

Breakdown – Industry Comments 28 February 2022

Chapter – 7 Medical Aid Funds

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
MAF.S.7.4 – Requirements for the rules of a medical aid fund				
Subsection 3(g)(i)	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(g) a detailed description of the eligibility conditions for joining the medical aid fund and the circumstances under which membership shall cease, with specific reference to the following:</p>	<p><u>Amend subsection 3(g)(i) as follows:</u></p> <p>(i) the different types of beneficiaries, i.e., the member and/or dependant;</p> <p>Terminology aligned with the terms defined in section 321(1) of FIMA. A “beneficiary” is defined in section 321(1) as either the member or dependant of the member.</p> <p>There are not different types of membership. The member (as</p>	<p>Agreed, consistency with the language in the Act.</p> <p>However, given the various types of dependants, the rules need to explicitly indicate all the various categories of dependants:</p> <p>Proposed amendment of 3(g)(i)</p> <p>(i) the different types of beneficiaries, i.e., the member and /or all the various categories of dependants who are or may in due course become</p>	

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	(i) the types of membership e.g., principal, spouse, dependant, and/or special etc, who are, or may in due course become, eligible to join the fund;	defined in section 321(1)) is the person with whom the medical aid fund concludes the contract for membership. Membership of a medical aid fund is 'personal' to the extent that only individuals can become members of a fund. The member can enroll his/her dependants (as defined in section 321(1) and the fund Rules) under his/her contract for membership subject to the provisions of the legislation and the Rules of the fund. A person can only be a member or a dependant of the fund. There are no other classes of membership or beneficiaries. A spouse or a child is a "dependant".	eligible to join the fund.	
Subsection 3(g)(iii)	3. The rules of a medical aid fund must not be inconsistent with the Act, the	<u>Delete subsection 3(g)(iii).</u> This provision is ultra vires. Medical aid funds cannot prescribe compulsory membership of funds. Medical aid	Agreed. 3(g)(iii) to be deleted.	

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	<p>regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(g)a detailed description of the eligibility conditions for joining the medical aid fund and the circumstances under which membership shall cease, with specific reference to the following:</p> <p>(iii) whether membership is to be compulsory or not, and, if applicable, any period within which current</p>	<p>fund membership is voluntary. Compulsory membership is an employment matter and specifically related to the participation policy of employers or legislation applicable to employers and the provisions of employment agreements. Only employers can make membership of a specific medical aid fund compulsory for its employees</p>		

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	employees may exercise a choice with respect to membership;			
Subsection 3(h)	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(h) the circumstances under which contributions can be increased or decreased and providing for prior written notice to</p>	<p><u>Amend subsection 3(h) as follows:</u></p> <p>(h) the giving of advance written notice to members of any change in contributions, membership fees and benefits or any other condition affecting their membership</p> <p>Contribution tables form part of the rules of a medical aid fund. Refer to section 352(5)(g) of FIMA. It is fair to advise members about the changes in contributions, benefits and any other condition affecting their membership, however, not of the circumstances under which contributions can be changed. The determination of contributions is the fiduciary responsibility of the board of trustees of a medical aid fund, informed, amongst others, by the</p>		<p>We are cognizant of the various considerations that warrant amendments to the contribution and benefit structures of a Fund. We are further aware that these factors cannot be preempted, however it is possible to indicate the key factors that may result in changes to the contribution and benefit structures given knowledge on the historical experience of the said Fund. The rules may provide members with an indication of key circumstances that may result in</p>

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	<p>members of any change in contributions and benefits or any other condition affecting their membership</p>	<p>calculations of and guidance by the valuator of the fund. The calculation of contributions is informed by multiple factors such as size of the fund, beneficiary profile, claims experience, medical inflation, the cost of healthcare services, reserve levels and non- healthcare expenditure. Contributions are generally reviewed once per year but could occur more frequently depending on circumstances. Contributions increase generally annually due to factors such as the increases in the cost of healthcare services, medical inflation and non-healthcare expenditure. It is neither practical nor possible to pre-empt the circumstances in</p>		<p>changes to the contribution and benefit structures.</p> <p>The changes to the contribution and benefit structures affect the members and they should be informed of key circumstances under which contributions or benefit structures may be increased or decreased.</p>

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		which contributions will be changed.		
Subsection 3(i)	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(i) the right of members to make voluntary contributions;</p>	<p><u>Delete subsection 3(i).</u></p> <p>Voluntary contributions are inappropriate in the medical aid fund environment. Medical aid funds undertake liability in return for contributions. Refer to the definition of “contribution” read with the definition of the “business of a medical aid fund” in section 321(1) of FIMA.</p>	<p>Agreed.</p> <p>S356 of FIMA provides for additional benefit options, whereby a member may subscribe to more than one benefit option.</p> <p>3(i) will be amended to refer to contributions made for additional benefit options as provided for under S356.</p>	
Subsection 3(k)(i), (ii) and (iii)	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the</p>	<p><u>Delete subsection 3(k)(i)-(iii).</u></p> <p>This matter is sufficiently covered by subsection 3(g). There are not different “types of participation” in a medical aid fund other than the</p>	<p>Delete sub-clause (k), because sub-clause (g) already deals with membership eligibility criteria, which will in any</p>	

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	<p>regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(k) a specific description of the type of participation in the fund so as to differentiate among funds established for the benefit of-(i) employees of a principal employer and its subsidiaries;</p> <p>(ii) employees of employers</p>	<p>identification of a beneficiary as a member or a dependant. This identification is necessary as the contractual relationship is formed between the member and the medical aid fund. What is understood to be intended here is to refer to the eligibility to become a member of a medical aid fund. This is relevant as medical aid funds can either restrict their membership as contemplated in the definition of “restricted membership fund” in section 321(1) of FIMA or otherwise be “open” to any person or group of persons. Medical aid funds also do not only cover “employees”. Any person who is eligible and can ensure payment of contributions either by himself/herself or on his/her behalf can join a fund. Such persons can</p>	<p>event distinguish open MAFs from restricted MAFs.</p>	

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	<p>that do not fall within the ambit of clause k(i); and(iii) employees not referred to in either clauses k(i) or k(ii);</p>	<p>include, for example, self-employed persons, pensioners, unemployed persons, students and children</p>		
<p>Subsection 3(bb)(i)-(iii)</p>	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(bb) subject to the relevant provisions of circumstances under which the fund must be terminated or dissolved, with specific</p>	<p><u>Amend subsection 3(bb)(i)-(iii) as follows:</u></p> <p>(bb) subject to the provisions of the Act, the manner in which and the circumstances under which the fund must be terminated or dissolved, with specific reference to the appointment of a liquidator, to be approved by NAMFISA, in the case of a voluntary dissolution.</p> <p>A medical aid fund cannot be partially dissolved. A liquidator can only be appointed by the fund in the event of a voluntary dissolution Medical aid funds have beneficiaries. “Participating employers” refer to employers who offer to or impose on their employees a specific medical aid fund’s membership. The employers do not become beneficiaries of the fund. Upon termination or dissolution of the fund, the beneficiaries (if any) must be transferred to other suitable medical</p>	<p>Amendment of 3 (bb)(iii)</p> <p>Amend “participating employers” to “beneficiaries”</p>	<p>A Fund can be dissolved in part, according to the Act. Refer to sections 358 and 359 of FIMA</p> <p>The transfer of beneficiaries to any other medical aid fund will be subject to the circumstances under which the Fund must be terminated or dissolved (as provided for in the rules) which is indicated as such in 3(bb)</p>

