



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

---

N\$	WINDHOEK -	No.
	CONTENTS	<i>Page</i>
<b>GOVERNMENT NOTICE</b>		
No.	Namibia Financial Institutions Supervisory Authority: Standards under the Financial Institutions and Markets Act, 2021 .....	1

---

## Government Notice

---

### MINISTRY OF FINANCE

No. 202-

### REGULATIONS MADE IN TERMS OF THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

The Minister of Finance has, under section 465 of the Financial Institutions and Markets Act, 2021 (Act No 2 of 2021), made the regulations set out in the Schedule.

MINISTER OF FINANCE

WINDHOEK

202-

## SCHEDULE

### FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

#### INSURANCE

#### THE MEANING OF MICRO-INSURANCE

##### Regulation No. INS.R.2.1

made by the Minister under section 465(5)(a) of the Financial Institutions and Markets Act,  
2021

---

#### Definitions

1. (1) In this Regulation -
  - (a) “low-income population” means the population or households who cannot afford the mainstream insurance products need low-premium products;
  - (b) “micro-insurance” means insurance provided by the registered insurers referred to in Regulation 2, the policy benefits of which must not exceed the amounts set out in the Schedule to this Regulation;
  - (b) “micro-insurance business” means the business of providing or undertaking to provide policy benefits under a micro-insurance policy;
  - (c) “micro-insurance policy” means -
    - (i) any contract for long-term insurance or short-term insurance, either on an individual or group basis, in terms of which a micro-insurer, in return for a premium, undertakes to provide a person or group with policy benefits, not exceeding such amounts as set out in the Schedule to this Regulation, whether in monetary or non-monetary terms; and
    - (ii) an insurance policy sold under any plan which has been specifically designed in accordance with the Schedule to this Regulation;
  - (d) “micro-insurance product” includes any micro-insurance policy for long-term insurance or short-term insurance and the proposal forms and all marketing materials in respect thereof;
  - (e) “micro-insurance service(s)” means financial service as referred to in section 1 of the Act; and
  - (f) “micro-insurer” means an insurer referred to in Regulation 2.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise.

## **Applicability**

2. This Regulation applies to -
- (a) insurers registered to carry on micro-insurance;
  - (b) insurers registered to carry on long-term insurance and micro-insurance; and
  - (c) insurers registered to carry on short-term insurance and micro-insurance.

## **Micro-insurance products**

3. To qualify as a micro-insurance product, the micro-insurance policy must comply with the following:
- (a) the policy must not be a guarantee, aviation, marine or have a co-insurance feature; and
  - (b) the policy must not include fund and sinking fund insurance business.
4. The minimum and maximum amount of policy benefits under a micro-insurance policy must be capped in accordance with the Schedule attached to this Regulation.
5. All policy benefits under a micro-insurance policy must be defined on a first loss or sum assured basis, meaning insurance that provides a defined benefit upon a defined event according to the actual value of the loss suffered.
6. Initial pricing and any subsequent price changes on a micro-insurance policy must be based on verifiable risk considerations as attested to by an actuary.
7. Where policy benefits under a micro-insurance policy are offered in non-monetary terms, upon a claim being made, the policyholder must be given the option of receiving a monetary benefit equal to the stated value of the in non-monetary policy benefit.

## **Registration**

8. A person applying for registration to carry on micro-insurance must, pursuant to section 9 and 10 of the Act, have paid up capital and surplus in Namibia Dollars totalling at least N\$200,000.00 (two hundred thousand Namibia Dollars).

## **Distribution**

9. For the purposes of this Regulation and Regulations 10, 11 and 13 a micro-insurance intermediary means a registered insurance intermediary as defined in section 53 and may include:
- (a) a civil society;
  - (b) a self-help group;
  - (c) a micro-finance institution;
  - (d) a corporate body;
  - (e) a funeral parlour; and
  - (f) a co-operative.

**10.** In addition to selling and marketing micro-insurance products and services, a micro-insurance intermediary may perform any or all of the following functions:

- (a) collection of proposal forms;
- (b) collection and remittances of premiums;
- (c) distribution of policy documents;
- (d) assistance in the settlement of claims; and
- (e) policy administration services.

**11.** A micro-insurance intermediary may, with prior approval of the micro-insurer, employ certain persons for the purpose of discharging all or any of the functions set forth in Regulations 10 and 12.

**12.** Every micro-insurance intermediary and any person employed by the micro-insurance intermediary in accordance with Regulation 11, must at all times comply with the provisions of the Act, the Regulations and Standards under the Act and any guidelines, bulletins, rules, directives or other measures that may be issued under the Act, and any violation may lead to termination of the appointment or employment, in addition to imposition of appropriate penalties.

#### **Filing new micro-insurance product designs**

**13.** (1) Every micro-insurer must file with NAMFISA any new micro-insurance product prior to marketing such micro-insurance product to the public.

(2) The micro-insurer may after 30 days from the date of submission referred to in sub-Regulation (1), if no objection is received from NAMFISA, lodge the product in the market.

#### **Plain language of micro-insurance policy contract**

**14.** Every micro-insurance policy must comply with Standard No. GEN.S.9.17 – Description of plain language.

### **SUPPORTING SCHEDULE**

**The following supporting Schedule is attached to and forms part of this Regulation:**

Schedule: MICRO-INSURANCE BENEFIT THRESHOLDS

**SCHEDULE** (to Regulation No. INS.R.2.1)  
**MICRO-INSURANCE BENEFIT THRESHOLDS**

	<b>MINIMUM BENEFIT/COVER (N\$)*</b>	<b>MAXIMUM BENEFIT/COVER (N\$)*</b>
<b>LIFE INSURANCE</b>		
Disability insurance business	1,000.00	25,000.00
Funeral insurance business	1,000.00	25,000.00
Health insurance business	1,000.00	25,000.00
Life insurance business	1,000.00	25,000.00
<b>NON-LIFE</b>		
Fire	1,000.00	25,000.00
Vehicles	1,000.00	25,000.00
Personal	1,000.00	25,000.00
Gap insurance	1,000.00	25,000.00
Miscellaneous	1,000.00	25,000.00

\* the benefit amounts are CPI linked

---

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## INSURANCE

### INSURANCE TERMS DEFINED FOR THE PURPOSES OF SECTION 8 OF THE ACT

#### Regulation No. INS.R.2.2

made by the Minister under section 465(5)(d), (e), (f) and (m) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. (1) In this Regulation, unless the context indicates otherwise -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act; and
  - (b) “a member of medical aid fund” includes -
    - (i) a member of a medical aid fund registered under the Act; and
    - (ii) a member of a fund, scheme or entity, other than a registered medical aid fund, created by law to provide its members with medical aid benefits.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including, without limitation, the following:
  - (a) as defined in section 4 of the Act -
    - (i) insurer;
    - (ii) insurance;
    - (iii) long-term insurance;
    - (iv) policy;
    - (v) policy benefits;
    - (vi) premium;
    - (vii) registered insurer;
    - (viii) reinsurer;
    - (ix) short-term insurance;
  - (b) as defined in section 8 of the Act -
    - (i) health event;
    - (ii) long-term insurance business;

- (iii) short-term insurance business; and
- (c) as defined in section 321 of the Act -
  - (i) business of a medical aid fund;
  - (ii) health service;
  - (iii) fund or medical aid fund; and
  - (iv) member.

### **Applicability**

2. This Regulation applies to all registered insurers and registered reinsurers.

### **The meaning of certain terms for the purposes of short-term insurance business**

3. (1) For the purpose of short-term insurance business, “gap insurance” means -
- (a) motor vehicle finance gap insurance that is purchased by a person for protection against losses that can arise when the amount of compensation received from a total loss does not fully cover the amount the insured owes on the vehicle's financing or lease agreement; or
  - (b) insurance that is purchased by a person for protection against losses that can arise when the amount of compensation received from an insurance claim does not fully cover the replacement value of the insured asset or the amount the insured owes on the insured asset(s).
- (2) For purposes of sub-Regulation (1), “gap insurance” does not include payments to cover -
- (a) overdue lease or loan payments;
  - (b) costs for extended warranties, credit life insurance, or other insurance purchased with the loan or lease;
  - (c) carry-over balances from previous loans or leases;
  - (d) financial penalties imposed under a specific lease agreement, for example for excessive use, abnormal use or higher mileage, etc.;
  - (e) security deposits not refunded by a lessor;
  - (f) amounts deducted by the primary insurer for wear and tear, prior damage, towing, or storage;
  - (g) costs of equipment added to the motor vehicle by the insured, meaning that only factory-installed equipment is covered; or
  - (h) mechanical issues, such as engine or transmission failures, or any other vehicle problems that are not losses covered by the vehicle insurance policy.
- (3) For the purpose of short-term insurance business, a “health policy” includes -

- (a) emergency evacuation or transportation: expenses to cover guaranteed access to and utilisation of specialised medical transportation and guaranteed hospital admission to ensure that the insured is admitted to an emergency health facility and stabilised, but only to the extent that such expenses are not covered by a medical aid fund registered under the Act;
  - (b) medical expense shortfall: lump sum payment to cover the costs or expenses of a relevant health service that, in respect of benefits provided by a medical aid fund registered under the Act, does not constitute a benefit, a benefit not paid in full by such medical aid fund or a member's benefit being depleted in a specific benefit year;
  - (c) third party liability: lump sum payment to cover an insured for the expenses of relevant health service following the injury of a third party (other than the insured)
    - 
    - (i) as a result of a motor vehicle accident; or
    - (ii) while at the property of the insured;
  - (d) international travel insurance: lump sum payment covering expenses associated with a relevant health service incurred as a result of a sickness, disability or death event that occurs while travelling outside of the Republic of Namibia; and
  - (e) domestic travel insurance: lump sum payment covering expenses associated with a relevant health service incurred as a result of a sickness, disability or death event that occurs while travelling in the Republic of Namibia.
- (4) A health policy must -
    - (a) be priced fairly for all policyholders; and
    - (b) have a maximum waiting period of six months.
  - (5) A registered insurer or reinsurer must not -
    - (a) refuse a claim because of pre-existing conditions which were fully disclosed by the policyholder at policy inception stage; and
    - (b) cancel a policy because of poor claims experience.

