

GOVERNMENT NOTICE

MINISTRY OF FINANCE

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. 2

2021

STANDARDS ISSUED UNDER THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

The Namibia Financial Institutions Supervisory Authority has under section 410(3) of the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), issued the Standards set out in the Schedule.

Gersom Katjimune
Chairperson

Windhoek,

2021

SCHEDULE

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021 [Act No. 2 of 2021]

The trust account to be opened by Lloyd's, the minimum value of funds therein and the returns to be furnished by Lloyd's under section 47 of the Act

Standard INS.S.2.13

issued by NAMFISA under sections 410(3) (n), (o), (p) and section 47 of the Financial Institutions and Markets Act, 2021

Definition

1. (1) In this Standard, unless the context indicates otherwise “Act” means the *Financial Institutions and Markets Act, 2021* [Act No. 2 of 2021], and includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;

(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) banking institution;
- (ii) building society;
- (iii) corporate body;
- (iv) entity;
- (v) financial institution;
- (vi) GAAP;
- (vii) NAMFISA;

(b) as defined in section 4 of the Act—

- (i) policy;
- (ii) policyholder;
- (iii) short-term insurance;

(c) as defined in section 42 of the Act—

- (i) Lloyd's;
- (ii) Lloyd's intermediary;

- (iii) Lloyd's representative;
 - (iv) Lloyd's underwriter;
 - (v) trust account;
- (d) registered insurance intermediary, as defined in section 53 of the Act; and
- (e) as defined in section 162 of the Act—
- (i) collective investment scheme;
 - (ii) participatory interest; and
 - (iii) portfolio.

Applicability

2. This Standard applies to Lloyd's and the Lloyd's representatives.

Part I: Trust Account (clauses 3 to 8)

Deposits

3. (1) The Lloyd's representative must, not later than 90 days after the end of each financial year, deposit in the trust account an amount equal to 70 per cent of all premiums of whatever nature received by Lloyd's underwriters during the immediately preceding financial year in respect of insurance activity which is subject to the jurisdiction of NAMFISA, less—

- (a) premiums refunded during the month in which such premiums were received; and
- (b) commission paid or payable in respect of such premiums.

(2) A different percentage to that referred to in sub-clause (1) may be determined by NAMFISA from time to time by notice to the Lloyd's representative and publication in the Gazette.

Investments

4. (1) Any moneys standing to the credit of the trust account that are not required for immediate use pursuant to clause 6 may be invested by the Lloyd's representative in any asset specified in Schedule 1 to this Standard.

(2) All documents issued in respect of an investment made pursuant to sub-clause (1) must be held by the Lloyd's representative, who shall be competent to realize any asset referred to in that sub-clause.

(3) All moneys acquired by virtue of any investment or realization contemplated in sub-clauses (1) or (2) must, as soon as practicable, be deposited in the trust account.

Withdrawals

5. (1) Within 90 days after the financial year end, an amount equal to the amount deposited in the trust account during the same year of the immediately preceding year, together with interest thereon, may be withdrawn from the trust account, less any amount withdrawn for the purposes of clause 6 during the first-mentioned year.

(2) Any amount withdrawn from the trust account pursuant to sub-clause (1) must not be transferred to Lloyd's unless the Lloyd's representative has obtained approval in writing from NAMFISA and complied with the provisions of clause 8(2).

(3) Prior to making any withdrawal pursuant to section 46(3) of the Act and clause 5(2), a return in the form of Schedule 2 to this Standard must be submitted to NAMFISA.

Claims

6. (1) Any claim against a Lloyd's underwriter arising from a policy entered into by virtue of an act performed by a Lloyd's intermediary may be paid—

- (a) out of the moneys standing to the credit of the trust account;
- (b) from any assets referred to in clause 4(1); or
- (c) from an amount due to Lloyd's underwriters in respect of any act performed by a Lloyd's intermediary in the capacity as such intermediary.

