FINANCIAL INSTITUTIONS MARKETS ACT NO.2 OF 2021

GENERAL CHAPTER-CHAPTER 10

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GEN.S.10.8 INDEPENDENCE				
Section	**Comment/Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
General Comment		The stipulations of this standard rely heavily on the definitions of "associate" and "affiliate" as contained in section 1 of the Act. Especially the definition of "associate" is problematic to understand and apply, as it is unclear as to how far, for example, the "controls, directly or indirectly" qualification should be stretched. Is it the intention that anybody employed, for example, at the extreme ends of an extended group will be considered an		The meaning is not different in this standard. Yes, that is the case according to the interpretation of the word's meaning. The definition of associate is still in line with that conveyed in the provision outlined in the Act.

		"associate" when considering his/her independence for appointment to a position requiring independence anywhere else in the group? Please provide clarity		
General comment		We are generally in support of the standard but wish to bring to the attention of NAMFISA the inherent problem in the industry with experienced non-executive directors ("NEDS") and the abject lack thereof. Whilst some good NEDS do exist, they are often conflicted in that they may sit on other boards of competitors. We therefore recommend that non-Namibian NEDs be allowed to sit on boards for a period of		To provide clarity the issue of non-Namibian NEDS although is understood is beyond NAMFISA's mandate as we do not issue employment visas.

		time with a Namibian NED for a sufficient period to enable the transfer of skills. NEDS perform a very important role, so it is imperative that they have the requisite skills and experience to execute their fiduciary duty. We also recommend that these non-Namibian NEDs be allowed to come from the larger group. This will assist with the knowledge transfer of the entire group, whose experience would be invaluable to be brought into the industry. Furthermore, it is not clear to what extent the terms 'associate' and 'affiliate' as defined in section 1 of the Act will apply. Will employees	The meaning is not different in this standard. Yes, that is the case according to the interpretation of the word's meaning such employees under those employment structures should be independent.	

		within a larger group structure be considered to fall under these definitions, even if those employees sit outside the country and are largely independent within the structures of the companies themselves? Kindly consider clarifying this further.		
2	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 valuators. Extract from FIM Act:	Clarity is required on to whom this standard will apply? In addition, as commented previously it would be costly to have independent directors' appointment to the board of the smaller financial intermediaries. The practice should be encouraged but	the entire standard applies to individuals who are supposed to disclose their independence status as outlined under clause 5	

	Board of financial institution 394. Despite anything to the contrary in any of the provisions of the Companies Act or any other law - (a) one third of the board of directors of every financial institution that is a company must be independent directors within the meaning of the standards; and (b) the chairperson of the board of a financial institution may not also be the principal officer, general manager or other senior officer of the financial institution.	not be enforced by law.		
clause 2	Remove the last portion of the clause: “Including, without limitation, directors, members of a board, principal officers, trustees,	Re-word clause 2 as follows (delete struck-through paragraph): This Standard applies to any individual who is required under the Act to be independent.	Agree, but it is not different from what is provided for under the Act. leaving it out, again others would ask for clarity what categories are covered under the statement.	

	custodians, auditors, and valuators” as it is not necessary to state all parties that need to be independent in the Standard, as it must first be determined who needs to be independent under the Act and the Standard only applied to those persons. Not removing this part of the clause could be interpreted as a catch-all provision, e.g. requiring all the parties stated to be independent despite the Act providing something else.	~~including, without limitation, directors, members of a board, principal officers, trustees, custodians, auditors, and valuators.~~		
Clause 3	Valuators are expected to be independent from a financial institution or financial intermediary in accordance with the specifications of this Standard. However, Standard No. Pre.S.1.1 stipulates that a valuator must have the training and	It is recommended that the requirements of Pre.S.1.1 be retained and valuators be removed from the list of persons required to be independent. It is important for a valuator to have specific knowledge of the	Requirements of Pre.S.1.1 has been retained but with amendment to keep consistency with GEN.S.10-2 and Gen.S.10-8	Knowledge about something does not mean one is always independent. Neither does it mean one is not conflicted which is what the independence standard is addressing.

	knowledge to understand the specific business of the financial institution or financial intermediary and at least five years' experience working with the financial institution or financial intermediary or with a valuator who has been appointed, retained or employed by a financial institution or valuator. These two Standards are in conflict with each other.	business of the particular financial institution, which cannot be obtained by merely being an independent consultant.		
3(1) &(2)	i. 3(1) and (2) read very similar, however clause 3(2)(b) does not read well and is incomplete, ending with "or". ii. Clause 4(h) ends with and, however the next clause starts with number 2. Perhaps sub-clause 2 is a continuation from (h)? If this is the case, then the numbering following this clause should be corrected as well,	i. Delete or reword paragraph.	Under 3(2)(b) have deleted the or at the end.	Under clause 3(2), there is a difference as clause 3(2) deals with previous employment while 3(1) is limited to some associates. We could not find clause 4(h) not found under this standard.

	perhaps using numerical bullets.			
3(2)	(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	The run in paragraph appears to have a drafting issue and contemplates the same thing as 3(1), that is, a person is not independent in respect of an election or appointment to a position with a financial institution or financial intermediary if they meet the criteria. We recommend the following amendment. 3(2)(b) appears to be missing wording so we are not able to ascertain what the intention was. Complete deletion of 3(2) and to move it to 3(1) as follows:	Amended accordingly to address inconsistency in the definitions now that key person's definition is not limited to employment. A catch all provision on qualification also accommodates any extra requirement under education. i.e., any qualification assessed on case by case basis	There is a difference, the first part deals only with other non-employment association while the second part is on employments association.

		(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 ….. (as is) ; 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; or (c) is employed, or has, within the immediately preceding year, been employed, by the financial institution or financial		

		intermediary concerned; or (d) is employed by an associate or affiliate of that financial institution or financial intermediary. , or (d~~) by an associate or affiliate of that financial institution or financial intermediary.~~ ; or 3(2)(b) appears to be missing wording, so we are not able to ascertain what the intention was. Furthermore, kindly note that this appears to conflict with Standard PRE.S.1.1- the categories of persons that may act as valuator - insofar as section 3 of that standard provides that, with the approval of NAMFISA, an individual may be		

		appointed or 'employed' as a valuator by a FI and be required to make a valuation report to NAMFISA. That standard therefore, seems to allow valuators to be employed by the FI. Kindly consider this inconsistency and amend by allowing the valuator to be employed by the FI with the approval of NAMFISA		
clause 3(2)	As per clause 3(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	A transition period should be added to the Standard during which the requirement in clause 3(2) is waived, e.g., transition to apply for the first 12 months after FIMA is effective. The provisions of this standard have to be complied with from its effective date, therefore		Transition period from the effective date is as provided for under schedule 3 or section 468. The same requirements will apply as already provided for under the Act under schedule 3

	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. To ensure that the board of trustees of a fund retains professional expertise and complies with the fit and proper requirements, it would be beneficial if a transition period be added after FIMA effective date during which the above requirement is waived.	the general transitional period of 12 months for registration of Rules in terms of Schedule 3 of the Act does not apply.		
Clause 3(2)(a)	Does the terms preceding year imply the previous 12 months of the previous financial year of the entity?		Yes, but both the calendar and financial year -for flexibility	
Clause 3(2)(a)	Transition period too short			Transition period from the effective date has already been provided for under the Act.
Clause 4	Clause 4(1)(b) – refers to a firm of	Delete “or with the member of		It is not necessarily a requirement that an

	valuators, however, a valuator is appointed in their personal capacity and not by a firm In clause 4(2)(b) it refers to the auditor, however, auditors are not appointed in their personal capacity	the firm of valuators" Delete "the auditor of that financial institution or financial intermediary or"		auditor must be attached to a firm. A Fund auditor can be an individual or a firm of auditor, see sec 401 of FIMA. A Fund valuator is rather an individual person, see sec 402 of FIMA.
4(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	Specific independence stipulations with respect to valuators adopts a very narrow approach. This is different to other jurisdictions (e.g. Europe and RSA) where a more principle-based approach is taken. We respectfully submit, given the dearth of experience and availability of suitable actuaries to act as valuators in Namibia, the principle-based approach would be more appropriate and		Financial institutions are not prohibited from employing actuary, but a non-independent actuary cannot be a statutory valuator. A statutory valuator should be independent from the institution. The principal legislation provides under sec 402(2)(b) that a statutory valuator must be independent. In accordance with the Act, independence is strictly applied and therefore cannot be relaxed in principle.

	designated pursuant to section 401(2) of the Act.	practical. Taking this approach, subject to certain requirements, will ensure the professional independence of valuators whilst not leading to a situation where there are not enough skills and resources to act as valuators. Relax the independence requirements, by allowing a professional actuary to act as a valuator even if such actuary is a key person of an associate or affiliate of the financial institution where he/she is to be appointed, subject to the following conditions: 1.Appointment / Performance Assessment / Remuneration / Removal of Valuator if not		

		performing to standard; 2.Remuneration Criteria: Not linked directly to the performance of the financial institution for which the person is valuator 3.Segregation of duties: from operational business lines 4.Reporting Lines: not to Revenue Generating businesses 5.Direct Access to Board		
4(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	The sentence does not start with a capital letter, and there is a full stop after the word "sanctions", which does not seem to belong there. Attend to punctuation and consider rephrasing the sentence. It is our respectful submission that	First concern is under Standard Gen.S.9 code of conduct and has been amended	Financial institutions are not prohibited from employing actuary, but a non-independent actuary cannot be a statutory valuator.

	or financial intermediary;	this provision is not in the best interest of the industry, nor does it take into consideration the practical realities facing industry participants. It is worth noting that there is a skills shortage within the market and that it is not always possible to find an independent valuator within the meaning of these standards. Furthermore, it is to the benefit of the industry if a valuator has an element of understanding of the business, which is often gained by the valuator either being employed by or affiliated with the business of the FI. Valuators are already subject to professional standards via the Actuarial Bodies to which they belong and this should thus		A statutory valuator should be independent from the institution. The principal legislation provides under sec 402(2)(b) that a statutory valuator must be independent.

		provide some comfort that they will act professionally and independently. We propose that a provision be made for the application by industry participants for an exemption from this requirement. Such application to be accompanied by sufficient evidence that even though the valuator is employed within the FI, he/she has sufficient independence required to fulfil his/her role diligently. Alternatively, we propose that valuators that are sufficiently removed from the immediate business of the FI – such as those employed within a larger group structure, be considered as sufficiently independent for		

		purposes of this standard. As a further alternative, should NAMFISA insist upon having the valuators outside the business of the FI, we request that a dual or hybrid system or approach be considered in terms whereof there is a valuator employed within the group / FI, but subject to a peer review of their report. This will naturally lead to increased costs for the FI, but at least it provides institutions the comfort that the valuator understands its business and is able to accurately report, whilst simultaneously providing NAMFISA with the comfort that there is an independent oversight or review.		