### **The meaning of certain terms for the purposes of long-term insurance business**

**4.** For the purposes of long-term insurance business, “gap insurance” means insurance that -

- (a) is purchased by a member of a medical aid fund or a member of a fund, scheme or entity, other than a registered medical aid fund, created by law to provide its members with medical aid benefits to supplement an existing benefit of a type that is available only to members of medical aid funds; and
- (b) is designed to make up the difference between the amount that the medical aid fund or a fund, scheme or entity, other than a registered medical aid fund, created by law to provide its members with medical aid benefits is liable to pay to cover treatments



and the amount that any specialist or other healthcare service provider charges the member for a health service.

5. (1) For the purposes of long-term insurance business, “health policy” means a contract in terms of which a registered insurer, in return for a premium, undertakes to provide policy benefits on the occurrence of a health event.

(2) For the purpose of sub-Regulation (1), a health policy includes -

(a) lump sum or income replacement benefits payable on the occurrence of a health event to cover -

(i) contingency expenses incurred by the policyholder on experiencing a specified health event; and

(ii) if applicable, loss of income as a result of the health event, provided the policyholder provides proof of the loss of income;

(b) expenses for frail care for policyholders over the age of 60 years to cover custodial care (assistance with activities of daily living); and

(c) expenses related to HIV testing and HIV and Aids treatment on an employee group basis for employees and their dependants, to the extent that such expenses are not covered by a medical aid fund.

(3) For greater certainty, a health policy does not include a contract for benefits that are included in the business of a medical aid fund.

(4) A health policy must -

(a) be priced fairly for all policyholders; and

(b) have a maximum waiting period of six months.

(5) A registered insurer or reinsurer must not -

(a) refuse a claim because of pre-existing conditions which were fully disclosed by the policyholder at policy inception stage; and

(b) cancel a policy because of poor health or high claims.

### **The meaning of sickness**

6. For the purposes of -

(a) paragraph (e) of the definition of “fund” in section 8(1) of the Act;

(b) sections 8(5) and 465(5)(f) of the Act; and

(c) Regulation 3(3)(d) and (e) of this Regulation,

“sickness” means a malady, affliction, dysfunction, debility or infirmity of body or mind, including, without limitation, a weakened, unhealthy or unsound condition, resulting from a specific type of illness or disease.

---

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## INSURANCE

### THE AMOUNT OF PROTECTION THAT WILL BE AFFORDED IN RESPECT OF A LIFE POLICY REFERRED TO IN PART 5 OF CHAPTER 2

#### Regulation No. INS.R.2.3

made by the Minister under section 465(5)(i) of the Financial Institutions and Markets Act,  
2021

---

#### Definitions

1. (1) In this Regulation, “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issue by NAMFISA under the Act.

(2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including without limitation, the following:

- (a) as defined in section 1 of the Act -
  - (i) insurer;
  - (ii) NAMFISA;
- (b) as defined in section 4 of the Act -
  - (i) registered insurer;
  - (ii) registered insurance intermediary; and
- (c) as defined in section 8 of the Act -
  - (i) life insurance business;
  - (ii) life policy.

#### Applicability

2. This Regulation applies to all insurers registered to carry on life insurance business and to all registered insurance intermediaries.

#### Maximum amount of protection

3. For the purposes of section 34(2) of the Act, the protection afforded in respect of a life policy shall extend to so much of the realisable value of the life policy as does not exceed the amount of N\$200,000.00 (two hundred thousand Namibia Dollars).

4. For the purposes of section 35(2) of the Act, the aggregate amount referred to in that section must not exceed N\$200,000.00 (two hundred thousand Namibia Dollars).

- 5.** For the purposes of section 35(3) of the Act, the amount by which the realisable value of a life policy referred to in that section or the aggregate realisable value of all such life policies must not exceed, is N\$200,000.00 (two hundred thousand Namibia Dollars).
  - 6.** For the purposes of section 36(3)(b)(i) of the Act, the protection afforded must not exceed the amount of N\$200,000.00 (two hundred thousand Namibia Dollars).
-

**FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**  
**TO PRESCRIBE THE INTEREST FOR PURPOSES OF SECTION 160(2)(d), (4)(d),**  
**(6)(d), (7)(d) OF THE ACT**

**Regulation No. FM.R.3.2**

made by the Minister under section 465(6)(d) of the Financial Institutions and Markets Act,  
2021

---

**Definitions**

1. (1) In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act; and
  - (b) “repurchase rate” means the benchmark rate at which private sector banks borrow money from the Bank of Namibia.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation unless the context indicates otherwise, including without limitation, the word “insider” as defined in section 155 of the Act.

**Applicability**

2. This Regulation applies to an insider who is subject to civil liability resulting from insider trading.

**Interest on civil liability resulting from insider trading**

3. For purposes of section 160(2)(d), (4)(d), (6)(d) and (7)(d) of the Act, the interest payable shall be equivalent to twice the rate determined for the time being by the Monetary Policy Committee of the Bank of Namibia to be the repurchase rate.
-

**FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**

**TO PRESCRIBE THE MAXIMUM AMOUNT OF ANY PENALTY THAT NAMFISA  
MAY IMPOSE ON A SELF-REGULATORY ORGANISATION PURSUANT TO  
SECTION 142(3) OF THE ACT**

**Regulation No. FM.R.3.3**

made by the Minister under section 465(6)(c) of the Financial Institutions and Markets Act,  
2021

---

**Definitions**

1. In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act; and
  - (b) words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including without limitation, the term “self-regulatory organisation” as defined in section 78 of the Act.

**Applicability**

2. This Regulation applies to self-regulatory organisations.

**Maximum penalty for non-compliance by a self-regulatory organisation**

3. The maximum penalty that may be imposed upon a self-regulatory organisation for purposes of section 142(3), is N\$5,000,000.00 (five million Namibia dollar).
-

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## FINANCIAL MARKETS

### MEANING OF MONEY MARKET INSTRUMENTS FOR THE PURPOSES OF THE DEFINITION IN SECTION 78

#### Regulation No. FM.R.3.6

made by the Minister under section 465(6)(a) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. (1) In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “asset” means a present economic resource, a right or other source of value that is capable of producing economic benefits controlled by the entity as a result of past events, including money of any currency;
  - (c) “bank” means a body of persons, whether incorporated or not, that carries on the business of banking, and includes the Bank of Namibia referred to in section 2 of the Bank of Namibia Act, 2020 (Act No. 1 of 2020), a banking institution defined in section 1 of the Banking Institutions Act, 1998 (Act No. 2 of 1998), and the Post Office Savings Bank as defined in section 1 of the Posts and Telecommunications Act, 1992 (Act No. 19 of 1992);
  - (d) “banker’s acceptance” means a bill as defined in the Bills of Exchange Act, 2003 (Act No. 22 of 2003), drawn on, accepted and guaranteed by a bank, and representing a promised future payment by that bank;
  - (e) “bond” means an acknowledgement of debt in which the issuer or guarantor undertakes to repay the principal debt together with interest on the maturity of the debt to the holder of the bond;
  - (f) “commercial paper” means a negotiable short-term financial instrument which is an acknowledgement of debt, issued by an entity, whether backed by assets or not;
  - (g) “debt security” means a financial instrument issued by an issuer, evidencing or acknowledging the liability of the issuer to repay an amount of money specified in the security, subject to the conditions whereto the security is issued;
  - (h) “deposit” means an amount of money paid by a person to a bank, subject to an agreement in terms of which the full amount of money, or any part thereof, will, conditionally or unconditionally, and with or without interest or a premium, be repaid to such person –

- (i) on demand;
- (ii) at a specified or unspecified date;
- (iii) after a predetermined period of time;
- (iv) after a predetermined period of notice of withdrawal; or
- (v) subject to an agreement entered into by the parties concerned,

despite that such payment is limited to a fixed amount or that a transferable or non-transferable certificate or other instrument providing for the repayment of the amount is issued in respect of such amount;

- (i) “financial asset” means any asset that is cash or a financial product;
- (j) “financial instrument” means any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity;
- (k) “financial market” means any market where the buying and selling of securities take place;
- (l) “issuer” means an issuer of securities, including an issuer of money market instruments;
- (m) “investment” means an asset or item acquired with the goal of generating income or appreciation, where appreciation refers to an increase in the value of an asset over time;
- (n) “liquid asset” means -
  - (i) any amount of cash consisting of Bank of Namibia notes and coins;
  - (ii) any balance in an account with a bank, branch of a foreign institution which is authorised in terms of the Banking Institutions Act, 1998, to conduct the business of a bank by means of such branch or a foreign bank;
  - (iii) any positive balance in a settlement account, other than a margin account, operated for the purpose of buying and selling of underlying assets;
  - (iv) money market instrument; or
  - (v) participatory interest in a money market portfolio,on condition that the assets in sub-paragraphs (i), (ii), (iv) and (v) are capable of being converted, without any penalty on capital in terms of the conditions of the asset, into cash within a period not exceeding seven days;
- (o) “money market” means the sector of the financial market that includes financial instruments that have a maturity or redemption date that is one year or less at the time of issuance;

- (p) “money market instrument” means high quality debt securities issued by government and corporate borrowers, whose maturity or redemption date is up to one year, that seek to preserve capital and provide daily liquidity, while offering returns in line with money market rates, and includes a banker’s acceptance, bond, commercial paper, debenture, deposit, negotiable certificate of deposit, state-owned enterprise bill, promissory note, trade bill and treasury bill;
- (q) “negotiable certificate of deposit” means a certificate of deposit issued by a bank, and payable to order or bearer;
- (r) “promissory note” means an unconditional promise in writing made by one person to another, signed by the maker, and engaging to pay on demand or at a fixed or determinable future time, a sum certain in money, to a specified person or his or her order, or to bearer;
- (s) “short-term” means one year or less;
- (t) “short-term funding” means financing of business from money market sources; and
- (u) “treasury bills” means a means a bill drawn by the Government of Namibia on the Secretary to the Treasury, calling on the latter to pay a sum certain in money to a specified person or his order, or to bearer on demand or on a certain specified future date.

