - (e) any other matter pertaining to the operation of the registered CSD.

### **General requirements**

- 6. (1) A self-regulatory organization must put policies and procedures in place to ensure that the annual report submitted to NAMFISA complies with the requirements of this Standard and that the annual report is signed by a duly authorized person and submitted within the specified time limit.
- (2) The board of the self-regulatory organization must assume the responsibility for the annual report.