

Breakdown - Industry Comments

Chapter.1 – Preliminary

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
PRE.S.1.1 - The categories of professions and persons of which an expert must be a member for the purposes of the definition of “valuator” in section 1 of the act				
Clause 3	Would a Valuator not be considered a ‘key person’ in the overall management of the Insurer’s business and therefore also subject to the requirements of INS.S.2.3 read together with GEN.S.10.2	Proposed that reference be made to INS.S.2.3 <i>‘A person may not be appointed, retained or employed as a valuator, unless the person is ‘fit and proper’ within the meaning of the Standard No, GEN.S.10.2, read with INS.S.2.3’</i>	Agreed. The reference to GEN.S.10.2 may be inserted.	INS.S.2.3 deals with application for registration of insurers, and not with fitness and propriety of valutors.
Clause 5(b)(i)	While it is appreciated that the valuator would need the necessary training and knowledge, including the number of years of experience, the manner in which the provision currently reads implies that the person should have had experience in the financial institution for which he/she is applying for as valuator.	Proposed that the wording be change to reads as follows to avoid ambiguity <i>‘5(b)...has at least five years’ experience working with: (i) ... a similar financial institution or financial intermediary</i>	Amended by including the word “similar” in sub-clause 5(b)(i).	
	1. General Comment: It is noted that the Standard places specific emphasis on	The overriding objective of the Standard should be to ensure that stakeholders receive competent and		Rejected. We are of the view that Stockbrokers do

	<p>the use of actuaries as valuers. Actuaries use their mathematical skills to help measure the probability and risk of future events. As such, their skills are not geared towards valuing businesses and the like.</p>	<p>adequate valuations from an acceptable independent and competent third party regarding a transaction. We propose that the list of valuers in paragraph 3 of the Standard be expanded to include stockbrokers whose profession is geared to, amongst others, value businesses.</p>		<p>not have the competency to carry out these skills. The purpose is to produce an actuarial valuation report as opposed to the report produced by a valuator for business profitability purposes.</p> <p>This is a different type of valuation to be carried out.</p>
Clause 4	<p>Some actuarial societies issue Practicing Certificates. We suggest that NAMFISA should be allowed to place reliance on such certificates in order to form a view of the fit and proper status of the valuator.</p>	<p>Suggestion to include the following at the end of Clause 4: <i>NAMFISA may place reliance on Practicing Certificates issued by actuarial societies, institutes or faculties in order to form a view of the fit and proper status of the valuator.</i></p>		<p>Rejected.</p> <p>Clause 4 already refer to GEN.S.10.2 and may request additional info if deemed necessary.</p> <p>As per comment from industry, only some actuarial societies issue practicing certificates, hence this cannot be a requirement.</p>

PRE.S 1.1 (5)	<p><i>Subject to clauses 4, 5, 6 and 7, and subject to the approval by NAMFISA, an individual who falls within any of paragraphs 3(a), 3(b) or 3(c) may be appointed, retained or employed as a valuator by a financial institution or financial intermediary or required by NAMFISA to make a valuation report with respect to a financial institution or financial intermediary under the Act.</i></p> <p>In terms of section 18(2) of FIMA and Chapter 10 section 402(2)(b) and GEN 10-8 under section 3 in terms of independence criteria a valuator cannot be employed and thus would not meet the Fit and Proper requirements</p>	Revise propositions relating to the independence criteria as the Standards and Act contradict each other.	Amended by removing the word “employed” from clauses 4 and 5.	
PRE.S 1.1 (7)	<p><i>A person may not be appointed, retained or employed as a valuator unless, <u>in the opinion of NAMFISA.</u></i></p> <p>This provision provides for subjective interpretation without the necessary insight into the specific profession and undermines</p>	Criteria to be revised in terms of independence and fit and proper requirements. Furthermore such appointment as employee to be considered based on individual merits and not on the sole discretion of NAMFISA, alternatively very clear criteria needs to be set out.(As example one cannot be in a situation where an appointment was made and	Amended by removing the word “employed” from clauses 4 and 5.	