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	<p>reference to: (i) total and partial dissolution;</p> <p>(ii) the appointment of a liquidator, to be approved by NAMFISA; and (iii) any transfers of participating employers to any other medical aid fund; (iii) any transfers of participating employers to any other medical aid fund;</p>	<p>aid funds. This is dependent, amongst others, on the available medical aid funds at that specific time and the best interest of the relevant beneficiaries (such as contribution levels and benefits offered by other funds). These matters cannot be pre-empted and must be dealt with at the termination or dissolution of a fund.</p> <p>The liquidator that will be appointed to manage, for example, a liquidated fund will have the authority to attend to the transfer of beneficiaries at the time.</p>		
Subsection 3(cc)	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in</p>	<p><u>Delete subsection 3(cc).</u></p> <p>A medical aid fund can only do the business of a medical aid fund as defined in section 321(1) of FIMA and as such amalgamate with another</p>		<p>Amalgamations can occur under S 446 of FIMA with any financial institution or financial intermediaries. Section 348 of FIMA enables NAMFISA to approve of a</p>

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	<p>the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(cc) the amalgamation of the medical aid fund with any other financial institution or financial intermediary</p>	<p>medical aid fund. Refer also to section 323 of FIMA. The provisions of Chapter 10 Part 8 related to amalgamations and transfers of business are sufficient to cover amalgamations between medical aid funds.</p>		<p>registered Fund carrying on such other business on such conditions and for such period as NAMFISA may determine, if the Authority is satisfied that it is necessary to safeguard an investment made by the said Fund.</p>
Subsection 3(dd)	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p> <p>(dd) the transfer of the business of the</p>	<p><u>Delete subsection 3(dd).</u></p> <p>A medical aid fund can only do the business of a medical aid fund as defined in section 321(1) of FIMA and as such only “transfer its business” to another medical aid fund. Refer also to section 323 of FIMA. A medical aid fund will only transfer its business to</p>		<p>The Act allows for MAFs to transfer/amalgamate with any other financial institution, subject to NAMFISA’s approval. Section 446 of FIMA allows for amalgamation with any other financial institution, and section 447 allows for the</p>

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	<p>medical aid fund, or any part thereof, to any financial institution or financial intermediary</p>	<p>another medical aid fund during an amalgamation. Membership could be “transferred” to other medical aid funds potentially during liquidation processes subject to determination by the liquidator. The provisions of Chapter 10 Part 8 related to amalgamations and transfers of business are sufficient to cover transfers of business to other medical aid funds.</p>		<p>transfer of any portion of business to another financial institution.</p>
<p>Subsection 3(hh)</p>	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in the official language of the Republic of Namibia and must provide for the following matters:</p>	<p><u>Delete subsection 3(hh).</u></p> <p>Medical savings accounts are not permitted by NAMFISA in medical aid funds. Refer to NAMFISA Directive PI/MAF/DIR/01/2018 of 13 July 2012. Savings accounts are not the business of a medical aid fund. Savings accounts are part of banking business</p>	<p>Medical savings accounts are not permitted by FIMA. Thus 3(hh) will be deleted.</p> <p>May need to consider allowing this in future, when amendments to FIMA are considered.</p>	

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	<p>(hh) the allocation to a member of a personal medical savings account, within the limit and in the manner prescribed by the fund from time to time, to be used for the payment of any relevant health service on behalf of that member, if applicable;</p>	<p>and will, if permitted, transgress the Banking Institutions Act.</p>		
Subsection 3(ii)	<p>3. The rules of a medical aid fund must not be inconsistent with the Act, the regulations and this Standard, must be in the official language of the Republic of</p>	<p><u>Delete subsection 3(ii).</u></p> <p>These provisions are in conflict with the business of a medical aid fund as defined in section 321(1) of FIMA. Contributions can only be used for the business of a medical aid fund, i.e., the funding of health services of</p>	<p>Agreed and deleted.</p>	

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	<p>Namibia and must provide for the following matters:</p> <p>(ii) donations to any hospital, clinic, nursing home, maternity home, infirmary or home for aged persons in the interest of all or some of such institutions' beneficiaries and the method for the adoption by the fund of the decision to make such donation</p>	<p>beneficiaries and related matters, and nothing else.</p>		
Subsection 4	<p>The rules of a medical aid fund must not provide any limitation in respect of the</p>	<p><u>Delete subsection 4.</u></p> <p>The intent and purpose of this subsection is not clear,</p>	<p>1. Correct spelling error "tin" to "in"</p> <p>2. Amend provision by</p>	

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	<p>reimbursement of any relevant health service obtained by a member from a hospital where this service complies with the general scope and level of benefits provided for by the fund.</p>	<p>i.e., why should hospitals be treated differently from other health services. It is also not clear how “the general scope and level of benefits” provided by a fund would be determined. The payment of benefits to any service provider must comply with the rules of the fund. This includes the imposition of co-payments in respect of certain services and the exclusion of certain services from benefits. Medical aid funds must be able to restrict reimbursement of a service provider where there is abuse of benefits or fraudulent behaviour by that service provider. This subsection is likely to incentivize inappropriate provider behaviour amongst health providers, with potentially disastrous consequences for medical</p>	<p>removing the words” from a hospital” to ensure provision applies to all benefits provided by a Fund.</p> <p>Accepted, provision to be amended to prevent rules from denying members access to benefits provided for in the fund’s rules.</p>	

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		<p>aid funds, including funds becoming potentially financially unsound and unsustainable. Should this provision be retained it will result in drastic cost increases for funds, contribution increases for members and potential benefit reductions and/or limitations, which will not be in the interest of beneficiaries. While it is assumed that it is NAMFISA's intention to protect members of medical aid funds against impoverishing healthcare events, it will never be financially viable for a medical aid fund to provide unlimited cover without relevant and effective countervailing provisions.</p> <p>Section 330(1)(d) of FIMA requires a medical aid fund to assume liability</p>		

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		<p>for and guarantee the benefits offered to its beneficiaries under its rules. In addition, the rules of a fund are binding on the fund in terms of section 355 of FIMA. These provisions are sufficient to ensure that funds reimburse service providers, including hospitals, in a lawful and appropriate manner</p>		
<p>Subsection 5(a)(iii) and (iv)</p>	<p>5. The rules of a medical aid fund must state the right of: (a) members to be provided, free of charge, with a copy of: (iii) benefit statements at least once per year at the start of a benefit year; and (iv) claims statements and benefits statements after each claim has been processed</p>	<p><u>Delete subsection 5(a)(iii) and amend subsection 5(a)(iv) as follows: (iv) a statement at least monthly and containing at least the following particulars—(a) the name and the membership number of the</u></p> <p>Member and or dependant(s);</p> <p>(b) the name of the supplier of service;</p> <p>(c) the final date of service rendered by the supplier of service on the account or statement which is covered by the payment;</p>	<p>Accepted:</p> <p>Amended as follow:</p> <p>5(a)(iii)</p> <p>A benefit statement at least once per year by no later than the middle of the benefit year if benefit information is not ordinarily incorporated in the claims statements that</p>	