(2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise.

### **Meaning of money market instruments for the purposes of the definition in section 78**

**2.** Money market instruments are high quality debt securities issued by government and corporate borrowers, whose maturity or redemption date is up to one year, and that seek to preserve capital and provide daily liquidity, while offering returns in line with money market rates.

**3.** Money market instruments –

- (a) are short-term fixed income, or income generating, financial instruments that provide a specified amount of interest plus repayment of the principal amount at maturity;
- (b) offer low risk and are easily converted into cash;
- (c) are financial instruments that have the objective to provide investors with preservation of capital and daily liquidity;
- (d) are broadly used by both retail and institutional investors as an efficient way to achieve diversified cash management; and
- (e) are financial instruments that act as a link between investors seeking investments in liquid assets and diversification of credit risk exposure, and borrowers seeking short-term funding.



## **General provisions and principles**

**4.** For the purposes of assessing the quality of a money market instrument, an instrument may be considered of a high quality if it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency, or an equivalent if the instrument is not rated.

**5.** For purposes of 'equivalent' in clause 4 will be a credit quality assessment procedure that has the features of the factors included in the ratings of the two highest available short-term credit ratings, taking into account, the issuer of the instrument and the characteristics of the instrument itself.

**6.** The credit quality assessment procedure must, at a minimum, comply with all of the following general principles:

- (a) an effective process is to be established to obtain and update relevant information on the issuer and the instrument's characteristics;
  - (b) adequate measures are to be adopted and implemented to ensure that the credit quality assessment is based on a thorough analysis of the information that is available and pertinent, and includes all relevant driving factors that influence the creditworthiness of the issuer and the credit quality of the instrument;
  - (c) the credit quality assessment procedure is monitored on an ongoing basis and all credit quality assessments are reviewed at least annually to determine whether they still remain appropriate and external conditions have not changed;
  - (d) when methodologies, models or key assumptions used in the credit quality assessment procedure are changed, the manager of an money market fund is to review all affected internal credit quality assessments as soon as possible;
  - (e) the credit quality assessment procedure includes the quantification of the credit risk of the issuer and of the relative risk of default of the issuer and of the instrument;
  - (f) the credit quality assessment procedure takes into account the qualitative indicators on the issuer of the instrument, including in the light of the macroeconomic and financial market situation; and
  - (g) the credit quality assessment procedure takes into account the short-term nature of the instrument and the liquidity profile of the instrument.
-

# **FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**

## **RETIREMENT FUNDS**

### **FUNDS AND CLASSES OF FUNDS FOR INCLUSION IN THE DEFINITION OF “FUND” IN SECTION 249**

#### **Regulation No. RF.R.5.1**

made by the Minister under section 465(8)(a) of the Financial Institutions and Markets Act,  
2021

---

#### **Definitions**

1. (1) In this Regulation –
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act; and
  - (b) “Income Tax Act” means the Income Tax Act, 1981 (Act No. 24 of 1981).
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise.
- (3) The following words and phrases have the meaning ascribed thereto by the Income Tax Act -
  - (a) pension fund;
  - (b) preservation fund;
  - (c) provident fund; and
  - (d) retirement annuity fund.

#### **Funds and classes of funds**

2. The following funds and classes of funds shall be included in the definition of “fund” in section 249 of the Act –
    - (a) pension funds;
    - (b) preservation funds;
    - (c) provident funds; and
    - (d) retirement annuity funds.
-

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## RETIREMENT FUNDS

### THE TERMS AND CONDITIONS ON WHICH THE BOARD OF A FUND MAY DISTRIBUTE SOME OR ALL OF AN ACTUARIAL SURPLUS PURSUANT TO SECTION 268(8)

#### Regulation No. RF.R.5.3

made by the Minister under section 465(8)(f) of the Financial Institutions and Markets Act,  
2021

---

#### Definitions

1. (1) In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “date of inception” means the date on which a retirement fund commences to receive contributions;
  - (c) “deferred member” means a member who has not yet retired but has left the service of the employer concerned prior to the retirement date, as defined in the rules of the fund, leaving in the fund the rights of the member to such benefits as may be payable according to those rules;
  - (d) “former member” means a person who has received all the benefits due to him or her from the fund and whose membership was terminated in accordance with the rules of the fund;
  - (e) “net actuarial surplus” means actuarial surplus as calculated in Standard No. RF.S.5.1 - The definition of “actuarial surplus”;
  - (f) “participant” means a person whom in the opinion of the board is entitled to participate in the distribution of actuarial surplus and may include an employer, sponsor, member, former member, deferred member, dependant and nominee, as applicable, and a person in receipt of an income benefit from a retirement fund; and
  - (h) “Plan” means a plan for the distribution of the actuarial surplus of a retirement fund.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including, without limitation, the following as defined in section 249 of the Act:
  - (a) active member;
  - (b) board;
  - (c) defined contribution fund;

- (d) dependant;
- (e) fair value;
- (f) fund;
- (g) member;
- (h) nominee;
- (i) retired member; and
- (j) retirement fund.

### **Execution of Plan**

2. The board of a retirement fund may execute a Plan provided that -
- (a) subject to Regulation 3, the rules of the fund specifically authorise the board to distribute the actuarial surplus;
  - (b) the fund is in full compliance with the Act;
  - (c) the fund is not a party to a legal action, dispute, arbitration, mediation or complaint insofar as such legal action, dispute, arbitration, mediation or complaint affect the distribution of surplus;
  - (d) the participants have been notified of the Plan, in a manner acceptable to NAMFISA;
  - (e) the Plan has received the approval of the board;
  - (f) the actuarial surplus proposed to be distributed pursuant to the Plan has been determined on the basis of a report by the valuator of the fund at a date not more than six months prior to the effective date proposed for the distribution;
  - (g) the Plan complies with the provisions of Regulation 5 or 6, as appropriate;
  - (h) the application form and information as required by Schedules 1 and 2 attached to this Regulation have been submitted to NAMFISA; and
  - (i) NAMFISA has, in writing, approved the Plan.

### **Rules must authorise Plan**

3. (1) The rules of the retirement fund must authorise the board of the fund to distribute surplus as of the date of inception of the fund, unless sub-Regulation (2) applies.

(2) In the event that the rules of the fund, dealing with an actuarial surplus and any distribution thereof, were amended subsequent to the date of inception, the board must demonstrate to the satisfaction of NAMFISA that such subsequent amendments were made following a process that included informing participants of the amendments and their implications, providing participants with the opportunity to vote to approve or reject the amendments, and providing for an equitable adjudication of the outcome of the voting.

### **Approval of Plan**

**4.** NAMFISA must approve the Plan for the distribution of the actuarial surplus of a retirement fund if:

- (a) the application form and information as required by Schedules 1 and 2 attached to this Regulation have been completed in full and submitted to the satisfaction of NAMFISA;
- (b) any additional information required by NAMFISA has been provided to the satisfaction of NAMFISA;
- (c) the requirements of Regulation 3(2), if applicable, have been met to the satisfaction of NAMFISA;
- (d) the requirements of Regulation 2 and Regulation 5 or 6, as applicable, have been met; and
- (e) at least two-thirds of the participants in the aggregate have voted on the Plan, and at least two-thirds of the participants who have voted, have voted to approve the Plan.

**Fund terminating in its entirety**

**5.** The amount of the actuarial surplus that may be distributed in the case of a retirement fund that is terminating in its entirety must not exceed:

A minus the sum of B plus C,

where -

- A is the fair value of the assets of the fund;
- B is the total of the termination and wind-up liabilities of the fund for benefits to participants, as determined by the valuator of the fund according to the fund rules and actuarial standards appropriate to retirement fund terminations; and
- C is the amount required to fully pay all expenses of terminating and winding-up the fund.

**Fund not terminating in its entirety**

**6.** The amount of the actuarial surplus that may be distributed in the case of a retirement fund that is not terminating in its entirety, must not exceed the lesser of A, B or C, where -

- A is an amount equal to 75% of the actuarial surplus in the fund;
- B is the amount of the actuarial surplus less two years' contributions required to be paid by members and employers or sponsors; and
- C is the amount of surplus estimated to be in the fund should it be terminated and wound-up.

**Circumstances where Plan must not be approved**

**7.** A Plan must not be approved by NAMFISA if:

- (a) the Plan does not comply with Regulations 2, 3, 4 and Regulation 5 or 6;
- (b) the Plan proposes to distribute an amount of the actuarial surplus to a participant that does not reasonably reflect the liabilities of the fund in respect of the accrued benefits of the participant as of the date of the distribution, having regard for the effects of providing for minimum and maximum allocations of actuarial surplus in the distribution methodology; or
- (c) the Plan proposes to distribute the actuarial surplus of the retirement fund to a contributing employer who has not had an entitlement to the actuarial surplus from the date of inception of the fund and the employer has not proven that it has subsequently established a valid claim in that regard.

**Distribution by defined contribution fund**

**8.** Where the board of a defined contribution fund distributes or proposes to distribute amounts representing the excess of the fund's assets over its liabilities, this Regulation shall apply.

