

The independence of directors, members of a board, trustees, custodians, auditors and valuers and of any other person required to be independent under the Act

Standard GEN 10-8

*made by NAMFISA under subsection 410(2)(e) of the Financial Institutions and Markets Act,
2021*

**THE INDEPENDENCE OF DIRECTORS, MEMBERS OF A BOARD, TRUSTEES,
CUSTODIANS, AUDITORS AND VALUATORS AND OF ANY OTHER PERSON REQUIRED
TO BE INDEPENDENT UNDER THE ACT**

1. Citation of Standard

This Standard may be cited as Standard GEN.10-8.

2. Interpretation of Standard

This Standard applies to any individual who is required under the Act to be independent including, without limitation, directors, members of a board, principal officers, trustees, custodians, auditors, and valuers.

3. General Criteria

(1) An individual will not be considered independent in respect of an election or appointment to a position with a financial institution or financial intermediary if the individual:

(a) is an associate of :

(i) the financial institution or financial intermediary; or

- (ii) an entity that is an affiliate of the financial institution or financial intermediary;
or

(b) derives any benefit in the provision of a financial service to a client, other than through any contractual relationship with the financial institution or financial intermediary documenting the election or appointment to the position.

(2) In relation to a financial institution or financial intermediary, an individual will not be considered independent if, in respect of an election or appointment to a position with that financial institution or financial intermediary, the individual:

- (a) is employed, or has, within the immediately preceding year, been employed, by the financial institution or financial intermediary concerned, or
- (b) by an associate or affiliate of that financial institution or financial intermediary; or

4. Specific criteria

(1) In addition to the other criteria of this Standard, an auditor will not be considered independent, whether as an individual not associated with a firm of auditors or associated to a firm of auditors if the auditor:

- a. is a key person with respect to the financial institution or financial intermediary concerned or is a key person of an associate or affiliate of that financial institution or financial intermediary; or
- b. is associated with the valuator of that financial institution or financial intermediary or with the member of the firm of valuers designated pursuant to section 402 (2)(b) and (4) of the Act.

(2) In addition to the other criteria of this Standard, a valuator will not be considered independent if the valuator:

- (a) is a key person with respect to the financial institution or financial intermediary concerned or is a key person of an associate or affiliate of that financial institution or financial intermediary; or
- (b) is associated with the auditor of that financial institution or financial intermediary or with the member of the firm of auditors designated pursuant to section 401(2) of the Act.

5. Disclosure

Where it is contemplated that an individual may be elected or appointed to a position with a financial institution or financial intermediary, that individual must disclose to the financial institution or financial intermediary any matter which relates or may possibly relate to the independence of the individual, both before the election or appointment and on an ongoing basis.