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		<p>(d) the types of services rendered</p> <p>(e) the total amount charged for the service concerned;</p> <p>(f) the amount of the benefit awarded for such service; and</p> <p>(g) reasons for any rejections and/or differences between charged and paid amounts</p> <p>The difference between a claims and a benefit statement is not clear. Funds generally provide statements to members after a 'claims' run', i.e., when claims for a particular period have been processed and settled in accordance with the rules. This occurs at least monthly but could occur more frequently depending on agreements in this regard between fund administrators and funds. These statements generally also reflect the balance of any benefits (subject to limits) that remain for a particular member and his/her dependants for a particular benefit year. Such a statement, provided at least on a monthly basis, is sufficient. Any legislative requirement to provide</p>	<p>are issued to members on a more frequent basis.</p> <p>5(a)(iv)</p> <p>Proposed amendment accepted however:</p> <p>* add dependant(s) under clause (a)</p> <p>* add, opening balance of benefit limit as well as the closing balance of the benefit limit after deducting the claims for the said reporting period.</p> <p>A Claims statement shows all the member's claims that have been paid out,</p>	

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		<p>such statements more frequently has the potential of increasing the non-healthcare costs of a fund. This will not be in the interest of beneficiaries. Furthermore, a document stipulating all the benefits provided per fund option is provided annually to members upon the finalisation of the benefits for the succeeding year. This constitutes an amendment of the rules and must as such be provided to members. The provision of this document is sufficiently covered by subsection 5(a)(ii) of this Standard.</p>	<p>whereas the benefit statement shows you the number and value of the benefits, specifically indicating opening balance, utilized amounts and the remaining balance of each benefit limit.</p>	
Subsection 5(c)	<p>5. The rules of a medical aid fund must state the right of:</p> <p>(c) members, beneficiaries or persons authorised by a member or beneficiary to be provided, at a the right of:</p> <p>(c) members, beneficiaries or persons authorised by a member or beneficiary to be provided, at a charge that must not exceed N\$• with</p> <p>a copy of: (i) the rules of the fund;</p> <p>(ii) the most recent financial statements of the</p>	<p><u>Amend subsection 5(c) as follows:</u></p> <p>(c) members, beneficiaries or persons authorised by a member or beneficiary to be provided, at a charge that must not exceed the cost specified by NAMFISA from time to time with a copy of: (i) the rules of the fund; (ii) the most recent consolidated financial statements of the fund; or</p> <p>(iii) either a full report or an abridged version of the most recent final report by the valuator of the fund prepared pursuant to section 347(1) of the Act, provided that upon request of members, electronic copies of any of</p>	Agreed	

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	fund; or(iii) either a full report or an abridged version of the most recent report	the documents listed under paragraph (c) must be provided free of charge Such an amendment will ensure that the cost that may be charged by medical aid funds remains relevant and does not require a formal amendment of this particular Standard by NAMFISA as an when the amount changes. It could, for example, be specified by NAMFISA through a general directive from time to time		
Subsection 6(1) and 6(2)	(1) Where a medical aid fund imposes a waiting period pursuant to section 354(1) of the Act, the rules of the fund must state that: (a) any general waiting period must not be longer than 30 days, and the rules must further stipulate certain conditions which are not subject to	<u>Amend subsection 6 as follows:</u> 6. for the imposition of waiting periods in no other manner as provided for in the Act and MAF.S. 7.13 The provisions in respect of waiting periods in the Standards must be aligned with the provisions of section 354(1) and (2) of FIMA. Refer also to the comments at MAF.S.7.13 below. The provisions of section 354(1) and (2) together with the proposed amendments to MAF.S.7.13 are supported. MAF.S.7.4 sets out the matters that must be provided for in the rules of a fund. It must not restate the legislative provisions that are found in FIMA and	Agreed 6(1)(a) must be aligned to MAF.S 7.13 which states 90 days for general waiting period or 12 months for condition specific waiting period. 6(2)(e) must be aligned with MAF.S 7.13 which states 12 months for condition specific waiting period.	

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	<p>any waiting period, or certain conditions which are subject to a general waiting period; and</p> <p>(b) any condition-specific waiting period must not be longer than 30 days. (2) Where a medical aid fund imposes a waiting period pursuant to section 354(2) of the Act, the rules of the fund must state that:</p> <p>(d) any general waiting period must not be longer than 90 days, provided the rules</p>	<p>other Standards. Waiting periods are an important mechanism for a fund to manage fund risk and are the only mechanism to guard against anti-selection.</p> <p>If anti-selection is not mitigated, medical aid funds will not be sustainable. There is no rationale or logic for differentiating waiting periods in accordance with circumstances of joining, specific conditions or otherwise. Too short periods will have no meaningful impact on the management of fund risk and will not provide sufficient protection against anti-selection.</p>		

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	<p>must further stipulate certain conditions which are not subject to any waiting period, or certain conditions which are subject to a general waiting period; and</p> <p>(e) any condition-specific waiting period must not be longer than nine months.</p>			
Subsection 7	<p>7. The rules of a medical aid fund must provide that every member must be provided free of charge with: (a) a membership card</p>	<p><u>Amend subsection 7 as follows:</u></p> <p>The rules of a medical aid fund must provide that every member must be provided free of charge with: (a) a membership card upon becoming a member; (b) written proof of membership, which complies with the requirements prescribed in MAF.S.7.7. (3);</p>	<p>Agreed.</p> <p>The provisions of this subsection must be aligned with standard MAF.S.7.7. Numbering must be corrected</p>	

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	<p>upon becoming a member;</p> <p>(b) upon request of the member, a certificate of membership;</p> <p>and</p> <p>(f) upon termination of the member's membership, with a membership he or she was admitted as a member and the date on which membership was terminated.</p>	<p>and (c) a certificate of membership in accordance with the provisions of MAF.S.7.7.(4).</p>		
Subsection 8	<p>8. A medical aid fund referred to in section 329 of the Act must amend its rules to comply with this Standard within six months of the date on which this Standard comes into effect.</p>	<p>This provision (read with the Transitional Provisions (section 2(2) of Schedule 3) has been noted with concern in the light of the communications by NAMFISA during consultation sessions with the medical aid fund, which indicated that funds would have 12 months to align their rules with the legislation.</p> <p>A 6-month period is extremely short for funds to implement the requirements of FIMA and the Act, which are substantive and complex, and to communicate these changes to members. Furthermore, the required</p>	<p>Clause amended to be in line with sec 352(4) of the Act.</p>	

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		<p>changes may impact existing benefits of beneficiaries. In the interest of fairness to beneficiaries, any benefit changes should as far as possible only occur at the start of a benefit year. A mechanism to provide for a longer period for funds to comply with the onerous provisions of FIMA, would be to delay the effective date of chapter 7 of FIMA. Such a delayed implementation is requested by the medical aid fund industry.</p>		
MAF.S.7.5 – Determination of financial soundness of a medical aid fund				
Subsection 3(c)	<p>3. A medical aid fund will be considered to be in a financially sound position pursuant to sections 347, 353(3) or 353(4) of the Act if:</p> <p>(c) the valuator's report has been prepared in accordance with</p>	<p><u>Amend subsection 3(c) as follows:</u></p> <p>(c) the valuator's report has been prepared in accordance with standards and principles generally recognised and accepted by the actuarial profession; "Actuarial science" is undefined and inappropriate. The actuarial profession (generally its professional body) determines standards and</p>	Agreed and amended.	