GEN.S.10.9 CODE OF CONDUCT				
Section	**Comment/Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
CH 10 - General Provisions -	General comment	In the ordinary course of business, various elements of the code of conduct are contained in various policies. Clarity is needed on if each entity would be required to have a Code of Conduct separate to the policies already in place?		Not really, all must just be demonstrated that it exists, and is embraced even when held in stand-alone policy documents.
General comment		The Standard requires a Code of Conduct Policy and then describes what is required to be addressed by that policy. Many of the requirements, like that contained in clause 4€ is, for most companies, addressed in a separate	This standard prescribes the basic fundamentals of a code of conduct but not the format of such a code. A code of conduct may cross-reference to other relevant policy document where such policy contains the basics as indicated in this Standard.	Sole proprietors should act accordingly to certain code of conduct when providing financial services; so their code of conduct is required as outlined in this standard. This requirement being proposed is already provided for under section 3(2), also copied below.

		Delegation of Authority Policy. Other requirements are being addressed in Ethics and HR policies. The Standard as it reads now will cause duplication of policies across policies. This is impractical. Make provision for the Code of Conduct to reference other (separate) company policies where the requirement(s) are being met. This will eliminate duplication across company policies. If a financial intermediary is a "one-man show", will he still be required to have a Code of Conduct that speaks to the		3 (2) A financial intermediary who is an individual and who is not employed by a financial institution or another financial intermediary that is an entity, must ensure that he or she has a code of conduct in place, containing the elements described in clause 4(1) in so far as applicable and that such Code is followed by all employees.

		basic elements required? Make provisions for sole proprietors or people trading as individuals.		
	General comment	In the ordinary course of business, the various elements of the code of conduct are contained in various policies. We strongly urge against forcing entities to collapse the policies into the code of conduct. We are not opposed to the code of conduct referencing the various policies. In larger groups of companies, the policies are also applied at a group level so often the standard of compliance is higher. We recommend a complete redraft to reference the various policies	All must just be demonstrated that it exists, and is embraced even when held in stand-alone policy documents. The intention of the Code of Conduct is to set a minimum required conduct by the regulated entities. To address these concerns, it does not have to be all included in the code of conduct but can be reflected in various policies of the institutions.	

		which could be referenced as alternative. Examples below.		
Clause 3(1)	Remove '….the board of a …' Not all financial intermediaries have boards and therefore the requirement should not only be restricted to those financial intermediaries that are corporate entities. What is meant by other officers? Would propose that the term 'key person(s)' be used as the term is clearly defined and void of any ambiguity		Amended This requirement being proposed has been incorporated as reflected below. (1) ~~The board of~~ Every financial institution and ~~the board of a~~ financial intermediary must ensure that a Code of Conduct is in place, containing the elements described in clause 4(1) and ~~followed~~ acknowledged and embraced by all board members, directors, principal officers, ~~other officers~~, trustees, custodians, auditors, valuators, other key persons and employees.	
Clause 3(2)	Proposed that NAMFISA sets the minimum principles that need to be reflected in the Code of Conduct and not merely the concepts / elements that need to be addressed (i.e. see for			Section 4(1)-(2) are not what industry understands them to be. Rather what is covered under 4- basic elements are the principles, and we cannot be prescriptive to give rules.

	example the minimum rules as contained in the Sectional Title Act). In this manner, individuals have the minimum standards as required in the code already embedded within the standards of the Act.			
Clause 3 (1)	General comment	A full stop is missing at the end of the sentence. Insert a full stop at the end of the sentence.	Noted	
Clause 3(1)	Remove '….the board of a …' Not all financial intermediaries have boards and therefore the requirement should not only be restricted to those financial intermediaries that are corporate entities. What is meant by other officers? Would propose that the term 'key person(s)' be used		Agree and amended This requirement being proposed has been incorporated as reflected below. (1) ~~The board of~~ Every financial institution and ~~the board of a~~ financial intermediary must ensure that a Code of Conduct is in place, containing the elements described in clause 4(1) and ~~followed~~ acknowledged and embraced by all board members, directors, principal officers, ~~other officers~~, trustees, custodians, auditors, valuators, other key persons and employees.	

	as the term is clearly defined and void of any ambiguity			
Clause 3(2)	Proposed that NAMFISA sets the minimum principles that need to be reflected in the Code of Conduct and not merely the concepts / elements that need to be addressed (i.e. see for example the minimum rules as contained in the Sectional Title Act). In this manner, individuals have the minimum standards as required in the code already embedded within the standards of the Act.	Through setting the minimum principles, NAMFISA can ensure consistency in the manner in which the non-bank financial institutions are expected to act – this would avoid ambiguity and an extremely subjective interpretation of the requirements. Would also propose that consideration is given to incorporate principles under the King Code relating to the fiduciary duties of the Board and Management and overall good governance.		Proposal is not accepted. The suggested change is catered for under the basic element 4(1). Section 4(1)-(2) are not what industry understands them to be. Rather what is covered under 4-basic elements are the principles, and we cannot be prescriptive to give rules.
4(1)	(b) Conflicts of Interest the code must include a definition of "conflicts of	We recommend that the code simply reference the COI policy.	All must just be demonstrated that it exists, and is embraced even when held in stand-alone policy documents. So a	

	interest" and policy statement on:….		references in the policy is sufficient. The intention of the Code of Conduct is to set a minimum required conduct by the regulated entities. To address these concerns, it does not have to be all included in the code of conduct but can be reflected in various policies of the institutions.	
	(c) Legal Compliance: this requires the board, directors, principal officer, other officers, trustees, employees and all employees to abide by the Act and all other applicable laws, including rules, regulations and standards relevant to the financial institution or financial intermediary;	This would not be a freestanding statement but would form part of the group risk appetite statement. This is a board adopted risk statement that look more broadly at board adopted appetite for risk across all aspects including but not limited to regulator risk.	All must just be demonstrated that it exists, and is embraced even when held in stand-alone policy documents. The intention of the Code of Conduct is to set a minimum required conduct by the regulated entities. To address these concerns, it does not have to be all included in the code of conduct but can be reflected in various policies of the institutions.	
4(1)(b)	(b) Conflicts of Interest the code must include a definition of "conflicts of interest" and policy statement on:….	We recommend that the code simply reference the COI policy.	Amended by referring to policy on code of conduct in the leading sentence. All must just be demonstrated that it exists, and is embraced even when held in stand-alone policy documents. The intention of the Code of Conduct is to set a minimum required conduct by the regulated entities. To address these concerns, it	

			does not have to be all included in the code of conduct but can be reflected in various policies of the institutions.	
4(1)(c)	(c) Legal Compliance: this requires the board, directors, principal officer, other officers, trustees, employees and all employees to abide by the Act and all other applicable laws, including rules, regulations and standards relevant to the financial institution or financial intermediary;	This would not be a freestanding statement but would form part of the group risk appetite statement. This is a board adopted risk statement that looks more broadly at board adopted appetite for risk across all aspects, including but not limited to regulator risk. Delete the first "employee".	Agree that it cannot be a stand-alone statement, as explained above deleted the first wording "employees" in line 2h	
Clause 4(1)(d)(i)	Why should customers have insight into the audited financial statements and operational information of a private entity? It is appreciated that if the entity is a public company that the information should generally be available but what the rationale is for disclose			What is expected here is not to divulge confidential information, but how that is handled to protect consumers or investors and not to disclose what is confidential, and that is the case for the individual insurance brokers. The statement has been changed to read..(i) <u>disclosure</u> of audited financial statements and other

	confidential information in respect of private companies? Secondly, what information would an individual insurance brokers be required to disclose?			operational information to customers
4(1) (d) (i)	(d) Company or Individual Information and Assets: the Code of Conduct should include standards relating to the: (i) reporting of audited financial statements and other operational information to customers; (ii) treatment of confidential information; and (iii) fiduciary responsibilities	Clarify expectation of what exactly is to be disclosed (unlisted companies are not required to disclose at this level, in any event not to customers)	What is expected here is not to divulge confidential information, but how that is handled to protect consumers or investors and not to disclose what is confidential, and that is the case for the individual insurance brokers. The statement has been changed to read (i) ~~reporting~~ <u>disclosure</u> of audited financial statements and other operational information to customers;	
Standard GEN.S. 10.9 (d) Company or Individual Informati on and	It is unclear what NAMFISA is expecting in respect of "reporting of audited financial statements". Does NAMFISA mean	Clarification of the meaning of the phrase is requested from NAMFISA.	Accepted and concern is address. Amended by replacing reporting with disclosure. Policy on the code of conduct should just state the standards being followed on disclosure, and for whose audience for	

Assets: the Code of Conduct should include standards relating to the: (i) reporting of audited financial statements and other operational information to customers;	publication in public media similar to the requirements for listed companies to make announcements?		example, as not every regulated entity is not a listed company, so the purpose would differ depending on the type of the business model.	
Clause 4 (e)	The clause speaks to authority to enter into agreements on behalf of the institution. This is normally addressed in a separate Delegation of Authority Policy.	Make provision for the fact that such authority can be accommodated in a separate policy and that only a reference in the Code of Conduct to such other policy will suffice.	~~As for the stand-alone internal policies on other procedures raised earlier this is also the case here~~. All must just be demonstrated that it exists, and is embraced even when held in stand-alone policy documents. The intention of the Code of Conduct is to set a minimum required conduct by the regulated entities. To address these concerns, it does not have to be all included in the code of conduct but can be reflected in various policies of the institutions.	

Clause 4(1)(g)	The basic elements of the Code of Conduct are: Reporting, Enforcement and Sanctions: the Code of Conduct should provide for recording and reporting serious breaches of the Act, other applicable laws, rules, regulations, standards or the Code of Conduct to NAMFISA, provide for procedures for enforcement of the Code of Conduct, including investigations and disciplinary action, and provide for clear, appropriate and proportional sanctions for such breaches.	Reporting of serious breaches. Can reporting requirements be made more specific? Define "serious breaches".	Amended by deleting serious	It should be noted that the reporting requirement is for internal reporting where there is a breach of the code of conduct. And it is for each financial institution or intermediary to define what constitutes a breach in its code. The statement has been changed to refer to the policy on the code of conduct. It should be noted that the reporting requirement is for the internal reporting where there is a breach of the code of conduct. It is for each financial institution or intermediary to define what constitutes a breach and the levels of severity in its policy on the code of conduct. Policy on the code of conduct should just state the standards being followed on disclosure, and for whose audience for

				example, as not every regulated entity is not a listed company, so the purpose would differ depending on the type of the business model.
Clause 4(1)	In terms of the basic elements requirement regarding the Code of Conduct, clarity is sought on whether all these elements must be addressed in one single document, or can some of these elements be addressed in various policies already existing at Group level.	We recommend it be allowed to address these elements in different Board approved policies.	The intention of the Code of Conduct is to set a minimum required conduct by the regulated entities. To address these concerns, it does not have to be all included in the code of conduct but can be reflected in various policies of the institutions.	
4(2)		The sentence does not start with a capital letter, and there is a full stop after the word "sanctions", which does not seem to belong there. Attend to punctuation and consider rephrasing the sentence.	amended	
(g) Reporting , Enforcem	Other legislation, specifically the FIA has detailed reporting and	NAMFISA to consider		Proposed change is not accepted. Basic elements of code of conduct policy of a

ent and Sanctions:	sanctions content. Perhaps NAMFISA can consider referencing the FIA requirements and obligations.	referencing the FIA.		regulated entity can include the suggested reference as provided for in this provision that code of conduct policy could refer to other applicable laws. In any case, we cannot be too prescriptive to provide a list.
GEN-10.9 Paragraph 4 (g-h) Paragraph 5	Spacing Material dealings has not been sufficiently explained.	Correct formatting. Please provide clarity.		Reference 4(g-h) cannot be found