**SUPPORTING SCHEDULES**

**The following supporting schedules are attached to and form part of this Regulations:**

- Schedule 1: APPLICATION FOR APPROVAL FOR A PLAN OF DISTRIBUTION OF SURPLUS
- Schedule 2: INFORMATION SUMMARY

**SCHEDULE 1** (to Regulation No. RF.R.5.3)

**APPLICATION FOR APPROVAL FOR A PLAN OF DISTRIBUTION OF SURPLUS**

*(To be completed and certified by all the members of the board of the Retirement Fund)*

1. Name of Retirement Fund: \_\_\_\_\_
2. (a) Name of participating employer (if applicable): \_\_\_\_\_  
\_\_\_\_\_
2. (b) NAMFISA Registration Number: \_\_\_\_\_
2. (c) Cite the relevant section, paragraph or clause of the fund rules that authorises the board to distribute surplus: \_\_\_\_\_
2. (d) Does any contributing employer or sponsor receive a distribution of surplus pursuant to the proposed distribution?      Y      N
2. (e) Does the distribution form part of the process of terminating the retirement fund?  
Y      N  
If Y, is the termination partial or entire?      PARTIAL      ENTIRE
3. Proposed Date of Distribution: \_\_\_\_\_
4. Is the Fund in full compliance with the Act? (If no, please explain): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Is the Fund a party to a legal action, dispute, arbitration, mediation or complaint? (If yes, please explain): \_\_\_\_\_  
\_\_\_\_\_
6. Are any of the employers or sponsors contributing to the fund in default of any tax obligation to the Government of Namibia? (If yes, please explain): \_\_\_\_\_  
\_\_\_\_\_
7. Has any additional information required by NAMFISA been provided to the satisfaction of NAMFISA? \_\_\_\_\_
8. (a) Briefly describe the proposed Plan of distribution and attach a detailed description to the application: \_\_\_\_\_  
\_\_\_\_\_
8. (b) Does the information provided in Schedule 2 to this Regulation accurately reflect the Plan for the distribution of the actuarial surplus of the retirement fund and is that information based on data that has been audited by the fund's auditor and on determinations made by the fund's valuator?      Y      N

9. Describe the process that was followed to determine that the distribution is in the best interests of the members of the fund including all consultations that the board held with stakeholders like participants, members, etc. Append a detailed description to the application.

11. Describe the process that has been followed to notify participants and confirm that all participants have been notified specifying the nature and timing of the notification process:

---

---

12. Provide a detailed description of all stakeholders' comments, inquiries and complaints received together with details of replies to complaints disclosing the nature of any unresolved complaints as of the date of this application: \_\_\_\_\_

---

13. If the retirement fund has distributed surplus in the past, provide a brief description of those distributions including the methodology followed, the management of notifications, the handling of complaints or objections, the dates of distribution, the sources of the surplus, whether the distributions involved partial terminations of the retirement fund, and the financial impacts on the retirement fund: \_\_\_\_\_

---

14. Provide the following certification (all members of the Board are required to certify):

**Certification**

We the undersigned members of the Board of the \_\_\_\_\_ Retirement Fund hereby apply to NAMFISA for approval of the Plan of distribution of surplus described above and in the appended detailed description thereof, and we certify that the information provided above and in all material appended to this application is, to the best of our knowledge and belief, complete and accurate.

\_\_\_\_\_  
CHAIRPERSON OF THE BOARD

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
TRUSTEE



**SCHEDULE 2** (to Regulation No. RF.R.5.3)

**INFORMATION SUMMARY**

REGARDING THE PLAN FOR THE DISTRIBUTION OF THE ACTUARIAL SURPLUS  
OF THE \_\_\_\_\_ RETIREMENT FUND

Date of Proposed Distribution		Date of Most Recent Auditor's Report	
Date of Most Recent Valuator's Report		Date Board Approved Plan of Distribution	
Assets of Fund at Fair Value per Auditor's Report		Liabilities of Fund per Valuator's Report	
Actuarial Surplus as per Valuator's Report		Actuarial Surplus To Be Distributed	
Actuarial Surplus to be distributed to Active Members		Liabilities of Fund in Respect of Active Members	
Actuarial Surplus to be distributed to Retired Members		Liabilities of Fund in Respect of Retired Members	
Actuarial Surplus to be distributed to Deferred Members		Liabilities of Fund in respect of Deferred Members	
Maximum Amount of Distribution of Actuarial Surplus	To An Active Member	To A Retired Member	To A Deferred Member
Minimum Amount of Distribution of Actuarial Surplus	To An Active Member	To A Retired Member	To A Deferred Member
Amount of Actuarial Surplus to be distributed to Employer(s)	Employer A	Employer B	Employer C
Votes on the Plan of Distribution Cast By	Active Members	Retired Members	Deferred Members
Votes Cast in Favour of the Plan	Active Members	Retired Members	Deferred Members
Number of	Active Members	Retired Members	Deferred Members

Proportion Distributed in the Form of Cash	Active Members	Retired Members	Deferred Members
--	----------------	-----------------	------------------

---

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## RETIREMENT FUNDS

### LOANS WHICH MAY BE GRANTED TO A MEMBER AND GUARANTEES WHICH MAY BE FURNISHED TO A PERSON IN RESPECT OF A LOAN GRANTED OR TO BE GRANTED BY SUCH PERSON TO A MEMBER, PURSUANT TO SECTION 277(1)(b)

#### Regulation No. RF.R.5.5

made by the Minister under section 465(8)(j) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. (1) In this Regulation –
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “immovable property” includes a customary land right and a right of leasehold as defined in section 1 of the Communal Land Reform Act, 2002 (Act No. 5 of 2002); and
  - (c) “repurchase rate” means the benchmark rate at which private sector banks borrow money from the Bank of Namibia.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including, without limitation:
  - (a) as defined in section 1 of the Act –
    - (i) affiliates;
    - (ii) board;
    - (iii) company;
    - (iv) corporate body;
    - (v) NAMFISA; and
    - (vi) spouse;
  - (b) as defined in section 249 of the Act –
    - (i) employer;
    - (ii) dependent;
    - (iii) fund;
    - (iv) member;

- (v) retirement fund; and
- (vi) rules.

### **Loans and guarantees which may be granted to a member by a fund**

**2.** A fund may, if its rules so permit and subject to this Regulation, grant a loan to a member by way of investment of its funds or furnish a guarantee in favour of a person other than a member of the fund in respect of a loan granted or to be granted by that person to a member to enable the member -

- (a) to redeem a loan granted to the member against security of -
  - (i) a pledge by the member to the fund of the benefit contemplated in Regulation 4(b); or
  - (ii) immovable property which either belongs to the member or to his or her spouse, or to the member and his or her spouse, and on which a residence has been or will be erected which is occupied or will be occupied by the member or a dependant of the member;
- (b) to acquire immovable property on which a residence has been or will be erected, for occupancy by the member or a dependant of the member;
- (c) subject to Regulation 3, to erect a residence on immovable property in respect of which either the member or his or her spouse has, or the member and his or her spouse have, obtained ownership or the right to ownership through a right of occupancy as contemplated in Regulation 3, and which will be occupied by the member or a dependant of the member; or
- (d) subject to Regulation 3, to make additions or alterations to or to maintain or repair a residence in respect of which either the member or his or her spouse has, or the member and his or her spouse have, obtained ownership or the right to ownership through a right of occupancy as contemplated in Regulation 3, and which is occupied or will be occupied by the member or a dependant of the member.

**3.** Regulation 2(c) and 2(d) shall apply only if the right of occupancy of the immovable property or residence is secured by virtue of the operation of any custom or law, other than an agreement of lease or similar temporary measure with a fixed term of less than 30 years at the time the loan is granted,, entitling such member, or his or her dependants, to the right of occupancy of such immovable property or residence or any specified portion thereof.

**4.** A loan or guarantee by a fund, contemplated in Regulation 2, shall not be granted or furnished, unless secured in full by:

- (a) a first mortgage on any immovable property of which the member or his or her spouse or both have ownership;
- (b) a pledge by the member concerned to the fund of the benefits to which the member is entitled in terms of the rules of the fund; or
- (c) both such mortgage and such pledge contemplated in paragraphs (a) and (b).

**5.** A loan or guarantee by a fund contemplated in Regulation 2 shall not be granted or furnished if the member concerned is already liable to the fund in respect of any other loan granted to the member or guarantee furnished to the member in respect of any other immovable property.

**6.** A loan by a fund contemplated in Regulation 2 shall not be granted unless the rate of interest on the loan is equal to the rate determined for the time being by the Monetary Policy Committee of the Bank of Namibia to be the repurchase rate, plus 4%.

**7.** A loan contemplated in Regulation 2 shall not be granted by a fund, unless the capital sum in respect of the loan together with interest thereon, is redeemable, in equal weekly or monthly instalments, over a period not exceeding either the remainder of the member's employable years until retirement or the duration of the right of leasehold or the customary land right, whichever is the shorter period.

**8.** A loan or guarantee contemplated in Regulation 2 shall not exceed, at the time it is granted or furnished, where it is secured -

(a) in accordance with Regulation 4(a), the amount equal to 90% of the fair value of the hypothecated immovable property concerned;

(b) in accordance with Regulation 4(b), the lesser of the amount of -

(i) subject to Standard RF.S.5.7 - Minimum benefits that a fund must provide to its members, the lowest benefit in terms of the rules which the member would receive on termination of his or her membership of the fund, net of income tax as envisaged in section 277(1)(a) of the Act; or

(ii) the fair value of the hypothecated immovable property concerned;

(c) in accordance with Regulation 4(c), the lesser of -

(i) the amount equal to the aggregate of 90% of the fair value of the hypothecated immovable property concerned and, subject to Standard RF.S.5.7 - Minimum benefits that a fund must provide to its members, the amount of the lowest benefit in terms of the rules which the member would receive on termination of his or her membership of the fund, net of income tax as envisaged in section 277(1)(a) of the Act; or

(ii) the fair value of the hypothecated immovable property concerned.

**9.** The percentages referred to in Regulation 8(a) and 8(c) may be increased to 100%, subject to the employer of the member furnishing to the fund an irrevocable guarantee in respect of so much of the loan or the amount of the guarantee as may exceed 90%.

**10.** Where a transaction for the purchase of an immovable property is pending and a purchase price has already been agreed upon, or where such an immovable property was acquired by purchase not more than six months before the date on which the estimate is made, the fair value of the property shall not be fixed at an amount higher than the true purchase price of the property, as declared or to be declared by the parties concerned for transfer duty purposes.