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	standards and principles generally recognised and accepted by actuarial science;	principles (often internationally recognised) with which reports must comply in accordance with best practice principles. These standards and principles should be followed.		
Subsection 3(e)	<p>3. A medical aid fund will be considered to</p> <p>be in a financially sound position pursuant to sections 347, 353(3) or 353(4) of the Act if:</p> <p>(e) the valuator's report certifies that the contributions for all options within the fund are sufficient considering the expenses, claims,</p>	<p><u>Amend subsection 3(e) as follows:</u></p> <p>(e) the valuator's report certifies that the contributions for the fund are sufficient considering the fund's solvency position, expenses, claims, health risk factors of beneficiaries and risks of each option;</p> <p>Medical aid fund benefit options cannot be self-sustainable as a result of limited member numbers in</p>	Agreed, and Amended.	

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	<p>health risk factors of members and risks of each option;</p>	<p>Namibia. Currently the principle of cross-subsidisation is applied across benefit options. This must be retained. Funds should be accorded some flexibility to manage the surpluses / losses across the options.</p>		
<p>Subsection 3(g)</p>	<p>3. A medical aid fund will be considered to be in a financially sound position pursuant to sections 347, 353(3) or 353(4) of the Act if: (g) the valuator's report includes an analysis of all gains and losses and, where there are losses, indicates the sources thereof and makes recommendations for increases in the relevant member contributions or reductions in benefits,</p>	<p><u>Amend subsection 3(g) as follows:</u></p> <p>(g) the valuator's report includes an analysis of all surpluses and deficits and, where there are deficits, indicates the reasons thereof and makes recommendations for interventions toward ensuring the short-, medium- and long- term sustainability of the fund Medical aid funds use the terms "surpluses and deficits" instead of "gains and losses"</p>	<p>This is standard industry terminology, consider making provision for the industry terminology.</p>	

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	as provided for by the rules of the fund;			
Subsection 3(j)	<p>3. A medical aid fund will be considered to be in a financially sound position pursuant to sections 347, 353(3) or 353(4) of the Act if:</p> <p>(j) The fund meets the prescribed regulatory capital requirement per standard MAF.S.7.3.</p>	<p>Standard MAF.S.7.3 has not been published. Please provide a copy to enable informed comment on this subsection.</p>	<p>Drafting of the standard is still in progress. Draft standard will be shared with industry in due time.</p>	
Subsection 7	<p>7. The report of the valuator shall include the following information in addition to that</p>	<p><u>It is not clear which clause 7 is envisaged. The correct reference must be included to allow for</u></p>	<p>1. Correct reference is clause 8;</p>	

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	<p>stipulated in clause 7:</p>	<p><u>informed comment on this subsection.</u></p>		
<p>Subsection 7(c)</p>	<p>7. The report of the valuator shall include the following information in addition to that stipulated in clause 7:</p> <p>(c) a summary of the results of the valuation including, for each separate benefit fund, a balance sheet showing the assets and liabilities of the fund;</p>	<p><u>Amend subsection 7(c) as follows:</u></p> <p>(c) a summary of the results of the valuation including results for each benefit option; It is not clear what a “benefit fund” means. It is assumed to refer to a “benefit option”. Appropriate and accurate terminology must be used. There are at least 3 different reports that are used by medical aid funds, namely:</p> <p>1. the financial statements that will include a balance sheet -</p>	<p>Accepted:</p> <p>Change reference from “Benefit Fund” to Benefit option.</p>	

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		<p>prepared by the auditors (MAF.S.7.12),</p> <p>2. the investment report that will include the assets invested in and the growth target/mandate – prepared by the asset managers / investment consultants (MAF.S.10.11 and 10.12, Regulation 7.2), and</p> <p>3. the actuarial report that will include underwriting and reserve forecasts – prepared by the valuator (actuary)</p>		

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		(MAF.S.7.5). Balance sheets form part of the annual financial statements and are provided by the auditors.		
Subsection 7(d)	7. The report of the valuator shall include the following information in addition to that stipulated in clause 7: (d) tabular distributions of the data used in the valuation in respect of membership and benefit amounts;	<u>Amend subsection 7(d) as follows:</u> (d) The data sources used in the valuation and summary statistics of the data used in the valuation It is not clear what is meant by benefit amounts (i.e., is it paid or claimed amounts?). The membership and claims' summaries must be shown in the valuation report and be used to check the reasonableness of the results.	Agreed and Amended.	
Subsection 7(f)	7. The report of the valuator shall include the	<u>Delete subsection 7(f).</u>		Rejected:

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	<p>following information in addition to that stipulated in clause 7:</p> <p>(f) a discussion of the appropriateness of the investment portfolio of each benefit fund in relation to the characteristics of the fund as to its liabilities for fixed or variable benefits and its expected benefit and expense outflows.</p>	<p>As stated above, there are at least 3 different reports that are used by medical aid funds, namely:</p> <ol style="list-style-type: none"> 1. the financial statements that will include a balance sheet - prepared by the auditors (MAF.S.7.12), 2. the investment report that will include the assets invested in and the growth target/mandate – prepared by the asset managers / investment consultants (MAF.S.10.11 and 10.12, Regulation 7.2), and 3. the actuarial report that will include underwriting and reserve forecasts – prepared by the valuator (actuary) (MAF.S.7.5 and 7.10) <p>The valuator cannot express an opinion on the appropriateness of an</p>		<p>7(f) will be amended as follows:</p> <p>a discussion of the appropriateness of the investment portfolio of the fund in relation to the characteristics of the fund as to its liabilities for all benefits and expense outflows.</p>

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		<p>investment portfolio. This falls within the expertise and mandate of the asset manager / investment consultant. The valuator uses the investment report when preparing the valuation report.</p> <p>If the “benefit fund” is intended to refer to a “benefit option”, the implication that each benefit option must have its own investment portfolio is inappropriate. The reserves of the fund are invested collectively in accordance with the legislative requirements pertaining to investments. Reserves cannot be split per benefit option.</p>		
Subsection 8(e)	<p>8. The report of the valuator on the financial soundness of a medical aid fund should be structured in the following way:</p> <p>(e) Insured risk and other Benefit Liabilities: Details of the calculations of insured risks and other liabilities for other benefits provided by the fund;</p>	<p>Amend subsection 8(e) as follows:</p> <p>(e) Healthcare expenditure: Details of the calculations of expected healthcare expenditure by the fund;</p> <p>From a valuator’s perspective there is a difference between healthcare and non-healthcare expenditure. Non-healthcare expenditure or operational expenses are typically reported in a fund’s budget as opposed to in the valuator’s report.</p>		<p>Declined:</p> <p>Will be amended as follow:</p> <p>(e) Insured risk liabilities: Details of the calculations of insured risk liabilities provided by the fund;</p>
MAF.S.7.7 – Provision of written proof of membership				

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
Subsection 3(b)	<p>3. A medical aid fund must issue to each member, upon becoming a member, written proof of membership, containing, at a minimum, the following particulars:</p> <p>(b) the surname, first name and initials of the member and any dependants of the member, if any;</p>	<p><u>Amend subsection 3(b) as follows:</u></p> <p>(b) the surname, first name and initials of the member and any dependants of the member;</p> <p>“if any” removed at the end of the provision. Unnecessary repetition.</p>	Agree to deletion.	
Subsection 3(g)	<p>3. A medical aid fund must issue to each member, upon becoming a member, written proof of membership, containing, at a minimum, the following particulars:</p> <p>(g) the date on which the main member’s dependants becomes</p>	<p><u>Amend subsection 3(g) as follows:</u></p> <p>(g) the date on which the member’s dependant(s) becomes entitled to benefits from the medical aid fund; Remove “main” before “member”. The defined term in section 321(1) of FIMA is “member” and must be used</p>	This is agreed, for the sake of consistency.	