GEN.S.10.11 INSTITUTIONAL INVESTMENT				
Section	**Comment/ Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
General comment		Given that the standard applies to (inter alia) both registered retirement funds and registered insurers, it is unclear what the intention is to deal with requirements that make sense in one type of entity, but not in the other type of entity? E.g. how will the differences between "policy holder funds" and "linked investments" be reconciled within an insurer or how will the differences between DC funds offering full member choice as opposed to DB funds be accommodated? Clarity is requested whether the	The Standard has been amended accordingly with the inclusion of the Medical Aid Fund.	This standard applies to an investing institution as outlined under clause 2, and therefore if a business model does not apply this standard is irrelevant. In addition, whether it is, for example, a DC or BD Fund or short or long term insurance is irrelevant as what is covered in the standard is investment of funds pooled from any of the above business models.dd the suggested statement.

		requirements of the standards which do not apply to a particular type of insurance/retire ment fund but which may apply to a different insure/fund MUST be addressed in the policy or only if it is applicable to that particular financial institution? We recommend the latter and that wording be included to make this apparent.		
	i. Numbering of General Standard under the heading does not included S. Numbering to align to format of all other standards i.e. GEN.S. 10.11 ii. The title of the standard is also duplicated. iii. Clause 4- This particular standard specifically indicates that it's a guide only. What would be the compliance	i. Align standard numbering to be consistent with others and for referral purposes. ii. Delete duplication. iii. Please clarify.	Item (i) and (ii) amendments are accepted. With regards to item (iii) – subclause 4(4) it should be read in conjunction with others (sub-clauses 2 & 3) in the sense the Standard provides high level key provisions, at a minimum to those key persons who are charged with the management (eg., Boards & senior management) of regulated financial institutions to do more over and above the set minimum standards under this Standard. That is the	

	obligations on this standard?		context under which clause 4 should be interpreted. Amended in any case to provisions under subclause 4(4)	
Section 2(1)	list all entities in the scope rather than using "etc." in order to provide clarity.		Amended with Medical Aid Fund inclusion	
Section 5(2)(c)	The phrase "persons deriving a benefit from" is unclear. It appears that this would include persons who derive a benefit from the investment. If this is the case, this could lead to the board making decisions in the interest of any person who stands to benefit from the investment which would be in conflict with its fiduciary duty to the investing institution.		Amended with the underlined below ……. persons deriving a benefit from investing institution or vested with rights by the Act or any other laws,	However it is important to note that the Board takes decision in the interest of the investing institutions and beneficiaries, i.e its members or consumers/investors
Section 8(2)(b)	This sentence appears to override the profit motive of the institution. We recommend that the sentence be reworded to say "...should ensure		Amended with the underlined the Investing Institution must <u>ensure that the fee charged by the expert is market related</u> and be prepared to pay <u>such</u> fees	

	that the fee charged by the expert is market related."		for each service to attract a broad range of experts.	
10	Refers to "shareholder or member activism"	Kindly note that there is no definition provided for these terms. Include definitions for "shareholder activism" and "member activism"	Accepted and amended by including definition under Section 10(2) of the Standard. The term means all the efforts exercising rights on the basis of a shareholder's right or member's right in an entity aimed at promoting the protection of the interests of all its shareholders or members.	
Section 10(1)	this sentence ends in a full stop and should instead end with a colon.		amended	
Section 10(4)(c)	include "... interests and excessive fees from investment managers".		Amended with underlined. avoid conflicts of interest, including own interests <u>and excessive fees.</u>	However, there is no need to only make specific reference to investments managers. As that makes clause 10(4)(c) so restrictive.
Section 13(2)	We believe it should be clarified that this also includes excessive interest rates and short repayment terms which are detrimental to SMEs.			Rejected, no need to make specific reference to SME. The clause is trying to set the principle in a holistic manner.

Section 14(1)	There should be a definition of "publish".			Publish means to make it public. So the word takes the ordinary meaning of the word.
14(1)	Where appropriate, the board of an Investing Institution must publish at least yearly, its Investment Policy Statement and the results of monitoring advisors, investment managers and other experts, and make the Investment Policy Statement and such results available to interested parties, including NAMFISA."	With respect, the Investment Policy Statement contains a wide array of information on the strategy and internal business objectives of the FI, which may be used by competitors to gain an advantage or may potentially prejudice the legitimate business plans and interests of the FI if shared widely or published to the general public. In addition, who are these 'interested parties' referred to? What exactly is meant by 'publishing' – i.e. where to publish etc. We suggest amending this provision so that		The ordinary meaning of the word applies in this statement and therefore the word has not been defined as proposed. This clause is qualified by the wording "Where appropriate", thus where there are other consideration or circumstances that indicates that publication is not appropriate, the board may not publish the investment policy statement and the results of monitoring advisors etc.

		only an extract of the Policy Statement, containing essential information needed for transparency and accountability, be published, but allowing an FI to redact confidential information. Kindly also define / clarify what is meant by 'interested parties' and by 'publishing'.		
Section 14(2)	The board should also disclose the information to NAMFISA. The frequency and manner of this reporting should be included in the standard for clarity.			Rejected. The clause 14(1) deals with the frequency and the manner, which includes the manner of the disclosure, while clause 14(2) expands on the requirements under 14(1).

GEN.S.10.12 **CONTENT OF INVESTMENT MANDATES**				
Section	**Comment/ Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
	General Comment	Numbering of General Standard under the heading does not include an "S". Numbering to align with the format of all other standards i.e. GEN.S. 10.12. The title of the standard is also duplicated. Align standard numbering to be consistent with others and for referral purposes and delete duplication.	Amended	
General Provisions		IJG Capital to assess Content of Investment Mandates requirements against the Investment Plan of IJGFIF and the Trust Deed of the DSF		Concern is not clear. So did not address anything under this statement.

Section 1	"Institutional Investor" means a financial institution that is a party to an Investment Mandate." Namfisa refers to Investing Institution in Standard GEN 10.11 but then use 'Institutional Investor" in GEN 10.12.	Kindly consider aligning / use consistent terms.	Amended to Investing Institution, in order to ensure clients (i.e., consumers/investors are protected from the market conduct of third parties (i.e., financial institutions and investment managers through the investment mandate). Institutional Investment under Gen.S.10.11 is defined as investments made by all insurers, reinsurers, funds, friendly societies and medical aid funds.	
1	Definition	Define an "Investment Fund Manager" to be an external party		This is not necessary as the term is not used in the standard
1 (a) & (b)	In the definitions of investment mandate and institutional investor, the one definition refers to the other.	Consider adding a definition for "investment manager".	Amended with definition as defined under Section 78 of FIMA 2021	
3 (2) (a) to (c)	Reference is made to 10.12.3 (2) (a) to (c).	There is nothing to refer to as 10.12.3 (2) (a) to (c) cannot be found. Please add.	Amended, with a correct reference and now it has been included under 3(2) (a)-(c).	
Section 4(3)	This section requires NAMFISA to determine whether the mandates contain the appropriate		Sub clause is amended with underlined …., <u>which must be submitted to Namfisa in</u>	

	content however there is no requirement in the Act or standards for the mandates to be submitted to NAMFISA.		order to make possible determination.	
4 (1)	An Investment Mandate and all amendments thereto and renewals thereof must be in writing, and must be signed by the Institutional Investor and the investment manager before the Investment Mandate, or any renewal or amendment of the Investment Mandate commences.	The wording does not contemplate that the effective date of a contract may be backdated. For example the calculation of a fee may be from beginning of a quarter but the parties only reduce agreement to writing at the end of the quarter or the next quarter. We think the intention was to capture things like investment limits. If that is the case, we strongly recommend wording clarification to make it clear that investment limits may only be changed after the signing of the contract. If left as is, this may lead to		it should not only be about the limits as an investment mandate does not only cover limits, but other conduct issues too. This standard must be read together with Gen.S. 10-11 Institutional Investment. And performance should not precede signing of the contract, as the purpose of signing is for the parties to know the expectations in the contents contained in the mandate. Thus, signing after the performance is ineffective in this regard.

		some bizarre scenarios.		
4 (2)	Discretion must be exercised by an Institutional Investor in assessing the appropriateness and adequacy of the provisions of an Investment Mandate and must take into account all relevant matters including, but not limited to	We assume that this does not mean that we cannot have fully discretionary mandates but rather that the client (in our scenario) must consider all of these items.	The observation is noted. Yes indeed, that is the expectation from a regulatory view point about the minimum requirements to be contained in the mandate, and is important that parties to the mandate are made aware.	
4(3)	Subject to an evaluation of the particular circumstances, NAMFISA must determine whether an Investment Mandate contains appropriate and adequate contents with reference to the criteria referred to in sub-clause 3(2) .	Incorrect referencing to sub-clause 3(2) rather than 4(2). When is NAMFISA to determine this? How can NAMFISA make a determination if at 4(2) the requirement is for the investor to have applied its own discretion. What is the intention of this clause? Recommend deletion in the absence of proper clarity	The correct reference after revisions is still subclause 3(2)(a)-(c) Sub clause 4(3) is amended with underlined …., <u>which must be submitted to Namfisa in order to make possible determination</u>.	Clause 4(3) states " subject to an evaluation of the particular circumstances" . Thus, the determination by NAMFISA will be contingent upon extenuating circumstances Intention of the subclause is to ensure that all investment mandates contain appropriate and adequate content and that a regulated

				entity is directed to amend the mandate should it be found wanting.
5(1)	… referred to in sub-clause 3(2).	We recommend correcting the reference to read "clause 4(2)".	Subclause 3(2)(a)-(c) is still the correct reference even after the revisions to the standard.	
7(1)(e)	(1) The Investment Mandate should, at minimum, address the following: (e) any other information that NAMFISA deems necessary.	When will NAMFISA deem things necessary? If this is the law that contains the requirements and the clients have agreed, it seems unfair that the regulator may step into a contractual arrangement that meets the minimum requirements to prescribe additional information in isolation of any rational or recording metric. We recommend deletion.		It is not possible to cater for each and every circumstance or information requirement. Our markets evolve continuously. Thus, subject to an evaluation of the particular circumstances, NAMFISA will determine what additional information will be required subject to circumstances on a case by case basis.

GEN.S.10.13 **PAYMENT OF CONTRIBUTIONS**				
Section	**Comment/ Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
	General Comment	Numbering of General Standard under the heading does not include an "S". Numbering to align with the format of all other standards i.e. GEN.S. 10.13. The title of the standard is also duplicated. Align standard numbering to be consistent with others and for referral purposes and delete duplication.	Amended Noted and has been addressed	
	This Standard is specific to retirement funds.	It is recommended to issue this Standard under the Retirement Funds Chapter section 410(6)(aa).[1]		This is a general chapter provisions which must not only cover pension funds but also medical aid fund. Therefore, the proposal has not been incorporated in the changes to the standard as pension funds are included.

[1] Can this be made applicable to Pension Funds under Chapter 5.