**11.** Where a transaction for the erection of, or additions or alterations to a residence is contemplated, the estimate of the fair value of the immovable property shall not be fixed at an amount higher than the fair value contemplated in Regulation 10 plus an amount equal to the cost of such erection, additions or alterations, as the case may be.

**12.** Notwithstanding anything to the contrary contained in the rules of a fund, a fund shall not, directly or indirectly -

- (a) grant a loan to, or furnish a guarantee in respect of, a member or make any of its funds available, whether by way of an investment or otherwise, to be utilised in any manner by the fund or any other person for a loan to a member or a guarantee on behalf of a member, other than -
  - (i) a loan contemplated in Regulation 2 and which complies with the provisions of this Regulation; or
  - (ii) a guarantee contemplated in Regulation 2 and which complies with the provisions of this Regulation; or
- (b) grant a loan to, or invest in the shares of a corporate body controlled by a member of the board, an officer or a member of the fund or a director of a corporate body which is an employer participating in or contributing to the fund, or any of its affiliates.

**13.** A fund may, if its rules so permit, contribute to any other fund registered under the Act, or any medical aid fund, friendly society or insurer registered under the Act, which is conducted for the benefit of the members of the said fund.

**14.** NAMFISA may, under exceptional circumstances, and on such conditions and for such periods as NAMFISA may determine, temporarily exempt any fund from compliance with any provision of Regulation 2 or Regulation 12(a) and 12(b).

---

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## RETIREMENT FUNDS

### THE RATE OF INTEREST PAYABLE ON CONTRIBUTIONS NOT TRANSMITTED OR RECEIVED, AND ON THE VALUE OF A BENEFIT OR RIGHT TO A BENEFIT NOT TRANSFERRED, BEFORE THE EXPIRATION OF THE APPLICABLE PERIOD, PURSUANT TO SECTION 270(9)

#### Regulation No. RF.R.5.7

made by the Minister under section 465(8)(g) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. (1) In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “former member” means a person who has ceased to be a member of a fund for any reason other than the occurrence of an event referred to in Part 7 of Chapter 10 of the Act or section 278 of the Act and has been admitted as a member of another fund;
  - (c) “Prescribed Period” means the period of time commencing on the date on which a fund has received a valid request in writing in the form of the Schedule attached to this Regulation from a former member to transfer the value of his or her retirement benefit or right to a retirement benefit accrued to the date on which the former member ceased being a member of the fund, and ending on the date 60 days following the date of receipt of that request or such longer period as NAMFISA may determine;
  - (d) “Prescribed Rate” means the rate of interest determined in accordance with this Regulation;
  - (e) “repurchase rate” means the benchmark rate at which private sector banks borrow money from the Bank of Namibia; and
  - (f) “Transfer Value” means the value of a former member’s accrued retirement benefit, or of the right to such accrued retirement benefit, as determined according to the rules of the fund and all applicable standards and regulations.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including, without limitation, the following:
  - (a) as defined in section 1 of the Act -
    - (i) NAMFISA;

- (ii) principal officer;
- (b) as defined in section 249 of the Act -
  - (i) board of trustees;
  - (ii) fund; and
  - (iii) member.

### **Application**

- 2. This Regulation applies to -
  - (a) boards of trustees of funds; and
  - (b) the principal officers of funds.

### **Rate of interest**

- 3. Where the transfer of a former member's Transfer Value has not been completed within the Prescribed Period, the fund must credit the Transfer Value with interest at the Prescribed Rate for each day following the expiration of the Prescribed Period up to the date on which the transfer is completed.
- 4. The Prescribed Rate is the rate determined for the time being by the Monetary Policy Committee of the Bank of Namibia to be the repurchase rate, plus 4%.
- 5. Interest shall be credited for the precise number of days between the expiration of the Prescribed Period and the date the transfer is completed according to the customary method of compound interest for applying effective annual rates to such determinations and a year shall be taken as consisting of 365.25 days.

### **SUPPORTING SCHEDULE**

**The following supporting schedule is attached to and forms part of this Regulation:**

Schedule: FORM PRESCRIBED FOR A FORMER MEMBER OF A FUND APPLYING TO THE FUND FOR THE TRANSFER OF THE VALUE OF THEIR RETIREMENT BENEFIT ACCRUED AS A MEMBER OF THAT FUND



**SCHEDULE (to Regulation No. RF.R.5.7)**

**FORM PRESCRIBED FOR A FORMER MEMBER OF A FUND APPLYING TO  
THE FUND FOR THE TRANSFER OF THE VALUE OF THEIR RETIREMENT  
BENEFIT ACCRUED AS A MEMBER OF THAT FUND**

I, the undersigned, hereby apply to the  
\_\_\_\_\_ Fund to transfer the value of my  
retirement benefit accrued to the date shown below:

Applicant Name: \_\_\_\_\_

Applicant Fund Certificate or Membership Number: \_\_\_\_\_

Date Applicant Became a Member: \_\_\_\_\_

Date Applicant Ceased Membership: \_\_\_\_\_

Applicant Address: \_\_\_\_\_  
\_\_\_\_\_

Applicant Telephone: \_\_\_\_\_

Applicant Email: \_\_\_\_\_

To Which Fund Transfer is To Be Made: \_\_\_\_\_  
\_\_\_\_\_

Name of Contact Person at the Transferor fund: \_\_\_\_\_

Telephone of Contact Person: \_\_\_\_\_

Proportion of Transfer Value: \_\_\_\_\_

To be paid to Applicant in Cash: \_\_\_\_\_%

I understand that the transfer of the value of my retirement benefit may not be made unless this form has been duly completed, signed and witnessed and received by the Fund and that the 60 day transfer period specified in section 270(6) of the Act will not commence until the Fund has received this form duly completed, signed and witnessed, and that, further, the value of my retirement benefit will be credited with such rate of interest as specified by the rules of the Fund during the period prior to the expiration of the aforesaid 60 day period and that the rate of interest applicable following the expiration of the 60 day period will be determined according to Regulation RF.R.5.7.

I also understand that the proper completion of this form and its receipt by the Fund may not be sufficient in and of itself to permit the complete and accurate determination of the dollar amount of the value of my retirement benefit.

Signed by Applicant: \_\_\_\_\_

Name of Witness: \_\_\_\_\_

Signed by Witness: \_\_\_\_\_

Date: \_\_\_\_\_

Place: \_\_\_\_\_

---

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## RETIREMENT FUNDS

### THE PROTECTION OF UNPAID CONTRIBUTIONS OF AN EMPLOYER

#### Regulation No. RF.R.5.8

made by the Minister under section 465(8)(h) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. In this Regulation -

- (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
- (b) “Contribution Payee” means, as applicable -
  - (i) the account of a fund with a banking institution referred to in section 270(3)(a);
  - (ii) a retirement fund referred to in section 270(3)(b); or
  - (iii) a registered insurer referred to in section 270(3)(c);
- (c) “Prescribed Period” means the period of time commencing on the eighth day after the end of the month for which any Required Contribution should have been deposited with the Contribution Payee in question, and ending on the day on which the Required Contribution and interest at the Prescribed Rate has been so deposited;
- (d) “Prescribed Rate” means the rate of interest determined in accordance with this Regulation;
- (e) “repurchase rate” means the benchmark rate at which private sector banks borrow money from the Bank of Namibia.
- (f) “Required Contribution” means, pursuant to the rules of the fund or pursuant to the Act, any contribution –
  - (i) which must be deducted from the member’s remuneration by any employer contributing to the retirement fund; and
  - (ii) for which any such employer is liable;
- (g) “Responsible Party” means -
  - (i) any employer contributing to the retirement fund whose Required Contributions have not been deposited with the Contribution Payee in question within the seven days following the month in which the Required Contributions became due and payable; and

(ii) the directors and officers of an employer referred to in sub-paragraph (i).

(2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including, without limitation, the following:

- (a) as defined in section 1 of the Act -
  - (i) NAMFISA;
  - (ii) principal officer;
- (b) registered insurer, as defined in section 4 of the Act; and
- (c) as defined in section 249 of the Act -
  - (i) board;
  - (ii) employer
  - (iii) fund;
  - (iv) member; and
  - (v) retirement fund.

### **Application**

2. This Regulation applies to:

- (a) the boards of retirement funds;
- (b) the principal officers of retirement funds;
- (c) employers contributing to retirement funds; and
- (d) the directors and officers of employers referred to in paragraph (c).

### **Unpaid contributions**

3. Where a Required Contribution has become due and payable and has not been deposited with the Contribution Payee prior to the commencement of the Prescribed Period, it shall bear interest at the Prescribed Rate throughout the Prescribed Period and the amount of such interest shall be deposited with the Contribution Payee together with the Required Contribution.

### **Joint and several liability**

4. Responsible Parties shall remain jointly and severally liable for a Required Contribution and Prescribed Interest throughout the Prescribed Period.

### **Rate of interest**

5. The Prescribed Rate is the rate determined for the time being by the Monetary Policy Committee of the Bank of Namibia to be the repurchase rate, plus 4%.

### **Payment of interest**

**6.** Interest shall be credited at the Prescribed Rate for the precise number of days between the expiration of the Prescribed Period and the date the Required Contribution has been deposited with the Contribution Payee according to the customary method of compound interest for applying effective annual rates to such determinations and a year shall be taken as consisting of 365.25 days.

**7.** Interest shall be credited to the affected members' records.

---

# **FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**

## **RETIREMENT FUNDS**

### **EXEMPTION FROM PROHIBITED INVESTMENTS**

#### **Regulation No. RF.R.5.11**

made by the Minister under sections 282(4)(a) and 465(8)(o) of the Financial Institutions and Markets Act, 2021

---

#### **Definitions**

**1.** (1) In this Regulation, “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act.

(2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise.