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	entitled to benefits from the medical aid fund;			
Subsection 5	<p>5. A medical aid fund must forward a copy of the certificate contemplated in clause 4 to any other medical aid fund to which a former member or dependant of a former member applies for membership, on request of that other medical aid fund.</p>	<p><u>Delete subsection 5.</u></p> <p>A fund cannot submit such information to third parties without the consent of the beneficiary. These certificates contain personal information, which is confidential. Beneficiaries have a constitutional right to privacy, which must be respected. The relevant person (requester) should submit the information to the relevant medical aid fund. This is necessary to prevent unauthorised disclosure of personal and confidential information to unauthorised persons and entities.</p>		<p>1. Disagree, as there is no personal information provided on said certificate other than information stating the period of cover and the type of cover. The new Fund(s) require this information for verification processes.</p>
MAF.S.7.8 – Requirements for the voluntary termination of a medical aid fund				
Subsection 4(a)	<p>4. A fund must dissolve, and its operations must be wound up, on</p>	<p><u>Delete subsection 4(a)</u></p> <p>If a court order is provided for voluntary dissolution, the</p>	<p>1. Delete “voluntary” as a court ordered dissolution is not voluntary.</p>	

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	<p>the first to occur of the following events:</p> <p>(a) an order of a court for voluntary dissolution;</p> <p>or</p>	<p>dissolution is no longer voluntary.</p> <p>This standard deals with voluntary dissolution.</p>		
Subsection 28	<p>28. All claims against the fund must be proved to the satisfaction of the liquidator, subject to the decision of the Adjudicator, and the liquidator may require any claim to be made on affidavit.</p>	<p>“Adjudicator” must be defined in subsection 1 of this Standard.</p>	<p>Reference to Adjudicator to be deleted. The standard was drafted at the time when the Financial Services Adjudicator (FSA) Bill was being considered.</p>	
MAF.S.7.10 – Requirements for the report of the valuator of a medical aid fund				
MAF.S.7.10	<p>Requirements for the report of the valuator of a medical aid fund with respect to the current financial position of the fund and its projected financial soundness</p>	<p>Standards MAF.S.7.5 and MAF.S.7.10 must be aligned. There is significant duplication in the two Standards. Refer to the comments at MAF.S.7.5 above.</p>		<p>Declined, each standard serves a distinct purpose. Kindly indicate the duplications. MAF.S.7.5 addresses the determination of the soundness of a MAF, while MAF.S.7.10 addresses the</p>

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
				requirements that must be included in the actuarial valuation report, both of which has a separate enabling provision in FIMA.
Subsection 3(f)	3. The valuator must adhere to the following reporting requirements with respect to its report regarding the financial position of the fund: (f) disclosure of discounts/rebates and risk loadings and how these were derived; and	<u>Delete subsection 3(f).</u> Discounts in the medical aid fund industry have been declared an undesirable business practice in terms of the Medical Funds Act by the Registrar of Medical Aid Funds by Notice 190 in the Government Gazette of 1 June 2020. This subsection is, therefore, not applicable and should be removed.	Matter is sub-judicæ and in the mean-time, it should not be deleted or amended until the finalisation of the appeal.	
MAF.S.7.11 – Minimum number of members of a medical aid fund				

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
MAF.S.7.11	Minimum number of members of a medical aid fund	<p><u>Delete Standard MAF.S.7.11.</u></p> <p>A minimum number of members should not be specified. This is inappropriate for Namibia with its low levels of medical aid fund membership. The financial soundness of the fund should be the determining factor for the sustainability of the fund. Financial soundness of a fund is impacted not only by the number of members, but also matters such as the risk profile of the beneficiaries and reserves. The Board of Trustees has the fiduciary responsibility to ensure that the fund is financially sound. It will be guided by the reports and advice of the fund's valuator in this regard. NAMFISA should not intervene in the fiduciary duties of trustees. Trustees are accountable to the members for the proper exercise of their responsibilities.</p>		<p>Declined:</p> <p>The standard does not prescribe a specific number of members a fund should have. It requires of the Fund Valuator to certify that the number of members is sufficient to ensure the financial soundness of the Fund. It would be imprudent to continue operating a fund which cannot be sustained in the long run by its membership size.</p> <p>2. The numbering in section 3 is incorrect</p>
Subsection 3	3. A medical aid fund must maintain a sufficient number of members to ensure that it can maintain	The numbering in subsection 3 must be corrected if the Standard is retained.	Agreed,	

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	<p>its business in a financially sound manner by-</p> <p>(d) having assets which are sufficient to meet current liabilities;</p> <p>(e) providing for the funds present and ongoing liabilities; and</p> <p>(f) continuing to maintain the required statutory reserve and solvency requirements, as may be</p>			

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	prescribed by NAMFISA from time to time.			
MAF.S.7.12 – Requirements for the annual report of a medical aid fund				
Schedule 1 Subsection 12 - Notes to the Annual Report	Medical savings accounts and savings contributions in the table	<u>Delete references to medical savings accounts and savings contributions in the table.</u> Medical savings accounts are not permitted in medical aid funds. Refer to the comments at Standard MAF.S.7.4 subsection 3(hh) above	Agreed	
Schedule 1 Subsection 14 Graphs and Tables	Claims/benefits: <ul style="list-style-type: none"> A table reflecting a split of non-PMB and PMB claims for the current year, as well as previous year. Analysis of savings claims paid. 	<u>Delete references to PMB and non-PMB claims as well as savings claims.</u> There are no prescribed minimum benefits (PMBs) in Namibia. The requirement is inappropriate and must be deleted. Medical savings accounts are not permitted in medical aid funds. Refer to the comments at Standard MAF.S.7.4 subsection 3(hh) above.	Agreed	
MAF.S.7.13 – Waiting periods and other periods				

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
MAF.S.7.13	Waiting periods	<p><u>Delete subsections 3 to 5</u> <u>an replace with the</u> <u>following:</u></p> <p>Waiting periods imposed by a medical aid funds pursuant to section 354 of the Act shall -</p> <p>(a) in the case of a general waiting period not exceed three months;</p> <p>and</p> <p>(b) in the case of a condition-specific waiting period not exceed 12 months.</p> <p>Section 354 provides detailed explanations of waiting periods, which cannot be changed in the Standards.</p> <p>Only the periods of the general and condition-specific waiting periods may be prescribed in the Standards. There is no rationale or logic for differentiating waiting periods in accordance with circumstances of joining, specific conditions or otherwise. Too short periods will have no meaningful impact on the</p>		<p>Declined:</p> <p>Subsection 3 is consistant with section 354(1) of FIMA</p> <p>Subsection 4 is consistent with section 354(2) of FIMA</p> <p>Subsection 5 is consistent with section 354(4) of FIMA</p> <p>The recommendation to specifically include pregnancy in the Standards to be published as contemplated in subsection (e) of the definition of a health service is not clear, given it is already included under (a)(v) of the</p>