3 (1)	Payment of Contributions – refer to MAF.S.7.16.3 (a) and (b)	See previous comment.	The concern is noted and have amended the provision slightly by including the underlined. **3.** (1) The total amount of all contributions due to a registered fund, medical aid fund or friendly society by an employer, employee or member, as the case may be, must be paid in full to the registered fund, medical aid fund or friendly society and deposited in a bank account opened in the name of the fund, medical aid fund or friendly society by not later than seven calendar days after payment thereof became due in respect of which the contributions are payable.	
Section 3(2)	We believe this section which states that "such statement" which was filed with the clerk or registrar of a court "has all the effects of a civil judgment lawfully given in that court" is unconstitutional. There needs to be an actual judgement by a court for it to be lawfully given in that court.		The concern is noted and have amended the provision slightly by including the underlined word in the statement to give effect of a court judgement. …..thereupon ~~once~~ such statement has all the effects of a civil judgment lawfully given in that court against the person in favour of the registered fund for a liquid debt in the amount specified in the statement and may be enforced as such.	

GEN.S.10.14 **Information from List Applicant and Others on Listed Individuals, Listed Companies and Others**				
Section	**Comment/Description of issue:**	**Proposed Amendment/Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
	General Comment	Numbering of General Standard under the heading does not include an "S". Numbering to align with the format of all other standards i.e. GEN.S. 10.14. The title of the standard is also duplicated. Align standard numbering to be consistent with others and for referral purposes and delete duplication.	Amended	
General	The use of the terms (1) Listed Individuals and (2) List Applicants causes confusion. While it is appreciated that the Standard is referring to Agents within the insurance context, using the generic terms might cause unnecessary confusion when it comes to the			The provision relates not only to the insurance space but other sectors too as outlined in the Act. The approach in the Standard is not different from the Act, and the same terminologies has been maintained. Regarding the use of the terminology listed individual, the provision relates not only to the insurance

	practical implementation of the Standard. The definition of Listed Individual under GEN.S.10.1 only references to an insurance agent, which if one considers the definition of insurance agent under Section 53 of the Act, excludes the corporate insurance agent. Are the provisions of this clause expected to apply to corporate insurance agents as the term 'listed company' under the definition contained in GEN.S.10.1 cannot be construed as including corporate insurance agents under Chapter 2. There is no reference to the provisions of INS.S.2.11 regarding the fit			space, but also to the other sectors too as outlined in the Act. The approach in the Standard is not different from the Act, and the same terminologies has been maintained. Standard INS.S.2.11 - Provisions governing the registration and on-going requirements for a corporate body to act as an agent, was removed completely, as General Standard GEN.S.10.14 deals with those aspects (the registration of agents). INS.S.2.11 did not deal with anything other than registration, despite the title.

	and proper requirements. See comments made under INS.S.2.11			
General	We see that listed companies are also within the scope of this standard. The Act only refers to listed companies as those listed on the stock exchange. Some points are unclear in the standard with respect to listed companies. Must those that are already listed apply to NAMFISA, or only new listings? What about those that are not financial institutions?			The law deals with financial institutions, and that is the scope covered and not non-financial institutions. All are list applicants provided the listed applicant provides a financial service under the Act; those are the ones that should be included in the list, if not yet included. This concern is provided for under section 3(2). Regarding the use of the terminology listed individual, the provision relates not only to the insurance space, but also to the other sectors too as outlined in the Act. The approach in the Standard is not different from the Act, and the same terminologies has been maintained. Standard INS.S.2.11 - Provisions governing the registration and on-going requirements for a corporate body

				to act as an agent, was removed completely, as General Standard GEN.S.10.14 deals with those aspects (the registration of agents). INS.S.2.11 did not deal with anything other than registration, despite the title.
Section 3(2)	This section is unclear. As only an exchange can list an entity, we recommend referring to an "exchange" rather than a "list applicant".			You are using the terminology differently as the list does not only refer to listed companies on the exchange. Please consult the definition provided in the standard.
3	(2) Where a list of companies is submitted to NAMFISA by a list applicant, in the case of each listed company which has not yet been registered by NAMFISA, the list applicant must provide NAMFISA with the following: (f) confirmation that the company has a code of conduct and applicable systems in place with respect to its authorised	Please refer to previous comment on codes of conduct.	With regard to the code of conduct the concern has been considered and changed according to read**…**<u>policy on the code of conduct…</u>	

	representatives or designated representatives, as applicable; and			
Clause 5(1)	What is meant by 'updating lists' and where should this happen? Does the updating of the list refer to the formal agent registration process as per INS.S.2.11			This is the responsibility of the list applicant to ensure the list is up to date. The meaning for updating the list maintains the ordinary meaning of the term and it must be done with NAMFISA, the regulator. Standard INS.S.2.11 - Provisions governing the registration and on-going requirements for a corporate body to act as an agent, was removed completely, as General Standard GEN.S.10.14 deals with those aspects (the registration of agents). INS.S.2.11 did not deal with anything other than registration, despite the title.
	Our understanding is that we would fall into the category of "listed applicant" in accordance with the definition provided under Part 1 of the	Please confirm / clarify on the queries posed.	This is a general provision not only dealing with NSX, but in this case the NSX is a list applicant as you will be submitting a list of authorized users in line with chapter 3 as outlined	

	General Standards. For the avoidance of doubt, please confirm that the information we are required to obtain from list individuals or list companies (as authorized users of the services of the exchange) in accordance with the Standard relates only to: 1. Stockbroking business; and 2. Sponsor business.		in the definition under section 91 of FIMA, 2021.	

GEN.S.10.16 **IMPOSING OF PENALTIES ON LIST APPLICANTS AND OTHERS PURSUANT TO SUBSECTION 56(2), 92(2), 96(6), 181(2) OR 183(B)**				
Section	**Comment/Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
	General Comment	Numbering of General Standard under the heading does not include an "S". Numbering to align with the format of all other standards i.e. GEN.S. 10.16. The title of the standard is also duplicated. Align standard numbering to be consistent with others and for referral purposes and delete duplication.	To be corrected to include "S" Noted and amended	
General	No similar penalties are being proposed for financial intermediaries.			Proposal has not been accepted. Financial intermediaries are by definition not list applicants but list individuals.
Paragraph 2(a)&(b)	Formatting of clauses.	Correct formatting.	amended	

Clause 3	Penalty is excessive for mere submission of forms and names, and any bona fide error thereon, which may occur.	Reduce the penalty to a smaller fine, more reasonable to the error or omission, such as N$10 000-00 to max N$100 000 for example. Is there another recourse or avenue of appeal or does NAMFISA have the last say?	Yes, there is a due process including making a representation.	It must be emphasized that the purpose of the penalties is to deter wrong-doing and not to generate financial resources, and that is why the degree of severity in transgressions is fundamental in determining whether to impose the penalty or not during the hearing process. During the review process, the entity is accorded a representation and should the outcome not be taken the entity is free to take the matter with the Appeal Board.
Clause 3	Are the references in the Standard accurate as it refers to subsection 183(1) and 183(6), which do not seem to warrant penalties? 183. (1) A manager may take any of the actions set out in subsection (2), if the manager acting reasonably, finds that any of the following circumstances exist with respect	Please confirm.		Enabling provision is subsection 410(5)(d) of the Act. Reads For purposes of Chapter 4, NAMFISA may issue a standard relating to….imposition of penalties on an authorized representative pursuant to section 181 and on a designated representative where a manager has referred a matter to NAMFISA pursuant to section

	to a designated representative - (a) any of the requirements referred to in section 182(2) have not been met; (b) the copy of the list submitted under section 182 or the accompanying information and material contained information concerning the individual that was not materially accurate or omitted information that was materially relevant; (c) the individual no longer meets the requirements for a designated representative; (d) the individual has suspended activities for which the individual was registered for a period of at least 12 months; (e) the individual is not in compliance			183(2)(g) and the application of the provisions of section181 pursuant to section 183(6).

	with a requirement of this Act; or (f) the individual has engaged in conduct of a kind that has been identified in the standards as misconduct. (6) The manager must inform NAMFISA forthwith of any direction to an authorised representative to remove the name of a designated representative from the list pursuant to subsection (3) or of the removal of the name of a designated representative from the list by the manager pursuant to subsection (5) and in that case, or in the case that the manager refers a matter to NAMFISA pursuant to subsection (2)(g), the provisions of section 181 do apply with any changes made			

	required by the context.			
Section 3(1)	There should be a hearing of some sort or any other appropriate avenue for the applicant to be heard on the matter, for a penalty to be levied. We believe it is inappropriate for the only criteria to be that NAMFISA is satisfied.		Yes, a hearing and representation should be in place before such a determination is made, which will be based on circumstantial evidence on record and communicated to the entity to facilitate representation and hearing process. All such details inclusive of determination of severity and review process is contained in the internal Guide on Administrative Sanctions.	
3	(1) Where NAMFISA is satisfied that the circumstances described in section 56(1), 92(1) or 181(1) exist, NAMFISA may impose on the List Applicant a penalty: (a) not exceeding 2 percent of its revenues earned from its business activity in its immediately preceding financial year; or (b) suspending part or all of its business activity for which it is registered for a	As can be noted from the above provisions, the extent of penalties that may be imposed, sometimes for administrative failures or oversights only, is extensive. The Standard is too broad and essentially catches all these types of breaches or offences under one heading, with each being subject or potentially subject to these hefty penalties.		

	period not exceeding one month. (2) Where NAMFISA is satisfied that the circumstances described in subsections 96(1) and (6) exist, NAMFISA may impose on the authorised user or authorized representative, as applicable, a penalty: (a) not exceeding 1 percent of its revenues earned from its business activity in its immediately preceding financial year; or (b) suspending part or all of the business activity of the authorised user or authorized representative for a period of 3 months. (3) Where NAMFISA is satisfied that the circumstances described in subsections 183(1) and (6) exist, NAMFISA may	There is also no provision made for the appeal or review of these penalties, and no mitigating circumstances appear to be considered. As the penalties are based on a percentage of revenue, inevitably we will have a situation whereby the higher earning companies are prejudiced or end up paying significantly more. It is proposed that NAMFISA classify offences according to severity when imposing these penalties. Furthermore, where penalties are imposed, the right to appeal or review and submit representations and mitigation		With regard to calculation of administration penalties based on revenue, the reason is because there is a due process involved before the actual penalty is imposed. Therefore, should all the required recourse be exhausted and the entity still does not remedy the wrong doings, surely it is plausible to impose the penalty as a percentage of revenue irrespective of the level of the margins as operating profits becomes not practical when losses are recorded.

	impose on the authorised representative or designated representative, as applicable, a penalty: (a) not exceeding 1 percent of its revenues earned from its business activity in its immediately preceding financial year; or (b) suspending part or all of the business activity of the authorised representative or designated representative for a period of 3 months.	factors should be provided for. Request NAMFISA to reconsider the mechanism for calculating penalties – i.e. revenue – so as to be fair to all industry participants. The administrative penalties that can be imposed where "Namfisa is satisfied" that, for example, Very draconian, especially if the penalties can be imposed per contravention – so, for example if in respect of 50 insurance agents the required registration fees have not been paid, an admin penalty equal to 100% of the previous year's revenue can be imposed? If this is the intention, it is clearly over-the-top, given that no due process is		

		seemingly required; Based on "revenue" (which is a somewhat tricky term to pin down, especially in the case of long-term insurers) and would relatively disadvantage "high-turnover-low-margin" entities as opposed to "low-turnover-high-margin" entities. We suggest the following: 1. Calculate admin penalties as a % of operating profit, not of revenue – this ensures that penalties will have the same impact for low margin and high margin businesses. 2. Prescribe an escalation process – for example, remedial action or a warning for a first contravention and only revert to	review process allows for representation to take place and all factors required to be presented are considered in determining the penalty.	

		these massive penalties for repeat offences; Prescribe an appeal/review process.		
Clause 3(1)(a)	How was the percentage determined as 2% on the total revenue earned by the list applicant is excessive? If the percentage is justifiable, it is proposed that it be limited to the revenue generated by the list individual (insurance agent or corporate insurance agent).			While the proposed approach to limit the penalty to the revenue generated by the list individual is acceptable it will however, apply not only in the case of insurance, but all where relevant.