(2) The Lloyd's representative must, upon production of a warrant of execution issued under an order of a competent court in respect of a claim referred to in sub-clause (1), pay such claim out of the moneys, assets or amounts referred to in that sub-clause.

Limits on withdrawals

7. Moneys must not be withdrawn from the trust account except—

- (a) for the purposes of clauses 4, 5 or 6; and
- (b) with the prior written approval of NAMFISA.

Part II: Lloyd's Returns (clauses 8, 9 and 10)

8. The Lloyd's representative must submit to NAMFISA, annually, in accordance with clause 12—

- (a) a return in the form of Schedule 2 Annex to this Standard, showing the assets specified in Schedule 1 that are held by Lloyd's; and
- (b) after the end of each calendar year, a return in the form of Schedule 2 to this Standard, reviewed by an auditor, in respect of the trust account as at the last day of the

immediately preceding year, including the assets specified in Schedule 1 that are held by Lloyds as of that date.

9. The Lloyd's representative must submit to NAMFISA, quarterly, the following information in the form of Schedule 3 to this Standard and in accordance with clause 11 and clause 12(a)—

- (a) the amount of claims per class paid by Lloyd's underwriters;
- (b) a report on all complaints received from policyholders and clients in Namibia inclusive of how each complaint was dealt with;
- (c) premium volume and types of policies in Namibia sold during the period in question; and
- (d) any other documents that NAMFISA may prescribe.

10. The Lloyd's representative must submit to NAMIFSA, annually, in accordance with clause 12(b)—

- (a) audited annual returns reviewed by an auditor relating to the short-term insurance business carried on by Lloyd's in Namibia, together with the report of the auditor thereon, in the form of Schedule 2 to this Standard;
- (b) the latest available Solvency and Financial Condition Report prepared in respect of the association of underwriters known as Lloyd's; and
- (c) the latest available International Standard on Assurance Engagements (ISAE) No. 3402, Assurance Report on Controls at a Service Organization in respect of Lloyd's insurance transaction processing services.

Part III: General (clauses 11 to 15)

Form and method of submission

11. The information required by this Standard must be submitted manually and electronically to—

- (a) the designated NAMFISA ERS user account; and
- (b) NAMFISA using either the postal or physical address.

Reporting periods and due dates

12. The Lloyd's representative must provide the information required by this Standard—

- (a) in the case of the quarterly information required by clause 9, not later than 30 days after the end of the reporting period to which the information relates;
- (b) in the case of the annual returns and reports required by clauses 8 and 10, not later than 90 days after the financial year end;

(c) in the case of the audited annual return required by clause 10 (b) and (c), not later than 90 days after the financial year end, of the short-term insurance business carried on by Lloyd's in Namibia.

Extension

13. Upon application by the Lloyd's representative, NAMFISA may, by notice in writing, grant the Lloyd's representative an extension of a due date referred to in clause 12, in which case the new date for the submission of the information shall be the date specified in the notice of extension.

Additional information

14. Notwithstanding clauses 8, 9, 10 and 12, if NAMFISA considers it necessary and reasonable to obtain additional information or to obtain information more frequently from the Lloyd's representative, NAMFISA shall inform the Lloyd's representative and shall stipulate the frequency, form and content of such information as applicable.

Accountability

15. The Lloyd's representative must ensure that each Lloyd's underwriter and each Lloyd's intermediary, where acting as agent on behalf of Lloyd's underwriters, carrying on short-term insurance business in Namibia has processes and controls in place to support the submission of accurate and reliable information to the Lloyd's representative necessary for the Lloyd's representative to submit to NAMFISA the information required by this Standard, within the time periods stipulated by clause 12.