#### **Exemption from prohibited investments**

**2.** The Minister, on application by the board of a fund referred to in section 282(4)(a) of the Act, may allow such fund’s assets to be invested in or lent to an employer participating in such fund or a subsidiary of such employer’s business for the period and on any conditions determined by the Minister if, in that application, the board of such fund has certified that the rules of the fund and its investment policy provide for such investment, as provided for in section 282(1) of the Act.

---

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## FRIENDLY SOCIETIES

### THE AMOUNT WHICH THE AGGREGATE VALUE OF THE INCOME OF A SOCIETY MUST NOT EXCEED IN ORDER FOR CHAPTER 6 NOT TO APPLY TO SUCH SOCIETY, PURSUANT TO SECTION 286(1)

#### Regulation No. FS.R.6.1

made by the Minister under section 465(9)(a) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. (1) In this Regulation, “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act.

(2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including without limitation, “friendly society” as defined in section 1 of the Act.

#### Prescribed amount

2. The provisions of Chapter 6 of the Act shall not apply in relation to a friendly society whose aggregate value of income does not exceed N\$200,000.00 (two hundred thousand Namibia Dollars) during any one year, provided that such friendly society must comply with the directives that may from time to time be issued in relation to it.

3. The amount stipulated in Regulation 2 shall be increased by the highest of 5% or the percentage used to determine annual inflation through the use of the Namibian Consumer Price Index, on the first day of January of each year, following the date on which this Regulation comes into force.

---

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## FRIENDLY SOCIETIES

### THE MINIMUM OR MAXIMUM OR BOTH THE MINIMUM AND MAXIMUM AMOUNTS WHICH A FRIENDLY SOCIETY MAY INVEST

#### Regulation No. FS.R.6.2

made by the Minister under section 465(9)(d) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. (1) In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “stock exchange within the common monetary area” means any stock exchange authorised by or under the laws of a country of the common monetary area to function as, or carry on the business of, a stock exchange in that country;
  - (c) “banking institution” means an institution registered under the Banking Institutions Act, 1998 (Act No. 2 of 1998), and includes a banking institution authorised as such under the laws of a country other than Namibia;
  - (d) “building society” means a building society registered under the Building Societies Act, 1986 (Act 82 of 1986), and includes a building society authorised as such under the laws of a country other than Namibia;
  - (e) “common monetary area” means the Republic of Namibia, the Kingdom of Lesotho, the Kingdom of Eswatini and the Republic of South Africa;
  - (f) “domestic asset” means an asset in a company incorporated in Namibia and includes assets in a company incorporated outside Namibia if such assets have been acquired on a stock exchange registered under the Act and any other asset designated as a domestic asset by the Minister of Finance by notice in the *Gazette*;
  - (g) “local authority council” means any municipal council, town council or village council as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);
  - (h) “market value” means the price as quoted on an exchange registered under this Act or any other law of another country, within a period of three months immediately preceding the date to which the quotation relates, which value shall be shown in the statement at an amount not exceeding the value determined according to the price last so quoted, provided that if such quotation relates to a date other than the date to which the statement of assets relates, the said amount shall be properly adjusted in the case of -



- (i) interest-bearing assets, by the difference between the amount of the interest which had accrued from the last date on which interest was payable up to the date of the quotation in question and the corresponding amount of interest accrued up to the date to which the statement relates; and
  - (ii) any share on which dividends have been declared, by the difference between the amount of any dividend which had been declared but not paid on the date of the quotation and the amount of any dividend which had been declared but not paid on the date to which the statement relates;
- (j) “Post Office Savings Bank” means the Savings Bank controlled and managed by the Namibia Post Limited established by section 2(1)(a) of the Posts and Telecommunications Companies Establishment Act, 1992 (Act No. 17 of 1992), and includes a savings bank or similar institution authorised as such under the laws of a country other than Namibia;
- (k) “property company” means a company -
- (i) of which 50% or more of the market value of its assets consists of immovable property, irrespective of whether such property is held directly by the company as registered owner or indirectly by way of ownership of more of the income of which is derived from investments in immovable property; or
  - (ii) of which 50% or more of its income is derived from investments in immovable property, or from an investment in a company 50% or more of the income of which is derived from investments in immovable property;
- (l) “regional council ” means a regional council as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992); and
- (m) “public enterprise” means a body declared under section 2(1) of the Public Enterprises Governance Act, 2019 (Act No. 1 of 2019) to be a public enterprise.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including without limitation the following:
- (a) as defined in section 1 of the Act -
    - (i) auditor;
    - (ii) board;
    - (iii) friendly society;
    - (iv) NAMFISA; and
    - (v) principal officer;
  - (b) “policy” as defined in section 2 of the Act;
  - (c) as defined in section 168 of the Act-
    - (i) collective investment scheme;
    - (ii) portfolio; and

(d) “society” as defined in section 284 of the Act:

### **Applicability**

2. This regulation applies to all friendly societies registered under the Act, and to their auditors, boards of trustees, administrators and principal officers.

### **Investment limits**

3. Subject to Regulations 4, 6 and 7 a friendly society may only invest in assets set out in column 2 of the Schedule attached to this Regulation and only to the extent set out in Column 3 of that Schedule in respect of such asset, but -

- (a) the aggregate of the market value of investments in assets referred to in items 6 and 7 in Column 2 of that Schedule, expressed as a percentage, may not exceed 85%; and
- (b) the aggregate of the market value of investments in assets referred to in items 6, 7, 8 and 9 in Column 2 of that Schedule, expressed as a percentage, may not exceed 90%,

of the total assets of the friendly society.

4. Despite Regulation 3, a friendly society must keep invested in domestic assets not less than 35% of the market value of its assets.

5. A friendly society must within 90 days or such shorter period as determined by NAMFISA by written notice, after the end of each calendar quarter, submit to NAMFISA a statement of investment holdings in such form as NAMFISA may determine.

6. In the application of this Regulation with regard to the total assets of a friendly society, a policy issued to the society by an insurer carrying on long-term insurance business or short-term insurance business as contemplated in Chapter 2 of the Act is regarded not to be an asset of the society.

7. In the application of this Regulation with regard to the total assets of a friendly society where a friendly society invests in a collective investment scheme as defined in Chapter 4 of the Act, such investment is regarded as a proportionate investment in the unit portfolio's underlying securities.

8. Any investment made outside the common monetary area must comply with such limitations as may be determined under Chapter 3 of the Act from time to time.

## **SUPPORTING SCHEDULE**

**The following supporting Schedule is attached to and forms part of this Regulation:**

Schedule: LIMITS OF INVESTMENTS

**SCHEDULE (to Regulation No. FS.R.6.2)**

**LIMITS OF INVESTMENTS**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Kind of Asset</b>	<b>Definition of Asset</b>	<b>Maximum percentage of aggregate market value of total assets</b>
1. Credit Balances	<p>Deposits with and balances in current and savings accounts with banking institutions or a building society, including negotiable deposits and money market instruments in terms of which such a bank or mutual building society is liable including paid up shares of a building society, or deposits and savings accounts with the Post Office Savings Bank:</p> <p>(a) Per banking institution                      (b) Per building society                      (c) Post Office Savings Bank</p> <p><b>Total investments of a society in assets in this category</b></p>	<p>20%                      20%                      20%</p> <p><b>100%</b></p>
2. Government Bonds	Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Government of the Republic of Namibia.	<b>95%</b>
3. Public enterprise, local authority and regional council Bonds	<p>Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by public enterprise, local authority or regional council in the Republic of Namibia:</p> <p>(a) Per local authority authorized by law to levy rates upon immovable property                      (b) Per regional council authorized by law to levy rates upon immovable property                      (c) Per public enterprise                      (d) Development Bank of Namibia</p> <p><b>Total investments of a society in assets in this category</b></p>	<p>20%                      20%                      20%                      20%</p> <p><b>30%</b></p>

4. Corporate Bonds	<p>Bills, bonds or securities issued by or loans to an institution in Namibia:</p> <p>Per institution</p> <p><b>Total investments of a society in assets in this category</b></p>	<p>20%</p> <p><b>50%</b></p>
5. Foreign bonds	<p>Bills, bonds or securities issued by the government or any other institution in a country other than Namibia:</p> <p>Per government</p> <p>Per institution</p> <p><b>Total investments of a society in assets in this category</b></p>	<p>40%</p> <p>10%</p> <p><b>50%</b></p>
6. Property	<p>Immovable property and shares in, loans to and debentures both convertible and non-convertible, of property companies</p> <p>(a) Per single property</p> <p>(b) Per property development project</p> <p><b>Total investments of a society in assets in this category</b></p>	<p>5%</p> <p>5%</p> <p><b>10%</b></p>
7. Shares	<p>Preference and ordinary shares in companies (excluding shares in property companies), convertible debentures whether voluntary or compulsorily convertible (but excluding debentures of property companies):</p> <p>Provided that-</p> <p>(a) shares and convertible debentures in a single company or related party listed on a stock exchange within the common monetary area -</p> <p>(i) with a market capitalization of N\$5 000 million or less are limited to</p> <p>(ii) with a market capitalization of more than N\$5 000 million are limited to</p> <p>(b) shares and convertible debentures in a single company or related party listed on a stock exchange licensed under Chapter 3 of the Act -</p> <p>(i) with a market capitalization of N\$500 million or less are limited to</p> <p>(ii) with a market capitalization of more than N\$500 million are limited to</p>	<p>5%</p> <p>10%</p> <p>5%</p> <p>10%</p>

	<p>(c) shares and convertible debentures in a single company or related party listed on a stock exchange outside the common monetary area -</p> <p>(i) with a market capitalization of N\$5 000 million or less are limited to</p> <p>(ii) with a market capitalization of more than N\$5 000 million are limited to</p>	<p>5%</p> <p>10%</p>
	<b>Total investments of a society in assets in this category</b>	<b>75%</b>
8. Other Claims	<p>Debentures (listed and unlisted but excluding convertible debentures) and any other secured claims against natural persons and companies (excluding loans to and debentures of property companies):</p> <p>Provided that –</p> <p>(a) Claims against any one natural person are limited to</p> <p>(b) Claims against any single company are limited to</p>	<p>0.25%</p> <p>5%</p>
	<b>Total investments of a society in assets referred to in this item</b>	<b>25%</b>
9. Other Assets	<p>Any other asset not referred to in this Annexure, per category or kind of asset, excluding –</p> <p>(a) Moneys in hand; and</p> <p>(b) Any other asset designated by the Minister by notice in the <i>Gazette</i>.</p>	2.5%

# FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## FRIENDLY SOCIETIES

### THE AUTHORISATION OF NAMFISA TO GRANT UNCONDITIONAL OR CONDITIONAL EXEMPTIONS, WHETHER UNLIMITED OR LIMITED IN DURATION, FROM PROVISIONS OF REGULATION NO. FS.R.6.2

#### Regulation No. FS.R.6.3

made by the Minister under section 465(9)(e) of the Financial Institutions and Markets Act,  
2021

---

#### Definitions

1. In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including without limitation the following:
    - (a) as defined in section 1 of the Act -
      - (i) friendly society; and
      - (ii) NAMFISA.