GEN.S.10.17 **DESCRIPTION OF PLAIN LANGUAGE**				
Section	**Comment/ Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
	i. Numbering of General Standard under the heading does not include an "S". Numbering to align to format of all other standards i.e. GEN.S. 10.17 ii. The title of the standard is also duplicated.	i. Align standard numbering to be consistent with others and for referral purposes. ii. Delete duplication.	Accepted and amended	
	General comment	This document does not take into account that some clients are professional investors and have professional advisors and lawyers who act on their behalf. In certain scenarios it should be acceptable that some legal language be used. We strongly recommend the deletion of this standard in its entirety.		The concern is noted, but we wish to emphasize that the intention of this standard cannot be compromised in order to ensure that the legislation extends the desired level of awareness and protection to the vulnerable groups of consumers. Regarding the differentiation between commercial clients using attorneys and general public that concern is at the discretion of each business model and corresponding target market. Therefore, the changes have

				not brought in the proposal.
General	Plain Language, as with Point of Sale under INS.S.2.10, forms part of one of the 6 pillars of treating customers fairly, namely product and service design. The 6 pillars are: (1) governance and compliance; (2) product and service design; (3) disclosure; (4) suitable advise; (5) performance and service against expectations; and (6) claims, complaints and changes. What is the rationale for providing for insurance standards that address concepts such as 'Treating Customers Fairly' (INS.S.2.7) and 'Point of Sale Information' (INS.S.2.10) but not addressing these concepts under the general standards which	It is proposed that NAMFISA considers introducing a single Standard address the pillars of TCF as opposed to haphazardly referencing to TCF concepts across various Standards applicable to various industries.	Treating Customers Fairly Standard is included in the next batch of gazetted standards for industry consultations, and extensively deals with all the principles.	

	are applicable to all non-bank financial institutions?			
General	The target market ("clients") within financial institutions differ, therefore the degree of plain language used would also differ and would be a subjective concept. i.e. brochures to the general public vs insurance policy for a commercial entity in which legal and technical terms.	Include a differentiation between commercial clients who employ attorneys to draw up complex agreements and standard documents ear-marked for the general public.		The concern is noted, but we wish to emphasize that the intention of this standard cannot be compromised in order to ensure that the legislation extends the desired level of awareness and protection to the vulnerable groups of consumers. Regarding the differentiation between commercial clients using attorneys and general public that concern is at the discretion of each business model and corresponding target market. Therefore, the changes have not brought in the proposal.
Clause 2 and 3(4)	Clause 2 indicates that this Standard is applicable:(a) to all financial institutions and financial intermediaries and to their boards, directors, principal officers, other officers, employees,	It is recommended that clause 4 be removed. The normal principles of the law of contract is sufficient to address matters relating to when		Regarding the proposed removal, on the contrary this is important to ensure consumers do not just enter into contractual obligations without prior knowledge of their obligations under the contract.

	trustees, custodians and agents, and (b) in respect of all documents presented to clients of financial institutions and intermediaries. The clause requires that the above persons must be satisfied that, after reading the relevant document, a client: (a) has understood the content, by so acknowledging in writing without duress; (b) is making an informed decision; and (c) understands the rights and obligations set out in the document. Does this preclude electronic distribution where information is provided to a client which is confirmed by the client when purchasing? This would not be in the interest of financial inclusion we are	a contract is valid or not. It is recommended that a cool-off period rather be provided than compulsory provisions to allow the client to understand all provisions and obligations, and be able to cancel the contract within 30 days.		No, signature is only in case where relevant such as a contract document. Electronic transactions are encouraged and not excluded. Financial inclusion should and has never been interpreted to mean should be achieved on the expense of

	aiming to achieve in Vision 2030. It is not reasonable to place the obligation on the institution to ensure that a person is making an informed decision. This is subjective. Further, contractual acknowledgement that a person understands the rights and obligations should be sufficient as confirmation that a person undertakes to be bound by such. Caveat subscriptor.			consumer protection.
Clause 3(1)	Clause 3 refers to "NAMFISA's certification requirements" that needs to be met, with no indication of what those requirements are outside of what is listed in this Standard. The requirements of this clause are further extremely onerous and will be difficult to	Provide the industry with the certification requirements and rather issue this as guidelines than in a Standard.	The concern have been noted and therefore 3(1)(d) has been deleted and then the heading has been changed from compliance requirements to Certification requirements.	

	comply with. It is unclear what could need to be underlined or in bold (considered important) when drafting application forms, quotes and contracts as all information collectid are used to underwrite and assess claims for example.			
3(1)(d)	To comply with this Standard, a document must- (d) be written to meet NAMFISA's certification requirements on plain language	What are the NAMFISA certification requirements on plain language?	The concern have been noted and therefore 3(1)(d) has been deleted and then the heading has been changed from compliance requirements to Certification requirements.	
Clause 3	1)Clause 3(1)(d) requires that, in order to comply with standard GEN.S.10.17, a document must "be written to meet NAMFISA 's certification requirements on plain language". It is not clear from this statement which certification requirements of NAMFISA, it appears that these certification requirements seem to be those set out in sub-	1)Clause 3(1)(d) should be reworded as follows (add underlined paragraph): "d) be written to meet NAMFISA's certification requirements on plain language <u>as set out in sub-clause 3(3),"</u> 2)Clause 3(4) should be reworded as follows (delete struck-through	The concern is noted, and therefore 3(1)(d) has been deleted, and then the heading changed from compliance requirements to Certification requirements. Amended but requirement is only on documents requiring contractual signature	

	clause 3(3) of the standard. 2)Clause 3(4) requires the "All persons to whom this standard applies must be satisfied that, after reading the relevant document, a client: (a) has understood the content, by so acknowledging in writing without duress,… ". This implies that the fund should be obtain a written acknowledgement from the client each time a document is communicated to a client. Under FIMA, a number of documents and reports need to be communicated to the client, e.g. Rules of the fund, rule amendments, Annual financial statements, various reports etc. for the fund to obtain a written acknowledgement every time is time-consuming and not practical. Upon an earlier inquiry with	paragraph and add underlined paragraph): " All persons to whom this standard applies must be satisfied that, after reading the relevant document, a client: (a) has understood the content <u>and would</u> ~~by~~ so acknowledge in writing without duress <u>if prompted to do so</u>.		

	NAMFISA it seems as if this requirement should not be implemented to the letter but rather that it should be demonstrated that the principles of disclosure and transparency were adhered to. The wording of this clause should be amended to make this clear.			
Section 3(1)(f) and 3(3)(i)	these appear to be duplicated.		Deleted 3(3)(i)	
3(2)	"To ensure that a document satisfies these requirements, an Investing institution all persons to whom this Standard applies must - "	The words "an Investing institution" need to be deleted - the sentence does not make sense.	Deleted as proposed	
SECTION 3 (2)	Section 3 (2) seems to be missing a word. Currently it reads " To ensure that a document satisfies these requirements, an Investing institution all persons to whom		amended	

	this Standard applies must:" Replace Investing with Financial include the word "and" between Institution and all.			
Section 3(2)	We recommend replacing the word “satisfies” with “meets”.		Amended as proposed.	
Paragraph 3(2)	The words ‘an investing institution’ do not belong in the sentence.	Correct grammatical error.	Amended by deleting the term an investing institution	
3(2)(c)	"use client questions on documents"	This is unclear. If NAMFISA means that all previous client queries must be included in documents, this could potentially mean that documents end up being many pages, including information that is largely unnecessary to the majority of clients. Additionally, why prescribe that the information must be included as a Q&A section. Potentially amend to say "include the	Concern is noted and amended as underlined below. c. ~~use client questions on~~ documents should have questions directed at clients in order to require answers from clients; and	No, the intention is not to include all previous client queries as understood. See amendments as underlined.

		information which is commonly requested by clients".		
Clause 3(3)	Would avoid using examples			The list is provided for the sake of aiding clarity to consumers and service providers. Otherwise it might not be clear to every user, and therefore the list is necessary and important, especially for the purposes of promoting consumer education. Under 3(3)(f) that is only where relevant and therefore has not been changed as shown under (3)(i). Under 3(3)(l) it is only where relevant and this is not all about the factsheets, and therefore has not been changed as shown under l(3)(j).
3(3)(f)	"In order to satisfy the requirements of this Standard, the following should be used in all documents: a large enough readable font, i.e. 12-point typeface or more"	Impractical for a document like a factsheet. If all the information was 12 font, the factsheet would go on for pages. Font smaller than 12-point is still perfectly legible. Please can "i.e.		No, the proposal is not accepted. That is a standard font size

		12-point typeface or more" be deleted.		
3(3)(k)	"examples, lists, illustrations, and tables; and"	Not all documents would require this. Please can ",if applicable" be included after "tables".	The concern is noted and 3(3)(i) amended with …if relevant...	
3(3)(l)	"highlighting important content by bolding or underlining"	Impractical for a document like a factsheet where all the information is important. Please can “, if applicable" be included after "underlining"		it is only where relevant and this is not all about the factsheet, and therefore has not been changed.
3(4)(a)	All persons to whom this Standard applies must be satisfied that, after reading the relevant document, a client: (a) has understood the content, by so acknowledging in writing without duress	Whilst this is done for e.g., applying for an investment (signing an application form), there are other documents "presented to clients of financial institutions and intermediaries" for which obtaining a signature would be impractical - e.g. a factsheet. So not all documents would require		The concern is noted but this would apply only where relevant. Eg., in a case where a contract has to be signed as that is where binding terms and conditions are included.

		signature by a client surely?		
Clause 3(4)	As the standard applies in respect of all documents presented to clients, the requirement for a client to acknowledge in writing that they understand each document will be onerous.	Please provide clarity.	Yes, applies only to such cases where a signature is required such as a contract. In addition, we have amended (4)(a) to read as underlined below. …has understood the content, and would acknowledge in writing without duress <u>if prompted to do so;</u>	
clause 3(4)	Clause 3(4) requires that "All persons to whom this Standard applies must be satisfied that, after reading the relevant document, a client: (a) has understood the content, by so acknowledging in writing without duress; …". This implies that the Fund should obtain a written acknowledgment from the client each time a document is communicated to a client.	Clause 3(4) to be reworded to only apply to documents whereby the member enters into a transaction with the fund and which the member needs to sign as a party to the transaction. We suggest to reword clause 3(4) as follows: "When a client must submit any document of a person to whom this Standard applies to such a person for	Yes, applies only to such cases where a signature is required such as a contract. In addition, we have amended (4)(a) to read as underlined below. …has understood the content, and would acknowledge in writing without duress <u>if prompted to do so;</u>	