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		<p>management of fund risk. The periods proposed in this Standard MAF.S.7.13 are supported.</p> <p>Waiting periods are an important mechanism for a fund to manage fund risk and are the only mechanism to protect the fund against anti-selection. If anti-selection is not mitigated, medical aid funds will not be sustainable.</p> <p>The definition of “health service” in section 321(1) of FIMA is open to interpretation and it is recommended that pregnancy is specifically included in the Standards to be published as contemplated in subsection (e) of the definition of a “health service”.</p> <p>Furthermore, the definition of a “condition-specific” waiting period in section 321(1) of FIMA is equally open to interpretation and poses a significant anti- selection risk to funds. It is imperative that pregnancies be included in conditions for which condition-specific waiting periods may be applied</p>		<p>definition of health service</p> <p>Pregnancies are not excluded from conditions for which condition-specific waiting periods may apply.</p>
MAF.S.7.16 – Period after which payment of contributions become due				
Subsection 3	3. Any contribution to a medical aid fund,	<u>Amend subsection 3 as follows:</u>		

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	<p>whether a contribution which, under the rules of the fund, must be deducted from the member's remuneration, any contribution for which the employer is liable under those rules, any contribution the fund is responsible personally, or any contribution to be paid on a member's behalf-</p> <p>(a) must be deposited directly into the fund's bank account with a</p>	<p>3. All contributions shall be paid directly to a medical aid fund and deposited into a bank account opened in the name of the medical aid fund not later than seven calendar days after payment thereof becoming due. The proposed amendment encapsulates all contributions paid, irrespective by whom. It stipulates clearly that payments must be made into the bank account of the fund. It also provides for the payment of contributions upfront or in arrears. The draft wording is inappropriate for contributions, which must be paid in advance and will jeopardise the financial position of funds if recovery of unpaid contributions can only commence more than a month after it became due and payable whilst the</p>	<p>Agree with the proposed changes.</p>	

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	<p>banking account with a banking institution not more than seven calendar days after the end of the month for which such contribution is payable; or</p> <p>(b) must be forwarded directly to the fund in such a manner that the fund receives the contribution not more than</p>	<p>fund was obliged to provide benefits during this period. Advance payment of contributions constitutes the general practice by medical aid funds in Namibia at present. General Standard GEN.10-13 must be aligned with the proposed wording in this standard</p>		
Subsection 4	<p>4. The board of a fund must deposit or cause to be deposited into the bank account of the fund any contribution</p>	<p><u>Amend subsection 4 as follows:</u></p> <p>4. The fund administrator must deposit any medical aid fund moneys under administration,</p>	<p>No objection to proposed amendment.</p>	

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	<p>forwarded to and received by the fund in the circumstances described in clause 3(b), on the first business day following the day of receipt.</p>	<p>not later than the business day following the date of receipt thereof, into a bank account opened in the name of the medical said fund.</p> <p>The proposed amendment provides for the payment of contributions into the bank account of the fund. The board of trustees also does not have operational responsibilities and cannot deposit monies received by medical aid funds.</p>		
Subsection 5	<p>5. The board of a medical aid fund must notify all affected active and retired members of the fund and NAMFISA of a contribution delinquency or of a contribution deficiency</p>	<p><u>Delete subsection 5.</u></p> <p><u>Alternatively, amend subsection 5 as follows:</u> A medical aid fund must notify members who defaulted on the payment of their contributions no later than</p>		<p>Decline deletion of subsection 5 and the proposed amendment.</p> <p>This provision is important especially in instances when part of the contribution is paid</p>

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	<p>within 30 days after the period referred to in clause 3.</p>	<p>30 days after the period referred to in clause 3.</p> <p>The fiduciary duties of trustees include the prudent management of the medical aid fund, including proper risk management. Collection of debts is integral to the proper management of a fund and is included in proper control systems that must be in place. Section 344(1)(d) of FIMA imposes the duty on the board to perform risk management and implement proper control systems. It is not necessary to include this in another provision. Trustees do not have operational duties and should not be required to do the notifications. Notifications are done as part of the operations of a medical aid</p>		<p>on behalf of the member by another party such as the employer. In some cases members' contribution is deducted from their salary, but not remitted to the fund. This needs to be communicated to members as well.</p> <p>Board of Trustees can delegate such notification to the executive management and/or the administrator.</p> <p>Only affected members will be notified of the contribution delinquency.</p>

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		<p>fund, generally by fund administrators, and should not be legislated. Furthermore, notifications related to default payers to <u>all</u> members of the fund is inappropriate. This will result in the communication of personal information of defaulters (that is protected under the Constitution) to persons who have no right to obtain such information.</p>		
General Chapter - Part 1 PRELIMINARY				
Subsection 1	<p>“industry participants or industry participant” means the financial institutions and financial intermediaries that are participants in the financial services and markets sector, or any one of them;</p>	<p><u>Delete the definition of “industry participants or industry participant” in subsection 1 and use the terms defined in FIMA, i.e., financial institution and financial intermediary in the Standards.</u></p>	<p>Agreed. This is necessary for clarity purposes and to avoid any confusion.</p>	

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
		This is necessary for clarity purposes and to avoid any confusion.		
Subsection 1	<p>“business function” includes a business activity, a business process and a business responsibility, but does not include the principal business of an industry participant;</p>	<p><u>Amend the definition of “business function” to provide for risk transfers in medical aid funds as follows:</u> “business function” includes a business activity, a business process, a business responsibility and risk transfer arrangements in medical aid funds, but does not otherwise include the principal business of an industry participant;</p> <p>It is standard practice in the medical aid fund industry to transfer risk or share risk with managed care organisations and/or other entities. This should be provided for in the Standard.</p>	<p>Agreed</p> <p>Amend “industry participant” with financial institution.</p>	
Subsection 1	“material business function” means a	<u>Amend the definition of “material business function”</u>	This amendment is in order.	

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	<p>business function of an industry participant that, while not the principal business of that industry participant, nevertheless has the potential, if disrupted, for a significant and negative qualitative or quantitative impact on the finances, reputation or operation of the industry participant or on its ability to manage key risks effectively, or on its principal business;</p>	<p><u>to provide for risk transfer in medical aid funds as follows:</u></p> <p>“material business function” means a business function of an industry participant that has the potential, if disrupted, for a significant and negative qualitative or quantitative impact on the finances, reputation or operation of the industry participant or on its ability to manage key risks effectively, or on its principal business; It is standard practice in the medical aid fund industry to transfer risk or share risk with managed care organisations and/or other entities. This should be provided for in the Standard.</p> <p>This definition must be aligned with the proposed amended definition of a “business function”.</p>	<p>Amend “industry participant” with financial institution.</p>	
GEN.10-11 – Institutional investment				
Subsection 10(2)(b)	(b) enhance the economic value of the Investing	The term “illiquid investment” is not understood and	1. Correct terminology is “non-liquid” and	

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	Institution's long-term or illiquid investments;	must be defined.	should be defined for purposes of clarity.	
Subsection 10		<p>The subsection refers to a medical aid fund appointing a trustee to sit / vote on a board of an entity in which the Fund has invested its assets, to promote the economic interests of the Fund.</p> <p>We view this as contradictory to funds not classified as undertakings (for profit). Would this not commonly rather apply to asset managers who invest on behalf of clientsto sit / vote on such investing entities?</p> <p>How will this apply to medical aid funds?</p> <p>The whole issue of activism should not become applicable to MAF's. MAF's are entities not for gain (profit), thus being</p>		<p>Declined.</p> <p>Section 10 indicates that a medical aid fund has the discretion to determine whether member activism will be allowed and if it will be allowed the terms and conditions of the activism must be contained in an explicit policy. Thus the applicability of member activism and how it will be applied, will be determined by the Trustees of the respective Fund.</p>

