

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(6) 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

DRAFT STANDARD

REQUIREMENTS OF A COMMUNICATIONS STRATEGY TO BE ADOPTED BY THE
BOARD OF A FUND TO ENSURE THAT ADEQUATE AND APPROPRIATE
INFORMATION IS COMMUNICATED TO MEMBERS, EMPLOYERS AND SPONSORS

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

Standard No. RF.S.5.13

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

Requirements of a communications strategy to be adopted by the board of a fund to ensure that adequate and appropriate information is communicated to members, employers and sponsors

Standard No. RF.S.5.13

issued by NAMFISA under subsections 265(1)(e) and 410(6)(d) 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) “deferred member” means an active member who has not yet retired but has left the service of the employer concerned prior to the retirement date, as defined in the rules of the fund, leaving in the fund the rights of the member to such benefits as may be payable according to those rules;
 - (c) “inactive member” means a member who has taken early withdrawal from a fund and has not yet received all the retirement benefits which may be due to him from the fund ;
 - (d) “life insurer” means an insurer registered under the Act to undertake life insurance business;
 - (e) “qualified financial institution” means a financial institution registered under the Act that complies with the requirements of Regulation No. RF.R.5.10;
 - (f) “qualified retirement income provider” means:
 - (i) a life insurer registered under the Act; or
 - (ii) a retirement fund or other financial institution registered under the Act and approved by NAMFISA pursuant to Standard No. RF.S.5.11;

- (g) “retirement fund account” means an account held by a retirement fund or a qualified financial institution for an inactive member of a retirement fund and which account holds any amount in respect of retirement benefits transferred to it for that inactive member by another retirement fund or financial institution;
- (h) “retirement income” means the regular periodic payment, usually monthly, of retirement benefits or preserved retirement benefits to a member, inactive member, dependant or nominee, 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) retirement fund;
 - (b) as defined in section 4 of the Act-
 - (i) insurer;
 - (c) as defined in section 8 of the Act-
 - (i) life insurance business;
 - (d) as defined in section 249 of the Act-
 - (i) board;
 - (ii) defined contribution fund;
 - (iii) dependant;
 - (iv) fund;
 - (v) member;
 - (vi) nominee;
 - (vii) retired member;
 - (viii) retirement; and
 - (ix) retirement benefits.

Applicability

2. This Standard applies to:
 - (a) all retirement funds;
 - (b) qualified financial institutions in respect of accounts maintained for, or funds invested on behalf of, inactive members;
 - (c) qualified retirement income providers that have contracts in force relating to the payment of retirement income in respect of retirement benefits arising out of transfers of money or investments from retirement funds or qualified financial institutions upon the retirement of members or inactive members;
 - (d) members of the board of retirement funds; and
 - (e) service providers to retirement funds, qualified financial institutions and qualified retirement income providers to the extent that their responsibilities involve communications with:
 - (i) boards and principal officers of, or other service providers to, retirement funds;
 - (ii) qualified financial institutions and qualified retirement income providers; and
 - (iii) Active members, inactive members and retired members having funds held or invested by retirement funds, qualified financial institutions or qualified retirement income providers.

Requirements applicable generally

3. A communications strategy must be in clear, simple, non-technical language and must:
 - (a) be developed by and become the property of the board of the retirement fund, or of the qualified financial institution or qualified retirement income provider;
 - (b) define the objectives that the strategy is designed to achieve;

- (c) define the processes and relevant service standards for managing communications of various types, including
 - (i) recurring information regarding benefits and contributions, as applicable, to active members, inactive members, deferred members, retired members, dependants and nominees in respect of their retirement fund accounts;
 - (ii) dissemination of reports to active members, inactive members, deferred members, retired members, dependants and nominees in respect of their retirement fund accounts;
 - (iii) notices to active members, inactive members, deferred members, retired members, dependants and nominees;
 - (iv) responding to complaints and inquiries or requests for information by active members, inactive members, deferred members, retired members, dependants and nominees in respect of their accounts or benefits;
 - (v) communications with the NAMFISA, government authorities, the media or other third parties;
 - (vi) internal communications involving the boards of retirement funds and their administrators, advisors and service providers or the responsible management of qualified financial institutions and qualified retirement income providers;
- (d) classify information pertaining to the retirement fund, or to the accounts or funds held or invested for active members, inactive members or retired members by qualified financial institutions and qualified retirement income providers, as:
 - (i) confidential;
 - (ii) protected but available to specified persons;
 - (iii) available on an unrestricted basis; or
 - (iv) according to some other reasonable classification system;

