

**GOVERNMENT NOTICE**

**RETIREMENT FUNDS**

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 of the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), made the standards set out in the Schedule.

**Gersom Katjimune**

**Chairperson**

**Windhoek,**

**2021**

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

DRAFT STANDARD

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ALTERNATIVE FORMS OF PAYMENT OF PENSIONS FOR THE PURPOSES OF  
DEFINED CONTRIBUTION FUNDS

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NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

**Standard No: RF.S.5.11**

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

**Alternative forms of payment of pensions for the purposes of defined contribution funds**

**Standard No. RF.S.5.11**

*issued by NAMFISA under section 410(6)(b) 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. 2 of 2021], and includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “default option” means the form of retirement income that is deemed to have been made by a member in the event the member does not exercise the right to choose a form of retirement income within the period provided or permitted for such election;
  - (c) “due diligence” means the care that a reasonable person exercises to avoid harm to other persons or their property;
  - (d) “early withdrawal” means:
    - (i) the termination of the member’s participation in the retirement fund;
    - (ii) the termination of the retirement fund; or
    - (iii) the partial termination of the retirement fund should that involve the member concerned;prior to the member becoming eligible for early retirement as defined in the rules of the retirement fund;
  - (e) “former member” means a member who has taken early withdrawal from a defined contribution fund and has transferred the value of the retirement benefits to:

- (i) another retirement fund;
  - (ii) a registered financial institution; or
  - (iii) a registered retirement income provider;
- (f) “programmed withdrawal scheme” means a form of retirement income whereby a member determines the amount of retirement income to be withdrawn in each year following retirement;
- (g) “registered retirement income provider” means a registered insurer or other registered financial institution referred to in clause 5;
- (h) “retirement fund account” means an account held by a defined contribution fund or a registered retirement income provider for a former member of a defined contribution fund and which account holds any amount in respect of retirement; and
- (i) “retirement income” means the regular periodic payment, usually monthly, of retirement benefits or preserved retirement benefits to a member, former member or beneficiary, following retirement.
- (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) financial institution;
  - (ii) NAMFISA;
  - (iii) spouse; and
- (b) as defined in section 249 of the Act—
- (i) defined contribution fund;
  - (ii) fund;
  - (iii) member;
  - (iv) member’s individual account; and
  - (v) retirement fund.

## **Applicability**

2. This Standard applies to—
  - (a) the conversion of a member's individual account into retirement income, upon the retirement of the member from a defined contribution fund;
  - (b) the conversion into retirement income of the retirement fund account of a member or former member upon retirement where the retirement fund account has arisen out of a transfer of benefits from a defined contribution fund to a financial institution or to another retirement fund upon the early withdrawal of the member from the defined contribution fund;
  - (c) the conversion into retirement income of a member's individual account maintained by a defined contribution fund in respect of benefits for former members of the defined contribution fund following early withdrawal from such fund;
  - (d) This Standard applies to the balance of a member's individual account or retirement income account that is available for conversion into a retirement income after the payment of such portion thereof as a lump sum, provided that such amount as may have been paid as a lump sum was paid according to the rules of the defined contribution fund and, further, subject to the payment of such lump sum being limited to any maximum amounts specified in any applicable legislation, regulation or subordinate legislation.

## **Forms of payment of pensions**

3. Provided that the conditions set out in this Standard are satisfied, a member may elect that his or her member's individual account or retirement fund account be converted into one or a combination of the following forms of retirement income:
  - (a) an annuity payable for the life of the member;
  - (b) an annuity payable for the life of the member and guaranteed to be paid for at least a specified period of years following conversion;
  - (c) an annuity payable for the life of the member and continuing to the member's surviving spouse at a specified rate (e.g. 50%), following the member's death, which may also be guaranteed to be paid for at least a specified period of years following conversion;

- (d) one of the forms of conversion referred to in clauses 3(a) to (c) with payments indexed to a cost-of-living or other comparable index or a form in which payments are guaranteed to increase yearly at some specified rate;
  - (e) an annuity payable for a fixed period of years regardless of the survivorship of the member, such period being not less than 20 years, which annuity may or may not be subject to cost-of-living or comparable indexation or to guaranteed yearly increases at some specified rate; or
  - (f) a programmed withdrawal scheme.
4. Conversion of a member's individual account or retirement fund account into a form of retirement income must be by contractual arrangement made with a registered retirement income provider.
5. The following are registered retirement income providers:
- (a) in respect of the forms of retirement income referred to in clauses 3(a) to (d), a registered life insurer; and
  - (b) in respect of the forms of retirement income referred to in clauses 3(e) and (f), a registered life insurer or retirement fund.
6. Should the amount of funds available be less than the amount prescribed by section 1(b)(iv)(bb) of the Income Tax Act (Act No. 24 of 1981) under the definition of "pension fund", section 1(b)(ii)(bb) of the Income Tax Act (Act No. 24 of 1981) under the definition of "preservation fund" or section 1(b)(ii) of the Income Tax Act (Act No. 24 of 1981) under the definition of "retirement annuity fund", the registered retirement income provider must provide the member with the option to take the remaining funds in a lump sum or in fixed yearly instalments, with interest at the current bank demand deposit rate, over a period not to exceed 3 years.

#### **Notice of retirement and intention to elect a form of retirement income**

7. Registered retirement income providers must provide members and former members with information as specified in this Standard and must allow members or former members to give at least 60 days' notice of their intention to retire and their intention to elect a form of

retirement income or of any request for information in support of their election of a form of retirement income.

### **Information to be provided to members or former members prior to election of a form of retirement income**

8. A registered retirement income provider must provide members and former members with the following information prior to making an election of a form of retirement income:
- (a) notice that they may elect one or more of the forms of retirement income referred to in clause 3 and notice of any time limitations in respect of advising of their choice of form of retirement income;
  - (b) an explanation in simple and non-technical language of the characteristics of each form in terms of—
    - (i) the determination of the initial amount of the retirement income, the duration of the retirement income (at least an estimation of duration for a programmed withdrawal scheme), whether the amount of the retirement income is fixed or may change over time and, if so, under what circumstances and the benefits that may be paid on death of the member; and
    - (ii) any longevity, investment, expense or insolvency risks which the member would be required to manage (e.g. investments) or to which the member may be exposed;
  - (c) notice that the member must appoint a beneficiary and that, should the member elect the form of retirement income referred to in clause 3(a), the member must provide a statement that the member's spouse, should one exist, has been notified that there are no benefits payable to the spouse in the event of the member's death, and the member must provide proof of such notification to the fund.

### **Default option**

9. In the event that a member or former member, having given notice of intention to retire, does not elect a form of retirement income prior to his or her date of retirement, the defined contribution fund may deem the member or former member to have elected a programmed withdrawal scheme form of retirement income at a drawdown rate of at least 5% per annum, and arrange for the issue of a contract with a registered retirement income provider on

behalf of the member or former member, exercising due diligence in doing so. The member must also be notified that such decision has been taken by the fund on his behalf.

**Maximum annual withdrawal (payout) rates: Programmed withdrawal schemes**

10. The maximum annual withdrawals applicable to programmed withdrawal schemes vary by the member's attained age and are determined as percentages of the funds standing to the credit of the member with the registered retirement income provider, but may not exceed 20% per annum.

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