#### Exemption

2. NAMFISA may, under exceptional circumstances and on prior written application by a friendly society, exempt such friendly society in writing from any of the provisions of Regulation No. FS.R.6.2 - the minimum or maximum or both the minimum and maximum amounts which a friendly society may invest, upon such conditions as it deems fit.
-

**FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**

**MEDICAL AID FUNDS**

**THE INSURANCE POLICIES TO BE EXCLUDED FROM THE DEFINITION OF  
“BUSINESS OF A MEDICAL AID FUND” IN SECTION 321**

**Regulation No. MAF.R.7.1**

made by the Minister under section 465(10)(a) of the Financial Institutions and Markets Act,  
2021

---

**Definitions**

1. (1) In this Regulation -

- (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act; and
- (b) "hospital" means a state hospital or private hospital established in accordance with the provisions of the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994).

(2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise.

**Insurance policies excluded from definition of “business of medical aid fund”**

2. A health policy offered by a registered insurer shall be excluded from the definition of “the business of a medical aid fund” as defined under section 321 of the Act and shall be regarded not to be in contravention of section 323(1) of the Act if that policy is listed under the heading “Category” in the Table below, and -

- (a) meets the criteria; and
- (b) provides the policy benefits,

associated with the applicable category as set out in the Table below:

**TABLE**

<b>Category</b>	<b>Type of policy</b>	<b>Policy benefits</b>	<b>Criteria</b>
1.	Lump sum or income replacement policy benefits payable on a health event	Covers contingency expenses associated with insured persons experiencing a specified health event and/or loss of income as a result of a health event, provided the	(a) Policy benefits are one or more lump sums assured stated in Namibia Dollar terms; (b) Contract must provide for an annual term and monthly premiums; and

		insured person can provide evidence of loss of income.	(c) An elimination or deferred period may apply before policy benefits are paid.
2.	Frail care for persons over the age of 60 years	Covers custodial care (assistance with activities of daily living) for insured persons.  1.	(a) Policy benefits are one or more sums assured stated in Namibia Dollar terms or ascertainable on a pre-determined basis set out in the policy; (b) Policy benefits may be paid out in kind or to provider of a relevant health service; (c) Policy benefits may be linked to actual costs or expenses of a relevant health service; (d) Policy benefits may be paid on a prefunded or immediate needs basis; and (e) An elimination or deferred period may apply before policy benefits are paid.
3.	HIV and Aids	Covers expenses for HIV related testing and HIV and Aids treatment on an employee group basis for employees and their dependents, to the extent that such expenses are not covered by a Medical Aid Fund.	Same as for category 2.
4	Emergency Evacuation or Transportation	Covers guaranteed access to and utilisation of specialised medical transportation and/or guaranteed hospital admission to ensure that the insured person is admitted to an emergency health facility and stabilised, only to the extent that such	(a) Policy benefits are ancillary to the main policy benefits provided under the policy; (b) Policy benefits may be payable in kind or to the provider of a relevant health service; and (c) Policy benefits may be linked to actual costs or



		expenses are not covered by a Medical Aid Fund.	expenses of a relevant health service that is medically necessary to stabilise the health of the insured.
5	Medical expense shortfall cover	Covers the costs or expenses of a relevant health service that in respect of benefits provided by a medical aid fund registered under Chapter 7 of the FIM Act, - <ul style="list-style-type: none"> <li>(a) does not constitute a benefit; or</li> <li>(b) constitutes a benefit not paid in full by such medical aid fund.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Policy benefits are one or more sums insured stated in the contract in Namibia Dollar terms;</li> <li>(b) Insured person/s must be a member/s of a medical aid fund; and</li> <li>(c) Contract must provide for an annual term and monthly premiums.</li> </ul>
6	Motor: Third Party Liability	Covers insured persons for the costs of a relevant health service following the injury of a third party (other than the insured persons) as a result of an accident.	Policy benefits may be linked to actual costs or expenses of a relevant health service.
7	Property: Third Party Liability	Covers insured persons for the costs of a relevant health service following the injury of third parties (other than the insured persons) while at the property of the insured persons.	Same as for category 6.
8	International travel insurance	Covers costs associated with a relevant health service incurred while travelling outside of the Republic of Namibia, as a result of health, disability or death event that occurs while not in the Republic of Namibia.	<ul style="list-style-type: none"> <li>(a) Policy benefits may be paid out in kind or to provider of a relevant health service;</li> <li>(b) Policy benefits may be linked to actual costs or expenses of a relevant health service; and</li> <li>(c) Policy benefits may be paid on a prefunded or immediate needs basis.</li> </ul>

9	Domestic travel insurance	Covers costs associated with a relevant health service incurred as a result of a health, disability or death event that occurs while travelling inside the Republic of Namibia.	Same as for category 8.
---	---------------------------	---	-------------------------

3. A health policy contract referred to under Regulation 2 may not –
- (a) unfairly discriminate directly or indirectly against any person on the grounds of race, gender, age, marital status, ethnic or social origin, sexual orientation, pregnancy, disability and state of health, or similar grounds;
  - (b) provide for a waiting period during which the policyholder receives healthcare treatment or services that must elapse before the policyholder is eligible to receive benefits (note this is not referring to elimination or deferred periods at point of purchase which covers the exclusion for any benefits during the period before the policy becomes effective for benefit payouts);
  - (c) entitle the insurer to refuse any claim for policy benefits on the grounds that the life insured had experienced a health event prior to the commencement of the applicable cover (note non-disclosure provisions will still apply);
  - (d) provide for the cancellation, variation or non-renewal of the contract by the insurer as a result of the health or claims experience of the insured;
  - (e) in relation to a policy referred to in category 1 of the Table in Regulation 2, provide policy benefits that are fully or partially linked to indemnifying the policy holder against medical expenses incurred as a result of a relevant health service;
  - (f) in relation to a policy referred to in categories 1, 6 and 7 of the Table in Regulation 2, allow for cession or payment of any policy benefits payable under the policy to a provider of the relevant health service; and
  - (g) in relation to a policy referred to in categories 1, 3, 4, 6, 7, 8 and 9 of the Table in Regulation 2, provide that the policyholder or insured person must be a member of a medical aid fund.

### **Marketing and Disclosures**

4. Any marketing activity or marketing material or policy documentation in respect of policy contracts referred to under Regulation 2 must -
- (a) not identify that contract by the term “medical” or “hospital” or any derivative thereof;

- (b) not in any manner create the perception that the contract -
  - (i) indemnifies a policyholder against medical expenses incurred as a result of a health event; or
  - (ii) is a substitute benefit offered by the medical aid fund;
- (c) display the following statement in clear legible print in a prominent position:

“This is an insurance policy provided by a registered insurer, not a medical aid fund. The cover it provides is no substitute for that of a medical aid fund. This policy does not provide cover equivalent to medical aid fund benefits”; and
- (d) in relation to policy contracts referred to in category 1 of the Table in Regulation 2, in addition to paragraph (b) above, display the following statement in clear legible print in a prominent position:

“The intention of the policy is to pay an amount of money to the policy holder upon the occurrence of a specified health event. This policy cannot be ceded and payments under the policy are not allowed to be made directly or indirectly by the insurer or any agent, broker or third party to a provider of a relevant health service whatsoever”.

### **Limitations on combination of policies and reporting**

5. (1) A financial institution registered under the Act must:
- (a) 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 business of a medical aid fund as defined in section 321(1) of the Act;
  - (b) three months prior to introducing or launching a new health product referred to in this Regulation, submit to NAMFISA a written summary of the details, terms and conditions of that policy; and
  - (c) provide NAMFISA with a written summary of benefits, terms and conditions and marketing material of other health policies referred to in this Regulation.
- (2) NAMFISA may within three months after receipt of the submission of information referred under sub-Regulation (1) advise the financial institution whether in its opinion the benefits, terms and conditions and marketing material of the health policies are contrary to the exemption conditions provided under this Regulation. (Note the full period is three months which period will include time before introducing and launching a new health product).
-

# THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

## MEDICAL AID FUNDS

### THE MINIMUM OR MAXIMUM OR BOTH THE MINIMUM AND MAXIMUM AMOUNTS WHICH A MEDICAL AID FUND MAY INVEST

#### Regulation No. MAF.R.7.2

made by the Minister under section 465(10)(d) of the Financial Institutions and Markets Act, 2021