	the ability of professional bodies/ associations established specifically for this purpose. NAMFISA can object to any appointment that they believe is inappropriate.	then afterwards not allowed by the Regulator)		
Section 7	Does this section mean that Namfisa can instruct Santam to appoint a valuator Namfisa chooses?			No. Clause 6 means that NAMFISA may maintain a list of “approved” valuers, from which list an entity may appoint a valuator. Clause 7 means NAMFISA may insist that a valuator appointed must be an actuary by profession.
PRE.S.1.1	Why would a financial intermediary require a valuator?	Clarify why a financial intermediary requires a valuator or remove the reference to financial intermediaries.	Please see section 1 of the FIM Act that defines financial intermediaries and their key persons or relevant employees.	A financial intermediary will only require a valuator if its business, or part thereof, is subject to actuarial scrutiny in terms of FIMA.
PRE.S.1.1 Clause 2(a)	The International Association of Actuaries is a society of actuarial societies. Individuals cannot be members of the	Remove 2(a).	Agreed. This is an association for Association of Actuaries, not actuaries in their	

	International Association of Actuaries.		individual capacity. Provision has been deleted.	
PRE.S.1.1 Clause 3	<p>1. On what basis will NAMFISA decide that the valuator does not have to be an actuary?</p> <p>2. NAMFISA is at greater risk of exposure to problems and issues if this discretion is applied. It is safer for a professional association to deal with these issues and NAMFISA to provide input into a guidance note issued by that professional association. There is also more likely to be consistency if valutors are selected from one profession only.</p> <p>3. If NAMFISA believes that a valuator need not always be a Fellow of an actuarial society, they may consider allowing an Associate member of an actuarial society to be the valuator in certain instances. The South African regulator has adopted this approach for microinsurance business.</p>	Consider reviewing Clause 3 to limit exposure by only allowing actuaries to be appointed valutors.		The discretion will be applied on a case by case basis and also on the nature, scale and complexity of the business. Some entities' might be very small and their business model less complex, hence would not necessarily require an actuary to perform a valuation, especially considering the cost of actuarial services vs the benefit of an actuary being the valuator. This provision should be read with clause 7 of the standard.

PRE.S.1.1 Clause 5(a)	While we support the requirement that the valuator has the necessary training, knowledge and experience, how will the benchmarks be determined? Actuaries (as defined in Clause 2) who have statutory appointments are required to apply for Practicing Certificates from their societies to prove that they meet the requirements for holding statutory appointments. How will NAMFISA manage this for non-actuary valuator?	Review Clause 5(a) regarding the practical implications of proving competence of non- actuaries.		The discretion will be applied on a case by case basis and also on the nature, scale and complexity of the business. This member will be in good standing, thus it will not be random selections of unqualified individuals. Also refer to response related to the preceding comment.
PRE.S.1.1 Clause 5(b)	This clause requires the valuator to have the necessary training and understanding of the financial institution's or financial intermediary's specific business. This appears to contradict the provisions relating to the independence of the valuator. To satisfy Clause 5(b), the valuator would need to have worked for the financial institution or financial intermediary to	Review wording of Clause 5(b).	Suggested that the word "industry" be inserted in to the clause for clarity. Clause 5(b) accordingly amended as follows: "Has the necessary training and knowledge to understand the business of the	Rejected, it should be interpreted broadly and mean that the valuator should have the relevant knowledge in that sector. (i)

	have gained the training and understanding required.		particular industry concerned, and at least five years' experience working with; (i) a similar financial institution or financial intermediary"	
PRE.S.1.1 Clause 5(b)(ii)	How will the other valuator confirm that they have worked with the person applying to be appointed as a valuator? For purposes of Practicing Certificates, we require that their mentor submit a report confirming that they have worked with the actuary that is applying for the Practicing Certificate and that, in their opinion, the applicant has the necessary skills, knowledge and experience to fulfil the relevant role.	Review wording of Clause 5(b)(ii) to allow the mentor valuator to sign off on the experience of the applicant valuator.	If Namfisa deems it necessary, The other valuator must attest to this experience and provide written confirmation of same.	
PRE.S.1.1 Clause 6	What is the purpose of this list? Will only those individuals on this be eligible for appointment as valutors? Will the list be made publicly available (e.g.	Clarify the purpose of the list and how it will be maintained.	Please see last sentence of clause 6. The purpose of the list is to expedite the appointment of	