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
		representative on investing institutions board to <u>influence management</u> should not be in the mandate of MAF's. This should rather apply to <u>Asset Managers</u> who invest funds, on behalf of MAF's to sit on such boards?		
GEN.10-12 – Content of investment mandate				
Subsection 5(1)	(1) The factors set out in sub-clauses 3(2)(a) to (c) are relevant to the assessment of the adequacy and appropriateness of the objective of an Investment Mandate, which must, at a minimum, address:	There is no clause 3(2)(a) to (c). This provision must be clarified.	The relevant clauses are 4(1) and (2), the numbering of clause 4 is wrong	
GEN.10-13 – Payment of contributions				
Subsection 3(1)	(1) The total amount of all subscriptions or contributions due to	<u>Amend subsection 3(1) as follows:</u> The total amount of all subscriptions or contributions due to a registered	Agreed- Advance payment of contributions constitutes the general practice	

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	<p>a registered fund by an employer, employee or member, as the case may be, must be paid in full to the registered fund by not later than seven (7) days after the end of each month in respect of which the contributions or subscriptions are payable.</p>	<p>fund by an employer, employee or member, as the case may be, must be paid in full to the registered fund by not later than seven (7) days after the date which the contributions or subscriptions are payable.</p> <p>The draft wording is inappropriate for contributions, which must be paid in advance and will jeopardise the financial position of funds if recovery of unpaid contributions can only commence more than a month after it became due and payable whilst the fund was obliged to provide benefits during this period. Advance payment of contributions constitutes the general practice by medical aid funds at present</p>	<p>by medical aid funds.</p>	
<p>Subsection 3(2)</p>	<p>(2) The amount of any subscriptions or contributions or any part thereof which remains unpaid after the seven day period referred to in sub-clause (1), together with</p>	<p>. Amend subsection 3(2) as follows: (2) The amount of any subscriptions or contributions or any part thereof which remains unpaid after the seven-day after the seven-day period referred to in sub-clause (1), together with interest payable thereon, if applicable, shall be a debt due to the registered fund, recoverable from the person liable for the payment.</p>		<p>This provision is applicable to all regulated financial institutions and not just medical aid funds</p>

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	<p>interest payable thereon, if applicable, shall be a debt due to the registered fund, recoverable from the person liable for the payment, and the Board of the Fund may file with the clerk or registrar of a competent court a statement certified by it as correct stating the amount of unpaid subscriptions or contributions and any interest thereon, and thereupon such statement has all</p> <p>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</p>	<p>The suggestion that a fund could effectively obtain “summary judgment” against a default payer of a contribution, is submitted to be administratively unjust as not adhering to the principles of natural justice. A default payer runs the risk of having his/her fund membership suspended and ultimately terminated, should contributions not be paid. The collection process of outstanding contributions should follow normal legal principles and be subject to court procedures. There is no reason for providing a different dispensation to medical aid funds.</p>		<p>The provision states that a Fund may file with a competent court and does not make it mandatory. Thus other avenues for collecting the debt may still be used should the Fund not wish to make use of the recourse afforded by the Court.</p>

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	and may be enforced as such			
Subsection 3(3)	(3) Notwithstanding clause (1), NAMFISA may direct the person liable for the unpaid amounts forthwith to make payment of such amounts to the registered fund, and the rules of the registered fund must state if any interest is payable on outstanding subscriptions or contributions and the manner of determining any such interest.	<u>Delete subsection 3(3).</u> NAMFISA has no jurisdiction over members of medical aid funds. This is the responsibility of the medical aid fund.		Declined
Definitions	The definition of "Financial institutions and markets sector" does not specify whether international markets are also included in this definition.	Recommendation for the definition to clarify whether markets not registered under the Act - specifically international markets are included or excluded		Declined: Financial institutions definition states applicable entities, which is within the jurisdiction of NAMFISA.
(d) Company or Individual Information	It is unclear what NAMFISA is expecting in respect of "reporting of audited	Clarification of the meaning of the phrase is requested from NAMFISA.		We cannot prescribe and this is subject to each

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
<p>and Assets: the Code of Conduct should include standards relating to the: (i) <u>reporting of audited financial statements and other operational information to customers</u></p>	<p>financial statements". Does NAMFISA mean publication in public media similar to the requirements for listed companies to make announcements?</p>			<p>entity's take, which is not only limited to what is proposed. 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 reporting disclosure of audited financial statements and other operational information to customers;</p>
<p>g) Reporting, Enforcement and Sanctions:</p>	<p>Other legislation, specifically the FIA has detailed reporting and sanctions content. Perhaps NAMFISA can</p>	<p>NAMFISA to consider referencing the FIA.</p>		<p>Cannot provide a list which in any case will not cover every aspect and that becomes an interpretation</p>

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	consider referencing the FIA requirements and obligations			<p>problem. Rather, each entity can only show what is applicable and why for oversight purposes by NAMFISA. What is mentioned is a minimum requirement. Proposed change is not accepted. Basic elements of code of conduct policy of a 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.</p>
Institutional Investment Standard GEN. 10-11	This particular section starts to list regulated industries but exclude others. Are Medical Aid Funds included in the "et cetera" or are they	NAMFISA to clarify by specifying medical aid funds or by referring to all entities regulated under the FIMA.	Accepted. Medical Aid Funds are included in this standard.	

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<p>2. Interpretation of Standard (1) This Standard applies to all insurers, registered insurers, beneficiary funds, retirement funds, and friendly societies, etc, registered under the Act or to which the Act otherwise applies (hereafter “Investing Institutions or Investing Institution”).</p>	<p>excluded from this particular standard.</p>			
<p>Payment of Contributions Standard GEN. 10-13</p>	<p>In the context of a medical aid fund it is commercially imperative that contributions are paid in advance in order to address the risk that a</p>	<p>Medical Aid fund contributions should be payable in advance of the month for which the contributions are paid. Members who do not pay within seven days of the month for which the contributions are due must be</p>	<p>Agreed Provision to be amended to account for contributions payable in advance</p>	

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<p>3. Subscriptions (1) The total amount of all subscriptions or contributions due to a registered fund by an employer, employee or member, as the case may be, must be paid in full to the registered fund by not later than seven (7) days after the end of each month in respect of which the contributions or subscriptions are payable.</p>	<p>member may join, not pay contributions and yet start incurring costs. If the member does not pay the fund will have and this would be anti- selective towards the other members of the fund</p>	<p>considered as overdue and subject to collection or suspension.</p> <p>NAMFISA to amend this definition in respect of medical aid funds</p>		
<p>3. Subscriptions (2) The amount of any</p>	<p>There does not appear to be any description of what is required for purposes of “filing with the clerk or</p>	<p>NAMFISA to clarify what the intent is or remove the offending section.</p>		<p>Declined:</p> <p>Subsection 3(2) indicates that</p>

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<p>subscriptions or contributions or any part thereof which remains unpaid after the seven day period referred to in sub-clause (1), together with interest payable thereon, if applicable, shall be a debt due to the registered fund, recoverable from the person liable for the payment, and <u>the board of the fund may file with the clerk or registrar of a competent court a</u></p>	<p>registrar of a competent court".</p> <p>This section appears to deny a debtor the opportunity to present any defence in respect of the alleged unpaid subscriptions or contributions.</p> <p>This would appear to supersede current civil administration processes and authorities.</p>			<p><i>a statement certified by the Fund as correct stating the amount of unpaid contributions and any interest thereon, stating the amount of unpaid contributions and any interest thereon.</i></p> <p>Any additional requirements in terms of filing with the Court may be obtained from the respective Court.</p> <p>Furthermore, the provision does not prohibit the Fund from implementing the principals of natural justice and affording the member an opportunity to be heard before the said filing is made</p>