	FIMA requires a number of documents to be provided to clients. In addition to the benefit statement, member forms etc., a number of copies need to be provided to each member, such as rules of the fund, rule amendments, financial statements etc. To obtain a signed member declaration from each member every time such a document is provided to the member will be time-consuming and thus costly to the fund, and not practical. Also, what should the fund do if no response is received from the member? This requirement should therefore only apply to documents whereby the member enters into a transaction with the fund and which the member needs to sign (e.g., member	entering into a transaction with the person, the client must, after reading the relevant document, acknowledge in writing without duress that he: (a) has understood the content; …"		

	application form, withdrawal form, member investment choice form etc)			

GEN.S.10.18 **THE FIDUCIARY RESPONSIBILITIES OF FINANCIAL INSTITUTIONS AND FINANCIAL INTERMEDIARIES AND OF THEIR DIRECTORS, MEMBERS OF BOARDS, PRINCIPAL OFFICERS AND OTHER OFFICERS**				
Section	**Comment/ Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
Entire Standard	There are no definitions stated for this Standard. Further, the term "functionary" is used in the Standard, although the heading uses the term "officer". The term "functionary" is neither defined in FIMA nor in this Standard. The term has been defined in draft Standard "Part 1: Preliminary" (published on 22 December 2021) and provides as follows: "functionary" means a director, member of the board, principal officer, other officer and employee of a financial institution or financial intermediary;	Amend this Standard by inserting a Clause on definitions as follows: (a) In this Standard (i) "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 under the Act; and (ii) "functionary" means a member of the board, another officer and/or an employee of a medical aid fund or a medical aid fund broker.	Accepted The concern has been attended to and the standard has a section on definitions and the term means a director, member of the board, principal officer, other officer and employee of a financial institution or financial intermediary.	

		(b) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including, without limitation, the following as defined in section 1 of the Act – (i) board; (ii) client; (iii) financial institution; (iv) principal officer; and (v) standards.		
General	The concept functionary is defined – rather reference to the collective term as oppose to overburdening the title of the General Standard	The wording of the standard to be changed to read: 'The Fiduciary responsibilities of financial institutions and financial intermediaries and their functionaries'	Noted	
Clause 3(1) read with	The provisions appears to be duplication	Proposed that Clause 3 references to the	Disagree: The concern is noted but cannot find the duplication	

clause 4(1)		Financial Institution and Financial Intermediary while Clause 4 references to the Functionary	other than the fact that 3(1) refers to both (i.e., the institutions and their functionaries) while 4(1) refers only to functionaries; so there is no duplication.	
Clause 3(2)(b)	This clause states that all financial institutions and financial intermediaries must disclose all material information to the client or investor before entering into a transaction. "Material information" is not defined in the Standard. What will constitute "material information"? the statement is very vague and subject to different interpretation by industry and NAMFISA	NAMFISA to provide definition for "material information". Clarification required.	Accepted: The request has been effected in the changes and is defined as information that would enable a client or investor to make an informed decision or information that, if not provided, would result in the client or investor not to make an informed decision.	
3	(2) A Financial institutions and financial intermediaries must: (c) avoid conflicts of interest in respect of clients or investors; and	We recommend that this wording be enhanced. Some conflicts can be managed. (c) avoid or manage conflicts of interest in	Accepted: See amendment in red font as …avoid or disclose conflicts of interest in respect of clients or investors;	

		respect of clients or investors; and		
Clause 3(2)(c)	The clause states that financial institutions must avoid conflicts of interest. There will always be conflict of interest by the financial institution and the intermediary (agent).	The clause must be rephrased to read as follows: "avoid or disclose conflicts of interest…" Recommend that the clause should read that the financial institution and financial intermediaries should manage the conflict of interest in respect of investor/ client as stated in Clause 4(1)(c) of the Standard	Accepted: The request has been effected in the changes and now the provisions reads with the underlined changes as…. (c) avoid <u>or disclose to manage unavoidable</u> conflicts of interest in respect of clients or investors;	
Subclause 3(2)(c)	2) A Financial institutions and financial intermediaries must: (c) avoid conflicts of interest in respect of clients or investors; and Refer to the comments at Subclause 1(1)(c) of Standard MAF.S.7.21 above. It is possible that there could be	Delete Clause 3(2)(c). Inappropriate. Not aligned with the de fact situation in medical aid funds. Alternatively, exclude medical aid funds and their agents from		Rejected: The request has not been included in the changes. This is a general standard and may not apply in every aspect as outlined in every provision. Therefore, if a provision does not apply, a clause must not be enforced on the sub-

	conflicts of interest between a medical aid fund (which is a financial institution in FIMA) and a member due to a medical aid fund's obligation to act in the collective interest of members. The collective's interest may at time conflict with the individual member's (i.e., client's) interest. Furthermore, a medical aid fund broker who will act as an agent of a medical aid scheme in the future, could also potentially find himself/herself in a conflict of interest situation by virtue of representing a particular medical aid fund's interests. Also, a medical aid fund does not have investors. The proposed wording of the Subclause is not aligned with the de facto situation of a medical aid fund.	the application of this Subclause.		sector. It is true that a medical aid fund does not have investors, but surely there are some clients belonging to the fund as members. So, the actions required even from the trustees must be in the best interest of the collective membership, and is not for individual interest. Individual interest cannot and should not be promoted against the collective interest/s.

Clause 4	Clause 4 and its sub clauses talk about "Functionary". It is not clear what a functionary is and FIMA does not define the term.	NAMFISA to provide a definition for "functionary" in the Standard.	Accepted: The concern has been attended to and the standard has a section on definitions and the term means a director, member of the board, principal officer, other officer and employee of a financial institution or financial intermediary.	
Clause 4	Grammar • Clause 4(1), typo.	Recommended corrections.	Accepted "(1) "deleted	
Subclause 4(1)(a)	(1) A functionary of a financial institution or financial intermediary must: (a) act in the best interest of clients or investors; This provision is inappropriate in the context of a medical aid fund. Section 343(2)(a) of FIMA places a duty on the board of trustees of a medical aid fund to protect the interests of the collective membership. The best interest of a specific client	Delete Subclause 4(1)(a). Inappropriate. Not aligned with the de fact situation in medical aid funds. Alternatively, exclude medical aid funds and their agents from the application of this Subclause.	Yes, does not have investors but surely there are some clients. And the actions required even from the trustees is in the best interest of collective membership, and is not for individual	Rejected: This is a general standard and may not apply in every aspect as outlined in every provision. If a provision does not apply, a clause must not be enforced on the sub-sector.

	could be in conflict with the collective interest of the membership. Refer also to the comments at Clause 3(2)(c) above. A medical aid fund does not have investors.		interest promoted against the collective interest/s.	
Subclause 4(1)(c)	(1) A functionary of a financial institution or financial intermediary must: (c) avoid conflicts of interest or manage unavoidable conflicts of interest with respect to the financial institution or financial intermediary concerned and its clients or investors; It is possible that there could be conflicts of interest between a medical aid fund and a member due to a medical aid fund's obligation to act in the collective interest of members. The collective's interest may at times	Delete Subclause 4(1)(c). Inappropriate. Not aligned with the de fact situation in medical aid funds. Alternatively, exclude medical aid funds and their agents from the application of this Subclause.	Yes, does not have investors but surely there are some clients. And the actions required even from the trustees is in the best interest of collective membership, and is not for individual interest promoted against the collective interest/s.	Rejected: This is a general standard and may not apply in every aspect as outlined in every provision. If a provision does not apply, a clause must not be enforced on the sub-sector.

	conflict with the individual member's (i.e., client's) interest. Furthermore, a medical aid fund broker who will act as an agent of a medical aid fund in the future, could also potentially come into a conflict of interest situation by virtue of representing a particular medical aid fund's interests. Also, a medical aid fund does not have investors.			
Clause 5	Grammar • Clause 5 typo	Recommended corrections.	Accepted "A" deleted at the beginning of the sentence	
Clause 5	The clause provides for the keeping of a record of material dealings but does not provide the format of such records and the period of which the records must be kept. Is Electronic record keeping acceptable?	NAMFISA to include the acceptable formats of the records and also stipulate a time for which the records must be kept. If the expectation is to align with the obligations under the Financial Intelligence Act, would advise	Accepted: (i) The request has been effected by including sub-section 5(2) reading as follows: 5(2) Such records required under sub-clause 5(1) must be in writing and kept either in hard or electronic copies for (a) a minimum of five years effective from the date the record is closed or	

	Also what will constitute material dealing?	that is be specifically mentioned	(b)an extended period of time if specifically, so requested by competent authorities before the expiry of the 5 years period. Material dealings are those concluded using material information. And material information is the information that would enable a client or investor to make an informed decision or information that, if not provided, would result in the client or investor not to make an informed decision.	

GEN.S.10.19 THE FORM AND CONTENT OF ANY APPLICATION FOR APPROVAL OF A CHANGEOF NAME, USE OF ANOTHER NAME OR USE OF A SHORTENED FORM OR DERIVATIVE FORM OF A NAME MADE TO NAMFISA UNDER THIS ACT				
Section	**Comment/Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
	General Comment	Throughout some of the standards, the requirements vary with regards to applications or any submissions made to NAMFISA, in some instances one can do so electronically OR hard copy delivery, in other instances, one can submit electronically, however should the electronic version not be signed, then a hard copy with signature needs to be submitted and other instances, both electronic and manual submissions are required. Is there a preferred choice of the regulator relevant to each specific standard and its submissions, or	Agree and Amended. The sought clarity is provided as follows: (i) The options provided to submit either in hard copy or electronically is the standard for submission in order to allow flexibility in the submission between the two options. However, going forward we would like to encourage respondents to submit electronically as the world is gradually moving into a digital conduct of business. As a result, we have now changed the requirement as follows, under a heading submission and clause 3.(1) reads <u>The application must be submitted to NAMFISA electronically on the NAMFISA ERS.</u> (2) <u>Where necessary and when so directed by NAMFISA, the applicant must submit specified documentation or information manually in hard copy to NAMFISA.</u>	

		is there an overall change in how submissions are required that needs to be aligned throughout the standards? Please clarify/confirm submission requirements or align throughout the standards. The numbering within this standard is in correct, there is no section 3. Correct numbering. With a change of name application, one can submit electronically or via hard copy, however the company documents needs to be submitted to NAMFISA after NAMFISA has provided approval of the change of name. It is assumed that these documents be submitted by hard copy. Could		

		NAMFISA not consider an electronic submission of the company documents after NAMFISA has approved such a name change so as to ensure everything is stored in one place electronically and to keep track and evidence of what was submitted? As to have a partial electronic and hard copy submission? Kindly clarify or confirm the requirement of the submission of documents after NAMFISA approval of change of name and whether this could also be done electronically?		
Clause 2	Proposed that the application process be expanded so as to address the registration requirements of BIPA and how they will integrate with the			Proposal is not Accepted. BIPA has a mandate which is separate from that of NAMFISA. So BIPA