	<p>on NAMFISA’s website)? How will NAMFISA ensure that the valuers on their list remain appropriately skilled and experienced to continue to be a valuator? Will the list indicate which institutions the valuator may be appointed to (e.g. a retirement funds valuator does not necessarily have the skills and experience required to be appointed as an insurance company valuator)?</p>		<p>the valuator, and the approval of such appointment.</p> <p>Yes, the list can be availed on the website.</p> <p>CPD (continuous professional development) assessments would inform NAMFISA of the appropriateness of valuers to be added/removed from the list.</p> <p>No, the list will not indicate for which sub-sector a valuator may be appointed. The regulated entity is the appointing authority and will thus need to ensure it appoints a valuator with the necessary skills for the</p>	
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			nature of its business.	
Clause 3	Clause implies that a Valuator can be an employee of the Fund, whereas section 267(3) of FIMA expressly prohibits the appointment of a Valuator as an employee of the fund, fund administrator, board, participating employer, or sponsor of the fund	Align the provisions of the Standards to those of FIMA	Agreed deleting the wording "employed" in this clause to avoid any confusion. The above to be done also in respect of clauses 4, 5 and 6.	
Clause 3	The clause allows for the appointment of a Valuator as an employee of the Fund, whereas section 267(3) of FIMA expressly prohibits the appointment of a Valuator as an employee of the fund, fund administrator, board, participating employer, or sponsor of the fund.	Realign provisions of the Standards to the allowable appointment of Valuators as contained in FIMA.	Agreed, delete the wording "employed" in this clause to avoid any confusion.	
Clause 5	The clause refers to specific roles and years of service as a prerequisite to be appointed as a Valuator but does not state whether the provisions are a requirement of retirement fund specific experience. Would a practice certificate of these employment categories be required? Would this by	NAMFISA to provide clarity on the issues mentioned to allow for further comments depending on the clarity and understanding thereof		In every application for appointment of valuator, the financial institution must demonstrate that the proposed valuator satisfies the requirements mentioned in clause 5. Each application will be

	default render actuaries as being non-ideal for fund valuers?			assessed on its own merit.
Clause 6	The clause refers to a list of persons to be kept by NAMFISA who may be appointed or retained as a Valuator. The industry needs to understand how this list will be kept up to date and where it would be accessible for the appointment of these fund individuals.	<p>NAMFISA to advise what exact roles it intends to include in the list, and if actuarial professionals are to be excluded, then reasons are to be provided.</p> <p>Logistics around the keeping of the list also to be made available for the industry to consult on. How would new players in the market be able to get onto the list so maintained by NAMFISA?</p> <p>NAMFISA must further consult the Actuarial Society to determine the level of qualification and experience required as well as vetting of experience.</p> <p>Depending on the list details, such consultation might also shed light on the list of professionals to be so kept.</p>		This clause simply requires NAMFISA to maintain list of persons approved by NAMFISA who may be appointed as valuator. The list does not intend to limit the appointment of valuator to persons listed therein, nor does it constitute a pre-approval. Every appointment of valuator will still be assessed for fitness and propriety to discharge the duties of a valuator.
Clause 7	NAMFISA retains the right, in its entire discretion, to require any particular financial institutions or financial intermediary to appoint an actuary as its valuator, or to appoint an actuary as its valuator for any particular part of its business	<p>What level of skill and qualification would such a valuator need to have to be able to be appointed if the valuator not required to be an actuary?</p> <p>Consider removing the entire discretion of NAMFISA and allow for consultations with the industry to take place on the matters of mutual interest.</p>		<p>This is a general standard thus it applies to different sectors; not only retirement funds.</p> <p>Where FIMA does not require the appointment of a</p>

	<p>Why would intermediaries have to appoint valuers within the pension funds operations</p>	<p>NAMFISA needs to consider the parties included in the list of financial intermediaries and the need for the appointment of valuers for intermediaries and determine how this would affect future developments.</p> <p>This clause should allow for NAMFISA to provide reasons for requesting the appointment of a valuator with provisions to be made and considered by NAMFISA on objections to such appointments to allow for the effective application of the <i>audi alteram partem</i> rule in law which grants both parties the right to be heard. Proper consideration should be had for the cost implication thereof.</p> <p>The discretion granted to NAMFISA should only be used as a last resort and not as the norm for the appointment of a valuator, especially for financial intermediaries.</p> <p>Consultation process to be laid out with specific timelines for the finalization of the concerns and disputes raised.</p> <p>The industry therefor requires clarity on the above issues raised under clause 7.</p>	<p>valuator, then such institution or intermediary has no obligation to appoint a valuator.</p> <p>Like any discretion, NAMFISA's discretion to require an institution or intermediary is exercised when deemed appropriate in the given circumstances.</p> <p>The regulated entity is the appointing authority and will thus need to ensure it appoints a valuator with the necessary skills for the nature of its business.</p>
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SCHEDULE 2	Proposed amendment column	If an amendment is not applicable, then the commentary should provide for default clarity to be obtained from NAMFISA.		This Standard does not have Schedules or Annexures.
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