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<p><u>statement certified by it as correct stating the amount of unpaid subscriptions or contributions and any interest thereon, and thereupon 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</u></p>				<p>with a Court. Funds are at liberty to do this and ought to do so.</p>

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enforced as such.				
<p>3. Subscriptions (3) Notwithstanding clause (1), NAMFISA may direct the person liable for the unpaid amounts forthwith to make payment of such amounts to the registered fund, and the rules of the registered fund must state if any interest is payable on outstanding subscriptions or contributions and the manner of</p>	<p>What authority does such a declaration by NAMFISA carry? Is this an enforceable instruction?</p>	<p>Namfisa to clarify the basis for this authority and to explain what the value of such a declaration would be.</p>		<p>Declined: Such directive would be enforceable in terms of the Standard and FIMAx</p>

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determining any such interest				
Description of Plain Language Standard GEN. 10-17 (3) Compliance Requirements (2) To ensure that a document satisfies these requirements, <u>an Investing institution all persons</u> to whom this Standard applies must	With reference to the underlined portion of the section there appears to be a missing "and".	NAMFISA to consider correcting	Agreed.	
(2) (c) use client questions on documents	It is unclear what NAMFISA is expecting. What client is NAMFISA expecting to be used as a source of questions. If the intention is to recommend the use of frequently asked questions	Namfisa to consider clarifying this recommendation.	Concern is noted and amended as underlined below. <u>c. use client questions on documents should have questions directed at clients in order to require</u>	

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	then this should be formulated more clearly.		answers from clients; and and the intention is not to include all previous client queries as understood. See amendments as underlined	
(2)(d) review and omit unnecessary words, e.g., “due and payable”.	It is submitted that “due and payable” is a common phrase to indicate two aspects in respect of a date: Firstly, that the debt is owing (it is due to the creditor) and secondly that the debt is payable. The use of “payable” reflects that the debt is collectible by the creditor.	NAMFISA to reconsider this example.	Noted.	
Standard GEN.10.9 (4) All persons to whom this Standard applies must be satisfied	Does this apply to brochures or is the intention that “the relevant document” only refers to applications or legal contracts? It would not appear to be reasonable to	Namfisa to clarify.	We have amended (4)(a) to read as underlined below. “...has understood the content, and	Only applicable to binding documents. Yes, applies only to such cases where a signature is

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that, after reading the relevant document, a client: (a) has understood the content, by so acknowledging in writing without duress;	obligate regulated entities to obtain acknowledgments in writing from potential clients who read brochures.		would acknowledge in writing without duress if prompted to do so;"	required such as a contract.
GEN.10-11 Paragraph 10(2)(b)	Illiquid investment	Please define an illiquid investment	Accepted.	
GEN.10-12 10.12.3 (2) (a) to (c)	Reference is made to 10.12.3 (2) (a) to (c).	There is nothing to refer to as as 10.12.3 (2), (a) to (c) cannot be found. Please add.	Accepted	
GEN.10-13 10.13.3 (1)	Payment of Contributions – refer to MAF.S.7.16.3 (a) and (b)	Please see previous comment.	Accepted See commentary above (Agreed to amend wording to account for contributions paid in advance)	
General Comment	The Regulation pertaining to the Insurance Policies namely MAF.R.7.1, has not been	Kindly indicate when the Regulations will be circulated to industry for input and allow sufficient time for industry to comment		FIMA does not require regulations to be consulted on,

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	gazetted yet. When will same be gazetted for comment / input by industry, as it may have a significant impact on insurers that have health products or that offer health benefits as part of their insurance products?			hence regulations are not gazetted for consultation purposes. Therefore, the regulations are only available on the NAMFISA website for consultation purposes.
Regulation No: MAF.R.7.1	The Insurance Policies to be excluded from the definition of 'business of a medical aid fund' in section 321 of the FIMA			The regulation is available on the NAMFISA website
General Comment	<p>In anticipation of the publication / gazetting of this Regulation, herewith the following for consideration by NAMFISA:</p> <p>1) The Regulation as it currently reads provides no indication as to what will happen with existing health insurance products that do not fall within the criteria contained in the standard. Is NAMFISA considering a phased approach/ grace</p>	<p>Kindly indicate when the Regulation circulated to industry for input and a time for industry comment.</p> <p>1) Suggest that a grace period / exemption be built into the standard to allow insurers with existing health products to align and comply. 2) Kindly include a provision that allows for direct payments to service providers in the case of GAP Cover.</p>	<p>2) Sub-regulation 3(g) to be amended by deletion of reference to</p>	<p>The regulation is available on the NAMFISA website.</p> <p>1) This would be at the discretion of the Minister. Once know NAMFISA will inform the industry.</p>

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	<p>period/ exemption for these - as they did in SA?</p> <p>2) In respect of Gap Insurance, it appears as though (and indications during consultation with NAMFISA seems to suggest) that payments will have to be made to the policy holder of this cover/product directly and that insurers will not be able to effect payment directly to service providers. Kindly note that if this is indeed the case – provision should be clearly made therefore in the Regulation as it only currently comes to the fore in the section dealing with marketing and disclosures.</p> <p>Furthermore, it is strongly suggested that provision be made for payments to be made directly to service providers in the case of Gap cover. The logic behind this request is that service</p>		<p>category 5 of Table A.</p> <p>The nature of an insurance product (as opposed to a medical aid fund) is that the policy holder is reimbursed as opposed to the service provider. It is for this reason that GAP cover claims are paid to the policy holder and not to the service provider.</p>	

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	<p>providers may refuse to assist the patient if payment is not guaranteed directly to the service provider by the insurer. It will thus prejudice the client/patient because medical doctors and hospitals may refuse treatment without insurer backed guarantees.</p>			
<p>MAF.R.7.1 (3)(c) and (h)</p> <p>MAF.R.7.1</p>	<p>(3)(c) and (h) seem to repeat each other to some extent</p>	<p>Delete 3(h)</p> <p>Amend 3(c) to read, “except for a policy referred to in Category 5, provide that the policy holder or life insured must be a member of a medical aid fund”</p> <p>Replace with: “not develop or offer health policies which collectively may result in the aggregate of policy benefits that are equivalent to or comparable with any</p>	<p>Agree to amend amplify subsection 3(c)</p> <p>As per the recommendation</p> <p>Sub-regulation 3(c) may be deleted, as 3(h) already provides for same, with the exception of categories 2 and 5.</p>	
<p>5(1)(a)</p>	<p>5(1)(a) - this wording is not tight enough. There is no list of objectives in Chapter 7 of the Act. This could lead to the insurance industry getting around the intention of</p>	<p>Replace with: “not develop or offer health policies which collectively may result in the aggregate of policy benefits that are equivalent to or comparable with any aspect of the</p>	<p>Agreed, and provision amended accordingly.</p>	

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	demarcating insurance and medical aid fund business as separate.	business of a medical aid fund as defined in Chapter 7 of the Act”		
MAF.R.7.2 Paragraph 8	Limitations per Chapter 3	No such limitations could be found in Chapter 3. Please add	Agreed. Clause 8 deleted.	