SUPPORTING SCHEDULES

The following supporting Schedules are attached to and form part of this Standard—

1. Assets in which moneys standing to the credit of the trust account may be invested
2. Form of audited, annual return pursuant to clause 8(b) of the Standard in respect of the trust account as at the last day of the immediately preceding year, including the assets specified in Schedule 1 that are held by Lloyd's as of that date
Annex: Form of annual return pursuant to clause 8(a) of the Standard showing the assets referred to in Schedule 1 held by Lloyd's as at the end of the financial year
3. Form of quarterly return providing the information referred to in clause 9 of the Standard

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SCHEDULE 1

ASSETS IN WHICH MONEYS STANDING TO THE CREDIT OF THE TRUST ACCOUNT MAY BE INVESTED

1	Bills, bonds or securities issued by the Government of Namibia
2	Bills, bonds or securities guaranteed by the Government of Namibia
3	Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by any statutory body or local authority in Namibia
4	Bills, bonds or securities issued by or loans to any institution in Namibia
5	Bills, bonds or securities issued by the government of or any local authority in, a country other than Namibia
6	Bills, bonds or securities issued by an institution in a country other than Namibia
7	Stocks or shares in any corporate body, banking institution, building society or other financial institution incorporated in Namibia in terms of the laws of Namibia or in participatory interests in a portfolio of a collective investment scheme
8	Immovable property in Namibia
9	Motor vehicles, furniture and office equipment, including computer equipment, used by Lloyd's in the course of its business in Namibia
10	Any other assets which NAMFISA may approve, subject to such conditions as NAMFISA may determine

SCHEDULE 2

FORM OF AUDITED ANNUAL RETURN PURSUANT TO CLAUSE 8 (b) OF STANDARD NO. INS.S. 2.13 WITH RESPECT TO THE TRUST ACCOUNT INCLUDING THE ASSETS SPECIFIED IN SCHEDULE 1 THAT ARE HELD BY LLOYD’S AS AT THE YEAR ENDED

31 MARCH 20 - -

In this Return—

“Year of the Return” means the year to which the return relates, as indicated above; and

“Standard” means Standard No. INS.S. 2.13.

		N\$ Sub - total	N\$ Total
1.	Credit balance in the Lloyd’s trust account as at the end of the Year of the Return		
2.	Book value of assets referred to in Schedule 1 held as at the end of the Year of the Return		
3.	Total amounts deposited in the trust account during the Year of the Return (a) pursuant to clause 3 of the Standard; (b) pursuant to clause 4(3) of the Standard.		
4.	Total of amounts shown against items 1, 2, 3(a) and 3(b)		
5.	Total of amounts withdrawn from the trust account during the Year of the Return for: (a) investment in assets referred to in Schedule 1 to the Standard; (b) transfer to Lloyd’s; (a) payment of any claim referred to in clause 6(1) of the Standard; and		

	(b) other purposes (specify).		
6.	Total of amounts shown against items 5(a), 5(b), 5(c) and 5(d)		
7.	Difference between the amounts shown against items 4 and 6		
8.	Total amount deposited in the trust account during the year immediately preceding the Year of the Return pursuant to clause 5 of the Standard		
9.	Credit balance in the trust account at the end of the Year of the Return		
10.	Book value of assets referred to in Schedule 1 to the Standard held at the end of the Year of the Return		

ANNEX to SCHEDULE 2

FORM OF ANNUAL RETURN SHOWING ASSETS REFERRED TO IN SCHEDULE 1 AND CLAUSE 8(a) OF STANDARD INS.S. 2.13 HELD BY LLOYD'S FOR THE YEAR ENDED

(day) _____ (month) _____ (year) —

		N\$	N\$
1			
2			
3			
4			
5			
6			
7			

8			
9			
10			
11			
12			

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SCHEDULE 3

**FORM OF QUARTERLY RETURN PROVIDING THE INFORMATION REFERRED TO IN CLAUSE 9 OF
STANDARD NO. INS.S. 2.13 FOR THE QUARTER ENDED**
*(day)*_____ *(month)*_____ *(year—*

		N\$	N\$
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			