- (e) ensure that, with respect to contributions payable to the retirement fund in accordance with the rules of the fund, there is a regularly scheduled, detailed flow of information between the retirement fund administrator and all employers or sponsors contributing to the retirement fund, with regular notification to the board of all arrears, delays or interruptions of the timely receipt of contributions for deposit to the fund;
 - (f) specifically identify continuing measures designed to minimise the incidence of untraceable:
 - (i) members, inactive members and deferred members; and
 - (ii) retired members, dependants and nominees in receipt of retirement income;
 - (g) provide for remote, secure, electronic access to information, including general information as well as person-specific information, and for the electronic submission of requests or inquiries, by active members, inactive members, deferred members, retired members, dependants and nominees to the extent that it is cost-effective to do so; and
 - (h) provide for a regular report on the communications function and an assessment of its operations and needs for improvement.
4. A communications strategy for a retirement fund must:
- (a) provide for periodic circulation of information to members, inactive members, deferred members and retired members, the currently contributing employer or employers, and, if applicable, the sponsor or sponsors of the retirement fund, concerning:
 - (i) fund performance in general;
 - (ii) activities of interest materially affecting the abovementioned members; and
 - (iii) notification of legislative, regulatory or supervisory practices to the extent they may affect defined contribution funds;

- (b) provide a written explanation to members, inactive members, deferred members and retired members and currently contributing employers and sponsors, as applicable in the circumstances, of:
 - (i) the essence of the communication processes involved in the operation and maintenance of the retirement fund, its functioning and capabilities, together with the various roles and responsibilities of the board, the administration of the retirement fund, the currently contributing employers or sponsors of the fund and the members, inactive members or retired members, emphasizing in the case of inactive members and retired members the vital importance of remaining in contact with the fund; and
 - (ii) the steps involved whereby members, inactive members, deferred members and retired members may submit requests for information or complaints that they have been unable to resolve.
5. A communications strategy for a retirement must:
- (a) comply with the requirements of clause 4 of this Standard;
 - (b) ensure that active members, inactive members, deferred members and retired members have access to the fund's latest auditor's report and valuator's report, if applicable.

Requirements applicable to qualified financial institutions and qualified retirement income providers

6. A communications strategy for a qualified financial institution or qualified retirement income provider holding accounts for or managing funds on behalf of inactive members or retired members must:
- (a) to the extent applicable in the circumstances, comply with the requirements of clauses 4 and 5 of this Standard;
 - (b) ensure that all promotional or sales material involved in offering contracts to inactive members or retired members is factual and is not in any respect misleading or unclear;
 - (c) in respect of contracts that are offered to inactive members prior to their retirement by qualified financial institutions to administer accounts held for such inactive

members, or to manage funds invested on behalf of such inactive members, ensure that their rights of transfer of account balances or invested funds to other qualified financial institutions or qualified retirement income providers and the charges, penalties or discounts that may apply to such transfers, either prior to or upon conversion of such funds into retirement income, are factually, comprehensively and clearly disclosed to such inactive members prior to their acceptance of such contracts;

- (d) in respect of contracts that are offered to retired members in respect of the conversion of accumulated funds into retirement income by qualified retirement income providers, ensure that the rights to transfer the present value of remaining contractually guaranteed incomes or, in the case of programmed withdrawal schemes, to transfer the value of the balance of funds undisbursed as withdrawals, to other qualified retirement income providers and the charges or penalties or discounts that may apply to such transfers are factually, comprehensively and clearly disclosed to such retired members prior to their acceptance of such contracts; and
- (e) ensure that the exposure to risk of loss by any inactive member or retired member who is a prospective contract-holder with a qualified financial institution or qualified retirement income provider in the event of the insolvency of the issuer of the contract is clearly disclosed.