	NAMFISA application process (i.e. Reservation of Name / Shortened Name to be secure first etc.)			first and then NAMFISA endorses
Clause 2(1)(c)	Both (i) and (ii) are application (electronic submission via ERS and hardcopy submission) – refer to and as oppose to 'or'		The sought clarity is provided as follows: (i) The options provided to submit either in hard copy or electronically is the standard for submission in order to allow flexibility in the submission between the two options. However, going forward we would like to encourage respondents to submit electronically as the world is gradually moving into a digital conduct of business. As a result, we have now changed the requirement as follows, under a heading submission and clause 3.(1) reads <u>The application must be submitted to NAMFISA electronically on the NAMFISA ERS.</u> (2) <u>Where necessary and when so directed by NAMFISA, the applicant must submit specified documentation or information manually to NAMFISA.</u>	Duplication not required as it is the same information
Clause 2(1)(d)(iii)	The requirement that information requested by Namfisa "*from time to time*" opens up the door	Information is supposed to be published and known NAMFISA must be specific in	Accepted and Amended. The proposed change now reads under 2(1)(c) (iii)	

	for continuous change in requirements	what they require.	such other information and documents specified in the Schedule to this Standard or which NAMFISA mayrequire and communicate to the applicant.	
Clause 2(2)	See previous comment - 2.(1) (d) (iii).	Recommended that NAMFISA sends notice to the industry participant to provide the outstanding information within a certain period of time before rejecting the application.	Accepted and Amended. Subclause 2(2) now appears under subclause 2(3) and reads as follows with an underlined improvement: 2(3) An application, not complete in all respects and not conforming to the instructions specified in the Schedule may be rejected on the basis of being non-compliant with this Standard. In addition, as a response to the concerns raised, the flow of the provisions in the standard has been strengthened with additional provisions under sub-clauses 2(2), (4)-(6)	
Section 2(3)	The phrase “certified by” BIPA is unclear. BIPA issues an amended form for name		Amended as suggested	

	changes. We recommend that the word “certified” be replaced with “approved”.			
Schedule	In the signing section, the term “guarantee” is used. Why is this used rather than “confirm”? What is the implication of “guarantee” rather than “confirm”?		Suggestion has been adopted in the schedule to read as follows: By signing this document I <u>confirm</u> that all the above information is true and accurate and can be relied on and that I will disclose all necessary information that may be required by NAMFISA.	
Clause 2(3)	When requesting approval from NAMFISA to change an entity name, this clause places an obligation on the financial institution to submit certified copies of the Memorandum and Articles of Association evidencing the name change, however, is the aim of this Standard not to ensure that approval is first obtained from NAMFISA before changes are made at BIPA? Why would approval, instead of notification be	That the NAMFISA only request proof of the name change (where the entity is a company this proof would come in the form of a “Certificate of name change” CM9 that is issued by BIPA) within 30 days after NAMFISA has provided the financial institution with written approval that we can go ahead and amend same with BIPA.	The clause has now been amended under the new clause 2(7) as underlined below. 2(7) Where an application is made for a change of name, and where the applicant is an entity, certified copies of the relevant approved documents of the applicant, evidencing the name change, must be submitted to NAMFISA within 30 calendar days after the change of name has been <u>approved</u> by the Business and Intellectual Property Authority.	However, name change be it shortened is BIPA’s mandate only and once that has been approved only then can the entity approach NAMFISA to approve registration/licensing , otherwise without required documentation will not be approved. And that is the context of approval in this standard.

	required if the name change is already certified?			
Paragraph 3	Refers to a standard on fees payable S.10.23. which has not yet been published.	Please provide clarity on whether the relevant standard has since been published.	Yes, it has been gazetted.	

GEN.S.10.20 **DEFINITION OF RELATED PARTY TRANSACTIONS AND IDENTIFYING THOSE THAT ARE PROHIBITED UNDER THE ACT**				
Section	**Comment/Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
General	This standard appears not to be applicable to medical aid funds as it is unclear whether a medical aid fund is included in the definitions of "corporate body" or "entity" in the Act. However, related party transactions can be a problem for medical aid funds too. It needs to be changed so as to clearly include medical aid funds. While medical aid funds may not have affiliates as defined in the Act, they may have associates.	Include the word "board" in the definitions referred to in Clause 1(1)(b) Change "directors" in Clause 2 to "members of boards"		Reject: List is not exhaustive, so even if we include the suggestion that will not be all still. Definition in the Act applies here and its application is not only limited to members of the board.
General	Would it not be best suited to incorporate the content of the proposed standard under General Standard 10.10			Reject: Though related the requirements are different between the two standards with this standard focused more on related party while outsourcing is not

				about related parties only.
General	Does the provisions of the Standard imply that inter-group agreements between affiliates are prohibited due to the contracting parties being related parties and a perceived conflict of interest exists? Or does the Standard merely require reporting to NAMFISA on related parties transactions.		Accept: Yes, undisclosed transactions between related parties is prohibited and should be disclosed. See amendment under section 3 and 4.	
Standard GEN.S. 10.20 appears to have been duplicated on pages 178 and 179		Delete the duplicate.	Accepted.	
Clause 1	Definitional Section	Control in terms of "controlled entities" not defined. Define "control". We suggest alignment with International Financial		Rejected Control is defined in the Act

		Reporting Standards "IFRS", in particular IFRS 10		
Clause 1(2)(b)	The word "key" is subjective and restricts the meaning to only certain senior management. What makes a senior manager a "key" senior manager? It should apply to all senior management.	Delete the word "key"	Accepted: Yes, all senior managers are key, so have been deleted.	
Clause 2	This Standard applies to all directors of financial institutions and financial intermediaries registered under the Act	Is the concept of a related party transaction only applicable to individual directors thereby excluding all functionaries including the actual financial institutions and financial intermediary? Please clarify		Definition in the Act applies here and its application is not only limited to members of the board.
Def 2 (b)	(b) in a joint venture with the entity or person; Is a joint venture defined somewhere else? Not in general definitions.	Define a Joint Venture for purposes of this Standard.	In the absence of definition, the word should be assigned its ordinary meaning.	

Clause 2	The applicability of this Standard indicates that it is applicable to Financial Intermediaries. 5(4) refers to clause 6, however, this Standard does not have a clause 6	Clarify to which types of financial intermediaries this Standard is applicable to in order to create certainty.	Financial intermediaries as defined in the Act Amended with a correction of the numbering of the clause. Error has been noted and corrected.	
Clause 3	This definition has been taken from IFRIS but can be improved upon. Change the definition of "related party transactions" to be more precise. The word "price" is too narrow as it suggests something sounding in money only. "Consideration" is a better legal term because it includes payment in money or shares or in kind or in favours or some other form of recompense. If it is felt that a definition for "consideration" should be included in Clause 1, see next column for	Change to read In this Standard, the term "related party transaction" means a transaction between a financial institution and a related party involving the transfer of funds, resources, services or obligations between the financial institution and a related party, whether for consideration or not, and includes the awarding of a contract by the financial institution to a related party. "Consideration" means any right,		Reject: The term price is not always used to denote a monetary means, and is the case here.

	recommended definition	interest, profit, indemnity, payment sounding in money, benefit, favour, advantage, service or goods.		
Clause 4	Grammatical error The word "significant" is subjective.	Change "conflict" to "conflicts" Change the wording to read: "Material conflicts of interest are likely to arise from related party transactions".		Proposal is not taken. The term is no longer used in the standard.
Clause 4	@ 4 thereof reference is made to related party transactions	Kindly assist with a threshold determining "significance" or guidance notes in this regard.		Proposal is not taken. The term is no longer used in the standard. See amendment under section 3 and 4
Clause 4, 5 & 6	What is regarded as a 'significant transaction" and when would it be considered a conflict of interest?	Proposed that specific prohibited related party transactions be listed to avoid ambiguity	Concern has been accepted and addressed. Consideration on related party transactions is irrespective of the level of significance. See amendments to clause 3, & 4	
Clause 5	This is written in confusing language that makes it difficult to know how to apply	"A conflict of interests is material if -		Proposal is not taken. The term significance is no

	it in practice. Rewrite. It is better to give a guide on what a material conflict of interest is rather than the "significance" of a transaction since other standards impose a duty to avoid conflicts of interest, big or small. Allowing conflicts of interests for "insignificant" related third party transactions is unacceptable. Ideally, there must be no conflicts of interest in any transaction. Corruption is a problem that must be stamped out at its roots, not when it gets so big that significant financial harm has already taken place. Related third party transactions are always problematic.	(1) It is likely to interfere or conflict with, or interferes or conflicts with, compliance with NAMFISA's reporting requirements; (2) It is likely to interfere or conflict with, or interferes or conflicts with, compliance with the provisions of the Act or any other applicable law; (3) It is likely to inappropriately bias a member of the board or senior management personnel when taking decisions or giving advice affecting contractors, clients or investors; (4) It is likely to, or does, compromise an officer's or employee's fiduciary duty to the financial institution or the		longer used in the standard. See amendment under section 3 and 4

		financial institution's fiduciary duty to its clients and investors		
5(3)	Related party transactions which are significant and in which any conflict of interest are not disclosed, are prohibited	Is there no exemption for this clause? The price could still be market related, or create other non-financial efficiencies?	There is none, other than if there is no conflict of interest and not for related parties.	
Clause 6	With regards to clause 6, if a related party transaction is significant however conflict of interest is disclosed, would such a transaction be prohibited? This standard is applicable to Directors however does not mention any requirements with regards to disclosure.	NAMFISA to confirm/clarify.	This implies that once a conflicted interest has been disclosed, involving a related party transaction, it is allowed, and the standard has been changed under section 3 and 4 to read irrespective of the level of significance in order to avoid subjectivity on what is significant and not significant. Under the same sections reference as a requirement on disclosure is also included.	
Clause 6	Amend in keeping with the above recommendations.	Change to read – "Related third party transactions that are likely to cause a material conflict of		Proposal is not taken. The term significance is no longer used in the standard. See amendment under section 3 and 4

		interests on the part of the board, an officer or employee of a financial institution are prohibited."		
Clause 6	Related party transactions which are significant and in which any conflict of interest are not disclosed, are prohibited	The section seems a bit ambiguous/too general. It is advisable that the regulator provides a bit more clarity on what would be regarded as significant (the provision of section 5 thereto does not assist much) and what are the typical conflict instances envisaged under this section (the provision of section 4 thereto does not assist much). We propose the following be considered in defining "significant": We suggest alignment with IFRS, in particular IAS1 in terms of the concept of		Reject: Objective is to define the term *"related party transactions",* and then *"identify those that are prohibited"* So, the term has been defined, and what is prohibited has been identified. Hence the name of the standard "**definition of related party**