---

#### Definitions

1. (1) In this Regulation -
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “stock exchange within the common monetary area” means any stock exchange authorised by or under the laws of a country of the common monetary area to function as, or carry on the business of a stock exchange in that country;
  - (c) “banking institution” means an institution registered under the Banking Institutions Act, 1998 (Act No. 2 of 1998), and includes a banking institution authorised as such under the laws of a country other than Namibia;
  - (d) “building society” means a building society registered under the Building Societies Act, 1986 (Act 82 of 1986), and includes a building society authorised as such under the laws of a country other than Namibia;
  - (e) “common monetary area” means the Republic of Namibia, the Kingdom of Lesotho, the Kingdom of Eswatini and the Republic of South Africa;
  - (f) “domestic asset” means an asset in a company incorporated in Namibia and includes assets in a company incorporated outside Namibia if such assets have been acquired on a stock exchange registered under the Act and any other asset designated as a domestic asset by the Minister of Finance by notice in the *Gazette*;
  - (g) “local authority council” means any municipal council, town council or village council as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);
  - (h) “market value” means the price as quoted on an exchange registered under this Act or any other law of another country, within a period of three months immediately preceding the date to which the quotation relates, which value shall be shown in the statement at an amount not exceeding the value determined according to the price last so quoted, provided that if such quotation relates to a date other than the date to which the statement of assets relates, the said amount shall be properly adjusted in the case of -

- (i) interest-bearing assets, by the difference between the amount of the interest which had accrued from the last date on which interest was payable up to the date of the quotation in question and the corresponding amount of interest accrued up to the date to which the statement relates; and
  - (ii) any share on which dividends have been declared, by the difference between the amount of any dividend which had been declared but not paid on the date of the quotation and the amount of any dividend which had been declared but not paid on the date to which the statement relates;
- (i) “Post Office Savings Bank” means the Savings Bank controlled and managed by the Namibia Post Limited established by section 2(1)(a) of the Posts and Telecommunications Companies Establishment Act, 1992 (Act No. 17 of 1992), and includes a savings bank or similar institution authorised as such under the laws of a country other than Namibia;
- (j) “property company” means a company -
- (i) of which 50% or more of the market value of its assets consists of immovable property, irrespective of whether such property is held directly by the company as registered owner or indirectly by way of ownership of the shares of the company which is the registered owner of the property or which exercises control over the company which is the registered owner of the property; or
  - (ii) of which 50% or more of its income is derived from investments in immovable property, or from an investment in a company 50% or more of the income of which is derived from investments in immovable property;
- (k) “regional council” means a regional council as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992); and
- (l) “public enterprise” means a body declared under section 2(1) of the Public Enterprises Governance Act, 2019 (Act No. 1 of 2019) to be a public enterprise.
- (2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including without limitation the following:
- (a) as defined in section 1 of the Act -
    - (i) auditor;
    - (ii) medical aid fund;
    - (iii) NAMFISA;
    - (iv) principal officer;
  - (b) “policy” as defined in section 2 of the Act;
  - (c) as defined in section 168 of the Act -
    - (i) collective investment scheme;

- (ii) portfolio; and
- (d) as defined in section 321 of the Act -
  - (i) board of trustees or board;
  - (ii) fund administrator; and
  - (iii) medical aid fund broker.

### **Applicability**

**2.** This Regulation applies to all medical aid funds registered under the Act, and to their auditors, boards of trustees, fund administrators, medical aid fund brokers and principal officers.

### **Investments limits**

**3.** Subject to Regulations 4, 6 and 7 a medical aid fund may only invest in assets set out in column 2 of the Schedule attached to this Regulation and only to the extent set out in Column 3 of that Schedule in respect of such asset, but –

- (a) the aggregate of the market value of investments in assets referred to in items 6 and 7 in Column 2 of that Schedule, expressed as a percentage, may not exceed 85%; and
- (b) the aggregate of the market value of investments in assets referred to in items 6, 7, 8 and 9 in Column 2 of that Schedule, expressed as a percentage, may not exceed 90%,

of the total assets of the medical aid fund.

**4.** Despite Regulation 3, a medical aid fund must keep invested in domestic assets not less than 35% of the market value of its assets.

**5.** A medical aid fund must within 30 days or such shorter period as determined by NAMFISA by written notice, after the end of each calendar quarter, submit to NAMFISA a statement of investment holdings in such form as NAMFISA may determine.

**6.** In the application of this Regulation with regard to the total assets of a medical aid fund, a policy issued to the medical aid fund by an insurer carrying on long-term insurance business or short-term insurance business as contemplated in Chapter 2 of the Act, is regarded not to be an asset of the medical aid fund.

**7.** In the application of this Regulation with regard to the total assets of a medical aid fund where a medical aid fund invests in a collective investment scheme as defined in Chapter 4 of the Act, such investment is regarded as a proportionate investment in the unit portfolio's underlying securities.

**8.** Any investment made outside the common monetary area must comply with such limitations as may be determined under Chapter 3 of the Act from time to time.

**9.** NAMFISA, on written application by a medical aid fund, may grant such medical aid fund written exemption from any of the provisions of this Regulation upon such conditions as NAMFISA may impose.

### **SUPPORTING SCHEDULE**

**The following supporting Schedule is attached to and forms part of this Regulation:**

Schedule: LIMITS OF INVESTMENTS

**SCHEDULE (to Regulation No. MAF.R.7.2)**

**LIMITS OF INVESTMENTS**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Kind of Asset</b>	<b>Definition of Asset</b>	<b>Maximum percentage of aggregate market value of total assets</b>
1. Credit Balances	<p>Deposits with and balances in current and savings accounts with banking institutions or a building society, including negotiable deposits and money market instruments in terms of which such a bank or mutual building society is liable including paid up shares of a building society, or deposits and savings accounts with the Post Office Savings Bank:</p> <p>(a) Per banking institution                      (b) Per building society                      (c) Post Office Savings Bank</p> <p><b>Total investments of a fund in assets in this category</b></p>	<p>20%                      20%                      20%</p> <p><b>100%</b></p>
2. Government Bonds	Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by the Government of the Republic of Namibia.	<b>95%</b>
3. Public enterprise, local authority and regional council Bonds	<p>Bills, bonds or securities issued or guaranteed by or loans to or guaranteed by public enterprise, local authority or regional council in the Republic of Namibia:</p> <p>(a) Per local authority authorized by law to levy rates upon immovable property                      (b) Per regional council authorized by law to levy rates upon immovable property                      (c) Per public enterprise                      (d) Development Bank of Namibia</p> <p><b>Total investments of a fund in assets in this category</b></p>	<p>20%                      20%                      20%                      20%</p> <p><b>30%</b></p>



4. Corporate Bonds	<p>Bills, bonds or securities issued by or loans to an institution in Namibia:</p> <p>Per institution</p> <p><b>Total investments of a fund in assets in this category</b></p>	<p>20%</p> <p><b>50%</b></p>
5. Foreign bonds	<p>Bills, bonds or securities issued by the government or any other institution in a country other than Namibia:</p> <p>Per government</p> <p>Per institution</p> <p><b>Total investments of a fund in assets in this category</b></p>	<p>40%</p> <p>10%</p> <p><b>50%</b></p>
6. Property	<p>Immovable property and shares in, loans to and debentures both convertible and non-convertible, of property companies</p> <p>(a) Per single property</p> <p>(b) Per property development project</p> <p><b>Total investments of a fund in assets in this category</b></p>	<p>5%</p> <p>5%</p> <p><b>10%</b></p>
7. Shares	<p>Preference and ordinary shares in companies (excluding shares in property companies), convertible debentures whether voluntary or compulsorily convertible (but excluding debentures of property companies):</p> <p>Provided that-</p> <p>(a) shares and convertible debentures in a single company or related party listed on a stock exchange within the common monetary area -</p> <p>(i) with a market capitalization of N\$5 000 million or less are limited to</p> <p>(ii) with a market capitalization of more than N\$5 000 million are limited to</p> <p>(b) shares and convertible debentures in a single company or related party listed on a stock exchange licensed under Chapter 3 of the Act -</p> <p>(i) with a market capitalization of N\$500 million or less are limited to</p> <p>(ii) with a market capitalization of more than N\$500 million are limited to</p>	<p>5%</p> <p>10%</p> <p>5%</p> <p>10%</p>

	<p>(c) shares and convertible debentures in a single company or related party listed on a stock exchange outside the common monetary area -</p> <p>(i) with a market capitalization of N\$5 000 million or less are limited to</p> <p>(ii) with a market capitalization of more than N\$5 000 million are limited to</p> <p><b>Total investments of a fund in assets in this category</b></p>	<p>5%</p> <p>10%</p> <p><b>75%</b></p>
8. Other Claims	<p>Debentures (listed and unlisted but excluding convertible debentures) and any other secured claims against natural persons and companies (excluding loans to and debentures of property companies):</p> <p>Provided that –</p> <p>(a) Claims against any one natural person are limited to</p> <p>(b) Claims against any single company are limited to</p> <p><b>Total investments of a fund in assets referred to in this item</b></p>	<p>0.25%</p> <p>5%</p> <p><b>25%</b></p>
9. Other Assets	<p>Any other asset not referred to in this Annexure, per category or kind of asset, excluding –</p> <p>(a) Moneys in hand; and</p> <p>(b) Any other asset designated by the Minister by notice in the <i>Gazette</i>.</p>	<p>2.5%</p>

---

**FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**  
**RATE OF INTEREST APPLICABLE TO THE LATE PAYMENT OF ANNUAL FEES**

**Regulation No. GEN.R.10.1**

made by the Minister under section 465(13)(a) of the Financial Institutions and Markets Act,  
2021

---

**Definitions**

1. (1) In this Regulation, “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act.

(2) Words and phrases defined in the Act have the same meaning in this Regulation, unless the context indicates otherwise, including without limitation, the following as defined in the Act:

- (a) an authorised representative;
- (b) a designated representative;
- (c) an insurance intermediary;
- (d) a medical aid fund broker;
- (e) a securities advisor;
- (f) a securities dealer; and
- (g) a securities rating agency.

**Applicability**

2. This Regulation applies to the following financial intermediaries:

- (a) an insurance intermediary;
- (b) a securities rating agency, securities advisor and securities dealer;
- (c) an authorised representative of a manager and a designated representative of an authorised representative; and
- (d) a medical aid fund broker.

**Interest Rate Determination**

3. For purposes of sections 55(12), 59(8), 85(8), 180(10), 182(10) and 335(8), the interest rate applicable to the late payment of the renewal fee is 20% per annum.

---