

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

THE FEE THAT MAY BE CHARGED TO MEMBERS FOR COPIES OF CERTAIN DOCUMENTS, AND THE REPORTS AND OTHER INFORMATION THAT MUST BE PROVIDED BY THE BOARD OF A FUND TO ITS MEMBERS FREE OF CHARGE

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

Standard No. RF.S.5.23

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

The fee that may be charged to members for copies of certain documents, and the reports and other information that must be provided by the board of a fund to its members free of charge

Standard No. RF.S.5.23

issued by NAMFISA under section 410(6)(z) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard “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) NAMFISA; and
 - (ii) principal officer;
 - (b) as defined in section 249 of the Act—
 - (i) board;
 - (ii) fund;
 - (iii) retirement fund; and
 - (iv) rules.

Copies free of charge

2. A retirement fund must provide a copy of the following documents to members free of charge, irrespective of whether the copy is required to be provided to the member pursuant to any provision of the Act or whether the copy has been requested by the member on an ad hoc basis—
 - (a) the rules of the fund, fund policy statements and fund service level standards;
 - (b) fund governance documents (e.g. board code of conduct, board meeting procedures etc.) and board performance standards applicable to the board or to fund service providers;
 - (c) the annual report of the board to members;
 - (d) the fund's certificate of registration issued by NAMFISA or by any other government agency or department that is required by law to register the fund;
 - (e) any notice required to be given to members pursuant to any provision of the Act;
 - (f) any application by the fund to NAMFISA for approval of any material change to or activity involving the fund (e.g. refund of surplus, suspension of contributions, proposal for a partial termination, termination, merger or exemption from a provision of the Act,) and the subsequent letter or other document from NAMFISA communicating its decision, insofar as is directly relates to the member; and
 - (g) any amendment to any of the documents referred to in sub-clauses (a) to (h).

Reasonable fees for copies

3.
 - (1) A retirement fund may charge reasonable fees for copies of the documents listed in sub-clause (2), where such documents:
 - (a) are not required to be provided to members by any provision of the Act;
 - (b) have been specifically requested by a member.
 - (2) The documents referred to in sub-clause (1) are the following:
 - (a) A copy of any document which was previously provided to a member pursuant to clause 2;

- (b) the most recent report of the auditor and valuator (if applicable) of the fund, and the investment manager or advisor, administrator or other service provider to the fund, if such copies have already been provided to the member on a previous occasion;
- (c) any other report received by the board whether it was required by the Act or commissioned by the board on a recurring or an ad hoc basis, insofar as the report relates directly to the member;
- (d) the minutes of meetings of the board and meetings of members, insofar as such minutes relate directly to the member; and
- (e) any court adjudication or legal opinion involving the fund if the matter exposed or will expose the fund to a material risk, and disclosure of the document does not violate any requirement of confidentiality.

Hard copy or copy in electronic format

- 4. (1) In the event that a member requests a copy of a document to which clause 2 or 3 applies and does not specify whether the member prefers or requires a paper copy or a copy in electronic format, the retirement fund must ascertain whether or not the member will accept the document in electronic format.
- (2) In the event that a member has requested a copy of a document to which clause 2 or 3 applies and the member has agreed to receive the copy in electronic format, the retirement fund shall provide such a copy free of charge.
- (3) In the event that a member has requested that a copy of a document to which clause 2 applies be provided in paper format, the retirement fund shall provide the paper copy of the relevant pages at a reasonable charge.
- (4) In the event that a member has requested that a copy of a document to which section 2 applies be provided in paper format, and the document has been received by the fund in a bound format, extends beyond 5 standard report-size pages, includes a mix of standard report-size pages and non-standard large-sized pages, or is otherwise difficult to copy, the retirement fund, in its sole discretion, may offer the member the option of accepting a copy of an excerpt from such document that

includes the conclusion or other material provisions on a fee-exempt basis in lieu of being provided with a copy of the complete document on a payment-of-fee basis.

Board approval of fees

5. (1) Fees for a paper copy of a document to which clause 3 applies that are charged by a retirement fund must be approved by the board, and in any specific case may not exceed the lowest cost of copying the document in question charged in the commercial market for making copies at that time.
- (2) The board may delegate the approval of fees referred to in sub-clause (1) to the principal officer of the fund, but must review all such approvals on a regular basis.

Summary of Standard

6. The board of a retirement fund must arrange for a summary of the provisions of this Standard to be prepared and distributed to each member of the retirement fund free of charge.

Other relevant Standards

7. This Standard must be read in conjunction with the provisions of Standard No. RF.S.5.13.