		"Materiality" for disclosure purposes. We further propose that Standards on related party disclosures should align with IFRS, in particular IAS 24 "Related Party disclosures" (best practice).		**transactions and identifying those that are prohibited"** The required full disclosure and transparency is necessary in order to ensure, <u>for example</u>, that unrelated party in the transaction acknowledges and understands effects of related party transactions on a transaction being considered, effectively this requirement protects the unrelated party from making a decision that is not well informed.
Clause 6	Reference is made to 6 of the Standard which provides that "Related party transactions which are significant and in which any conflict of interest are not disclosed, are prohibited." In order to maintain good corporate governance, we are of the view that the prohibition should not only stop at the disclosure level. Rather, a related	Provide for an additional paragraph regarding disclosure of related party transactions and recusal from the decision-making process of a related party transaction.	Agree: This implies that once a conflicted interest has been disclosed, involving a related party transaction, it is allowed. However, in case of a decision-making process, if any, on the same information, it must then be managed, and only then will the decision be allowed. See amendment to clause 3 and 4:	

	party transaction whether or not significant and in which any conflict of interest exists should be disclosed. Once disclosed, the relevant person must recuse him or herself from any decision making on the matter so as to maintain a form of "independence" from the decision making process.			
Clause 7	When complying with clause 6, the directors of financial institutions and financial intermediaries registered under the Act must comply with the provisions articulated in the General Standards, Numbers 10.8 and 10.9.	What disclosure is required to the Regulator? Should NAMFISA merely be informed about the related party transaction or should it approve the transaction? Please clarify	The provision is no longer in the standard. See amendments under section 3 and 4	

GEN.S.10.23 **FEES AND CHARGES**				
Section	**Comment/Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
	General Comment	In certain instances, one individual could hold several registrations resulting in this person having to pay several registration and renewal fees. Could NAMFISA consider a discount for renewal fees where one or more registrations are held? As it is also assumed that NAMFISA levies will be still applicable and payable as well. This could become financially unviable for new entrants / participants. NAMFISA to consider financial implications of registration fees, renewal fees and levies to be paid by persons who		Registration is required per service rendered to the public and every registration incurs a fee for the **cost recovery purposes** and is therefore charged separately.

		are registered in several categories.		
	i. In certain instances, one individual could hold several registrations resulting in this person having to pay several registration and renewal fees. As it is also assumed that NAMFISA levies will be still applicable and payable as well. This could become financially unviable for new entrants / participants. Also noting there is no application fee for the registration of a Trustee and clarification would be sought whether a fee would be per registration with each Management Company or only once?	i. NAMFISA to confirm their intention? Is it required to hold multiple registrations and then pay fees per registration? ii. NAMFISA to consider financial implications of registration fees, renewal fees and levies to be paid by persons who are registered in several categories.	(ii) Noted.	(i) Registration is required per service rendered to the public and every registration incurs a fee for the **cost recovery purposes** and is therefore charged separately. (iii) There is no application fee for trustees since they are not required to be registered by law.
Clause 4(a)	Kindly refer to our comment above in terms of INS.S.2.3 Application for registrations as insurers. We note in terms of the Act that short-term and long-term insurers	We propose that the prescribed fee should only be payable by new and not for relicensing required in terms of the Act.		The fees are to cover the inherent cost incurred through licensing financial institutions. Thus, we may not be able to exclude

	currently licensed in terms of the Short Term and Long Term Insurance Acts are required to reapply for registration within 6 months of the date of commencement. Considering these insurers were registered and authorised to conduct business it is our submission that in these instances the Authority should not charge a fee, considering these entities already paid the required fees upon the initial registration.			any fee for re-registration
Schedule – Application for registration – Insurance agent	We note a fee of N$1 000 is payable. We kindly require clarity if this fee will be payable per registration? Considering staff turnover it is our suggestion that the fee should be payable annually based on the number of registered agents and not per registration.	Suggestion to charge an annual fee based on number of agents instead of charging a fee per registration. Similar to the annual renewal fees.		The fees are to cover the inherent cost incurred upon re-registration

	The Authority could also consider a base fee per entity with a lower amount payable per agent.			
GEN.S.10.23, Pg 459 to 462	The MLA agrees with the" Application for registration" fee of N$ 2 000.			
	The MLA strongly disagrees with the fees and charged for the following applications by registered microlenders: ✓ Application for purchase, amalgamation or transfer of microlending business, ✓ Application for conduct any other business not related to the microlending business from the licensed premises or parts of the licensed premises, ✓ Application for additional microlending branches, ✓ Application for annual renewal of registration, ✓ Application for approval of a	The MLA proposes that there will be no extra fees charged by NAMFISA to registered microlenders. As microlenders are already paying excessively large levies to NAMIFISA on all their loans and that these levies should cover all costs by NAMFISA relating to registered microlenders.	These are not extra to what is charged. And microlending has been removed from the schedule as the Standard only relates to sectors regulated under FIMA, 21	

	change of a name, use of another name or use of a shortened form or derivative of a name.			
Clause 4(h) & (i)	Why are the fees applicable to micro-lenders, registered and governed under the provisions of the Microlending Act, provided for in this Standard? This is incorrect, it should be removed.		As suggested, reference to microlending fees has now been removed from this General Standard	
Clause 4	The clause speaks to fees charged for applications by Microlenders under Microlending Act, which is not subject to the FIMA. The Microlending Act makes its own provisions for Standards that may be issued.	Determination of fees to be charged in relation to Microlending applications to be issued under the Microlending Act.	As suggested, reference to microlending fees has now been removed from this General Standard	

GEN.S.10.25 **APPLICATION FOR ANNUAL RENEWAL OF REGISTRATION MADE TO NAMFISA UNDER THIS ACT**				
Section	**Comment/Description of issue:**	**Proposed Amendment/ Solution:**	**Responses/Comments**	
			Accepted	**Rejected**
General	NAMFISA to confirm Banking details as Standard Bank details have been provided on another standard.	Confirm banking details for payment of registration fees and renewal fees.	As provided for in this standard, the Banking details are correct	
Annexure 2)	Proposed that banking details not be contained in Standard but rather communicated via circulars to make provision for changes as may be required without having to formally gazette new banking details		Noted for consideration and has been removed from this standard.	However, as part of good corporate governance, the details should be included as part of a standard. Therefore, the banking details has been moved to General Standard 10-23 Fees.
General	We believe the method chosen to calculate, publish and charge fees is problematic. The premiss of using cost recovery is a very good one. However, the way it is drafted now, the expected costs are estimated a while before the relevant service will be rendered. In		The concern has been noted, therefore, the schedule on Fees will be reviewed when necessary.	

	addition, the cost of the work would likely vary depending on the complexity of a specific situation. Using a fixed fee published in a Gazette would limit the ability of NAMFISA to ensure cost recovery. We recommend instead requiring a non-refundable deposit subject to a final quote which is drafted and agreed to only once the individual case is received and evaluated to determine the costs at the time and the work required.			
General	INS.S.2.17 makes reference to Broker Controlling Body requiring to issue confirmation that the membership to the Body has terminated. What is the role of the Broker Controlling Body under the provisions of FIMA as there is no obligation created			This is a general standard and those sector specific provisions only appear under sector specific standards

	for a broker, whether an individual or corporate, to be registered with the controlling body? If the expectation is that the broker's affiliation to the controlling body is mandatory, is it proposed that the confirmation of continued affiliation to the controlling body also be reference in this Standard			
Clause 1 and 2	It is unclear to whom this Standard is applicable to as it provides: Application (a) authorised representative; (b) insurance intermediary; (c) securities dealer; (d) medical aid fund broker (e) NAMFISA and (f) financial service. 2. This Standard applies to any juristic or natural	Amendment required to clarify.	Insurance intermediary includes brokers and corporate agents as defined under section 53 of the Act. This Standard applies to any juristic or natural person who provides a financial service under the Act.	

	person who provides a financial service under the Act. Standard No. GEN.S.10.23 additionally speaks to annual registrations of persons such as designated representatives which is not provided for here. It is also not clear what "financial service" in (f) refers to. Are corporate insurance agents and brokers included in the above?			Financial service is defined in the Act.
Clause 1	Why are various cost plus methods incorporated into the provision of this Standard? The definitions don't appear to be relevant for this Standard.			The methods were mentioned under section 5 of the standard, but the terms are no longer used in the revised standard.
Clause 1(b) and (d)	General	These terms are defined but used nowhere in the rest of the standard. Delete unused definitions.		The methods were mentioned under section 5 of the standard, but the terms are no longer used in the revised standard.

Section 1 Direct Cost Recovery	The method used to arrive at the fee requires fee schedules to be updated regularly to account for salary increases and experience at the time of providing the services.		Agreed. Fee schedules will be reviewed when necessary.	
Clause 1	Why are various cost plus methods incorporated into the provision of this Standard? The definitions don't appear to be relevant for this Standard.		Important to point out the method being used was referenced under section 5 in the standard as provided below, but has now been removed completely as this standard should not deal with such matters. Therefore, the revised standard does not contain such terminologies and clause 5 has been deleted.	
section 2	The numbering in the standard is unclear. The word "application" appears before a list that should fall under section 2 above it. The headers in the standard also do not have section numbers.		amended	
Clause 2(d)(i)	No supporting documentation listing in Schedule B only banking details.			Only submission of annexure a and b was required. Therefore, nothing else is expected in the submission. In the current standard

				annexure b has been moved to Gen. Standard 10.23. Other documents that NAMFISA may require from time to time are not listed under annexure b as that will be determined only in the future where necessary.
Clause 3	The annual application renewal process which requires an application form to be submitted for each renewal along with proof of payment will be an extreme administrative burden for the relevant participant, but particularly for NAMFISA.	Reconsider to provide for aggregated submissions and payments. Alternatively, extend the registration term to a longer period such as 5 years, with an annual fee still to be paid.	The concern is being considered for a decisive action that must be taken.	
Clause 3(c)	Both (i) and (ii) are application (electronic submission via ERS and hardcopy submission) – refer to 'and' as oppose to 'or'		It should have been 3 (i) (ii). Nonetheless, the concern is well noted, and the sought clarity is provided as follows: (i) The options provided to submit either in hard copy or electronically is the standard for submission in order to allow flexibility in the submission between the two options. However, going forward we would like to encourage respondents to submit	

			electronically as the world is gradually moving into a digital conduct of business. As a result, we have now changed the requirement as follows, under a heading submission and clause 4.(1) reads The application must be submitted to NAMFISA electronically on the NAMFISA ERS. (2) Where necessary and when so directed by NAMFISA, the applicant must submit specified documentation or information to NAMFISA manually.	
Schedule , point 5.	It is unclear how the process would work for getting a name approved. BIPA has specific requirements for names to be approved and registered. Would the applicant have to get approval from NAMFISA first and then apply to BIPA using this name approval? We think this should be clarified. We also believe that it is important for NAMFISA to engage BIPA to ensure that the name requirements of			The requirement is to start with BIPA first and finish with NAMFISA as outlined under Gen.S.10-19 under 2(3).

	the two regulators are aligned and agreed to in order to avoid a back and forth.			
Section 6	The interest rate here is 20% which is higher than the usury rate. What is this interest rate based on and why is it misaligned to market rates?			This rate of interest cannot be benchmarked to the usury rate or market rates as the purpose here is not the cost of money but rather to regulate registration requirements in order to ensue services are registered. Besides, when a license is not renewed the license is cancelled. In addition, there are mechanism in place including requiring the entity to make a representation before a final decision is imposed.
Document Titled 'NAMFISA quarterly supervisory return'	What is the expectation regarding this document? Should it be completed annual with each renewal application? Is it relevant to this Standard?		Not relevant and has been deleted.	