GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notice

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. 202-

STANDARDS UNDER THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

The standards, as set out in the Schedule, are published by the Namibia Financial Institutions Supervisory Authority (NAMFISA) under section 409 of the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021). The standards come into effect on the date of publication.

ADV. H. GARBERS-KIRSTEN
CHAIRPERSON OF THE BOARD
NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

SCHEDULE

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

MATTERS TO BE INCLUDED BY A REGISTERED EXCHANGE IN ITS LISTING REQUIREMENTS

Standard No. FM.S.3.1

issued by NAMFISA under section 410(4)(d) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard -

(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) "Companies Act" means the Companies Act, 2004 (Act No. 28 of 2004);

(c) "material" means any factual information about an issuer or securities issued which is likely or reasonably expected to influence and investor's decision;

(d) "offer document" means a document containing information about an issuer or offer of securities whether referred to as a prospectus, a term sheet, notice, circular or by any other name and whether in printed or in electronic form, and includes the particulars specified in section 109(6) of the Companies Act; and

(e) "prospectus" means a prospectus within the meaning of section 1 of the Companies Act.

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

(a) as defined in section 1 of the Act –

(i) affiliate;

(ii) associate;

(iii) board;

(iv) client;

(v) director;

(vi) NAMFISA;

(b) "control" as defined in section 3 of the Act;

(c) as defined in section 78 of the Act -

(i) exchange;

(ii) foreign exchange;

(iii) issuer;

(iv) listed security; and

(v) security.

Applicability

2. This Standard applies to every registered exchange, and includes an exchange referred to in section 86 of the Act.

Listing requirements

3. (1) The listing requirements issued by a registered exchange pursuant to section 106(1) of the Act must, in addition to the requirements thereunder, set out the following pursuant to section 106(1)(h):

(a) the form and manner in which a prospective issuer may apply for a listing of any security eligible to be listed or quoted on the exchange, including a prospectus or other offer document;

(b) the listing fees and charges appropriate to the securities sought to be listed or quoted provided that the fees and charges are not prohibitive or serve as unnecessary barrier to potential issuers;

(c) the founding documents and any supplementary documentation of the prospective issuer required to be submitted together with a prospectus, including shareholder or board resolutions authorizing the listing or quoting of securities on an exchange;

(d) the provision of the last audited financial statements of the issuer or group if the is suer is part of a group of companies;

(e) any reasonable requirements of the board of directors and executive management of the prospective issuer, including their fitness and propriety;

(f) that the managing director or chief executive officer of the prospective issuer may not be the chairman of the board of the issuer;

(g) that the prospective issuer may be required to have, at a minimum, an audit committee and a remuneration committee of the board, and such further committees the exchange may deem necessary having regard to the size of the issuer and the complexity of its business;

(h) the name and address of every insider who, directly and indirectly, beneficially own 5% or more of any class of securities of the issuer; and

(i) that the prospective issuer may not publish the prospectus without the prior approval of the exchange.

(2) A registered exchange must provide in the listing requirements for cooperation with any foreign exchange on which securities listed or quoted on the exchange are listed or quoted or the regulatory authority with oversight of such foreign exchange and for reciprocal action where the foreign exchange has taken action against the foreign issuer.

(3) The listing requirements must set out the disclosure requirements or continuing obligations of issuers and provide for the adequate protection of sensitive issuer information.

(4) The listing requirements must not set out matters that unduly prevent potential issuers from entering the exchange or from exiting the exchange, and must not be designed to allow entrance by issuers to the exchange which may pose undue risks to clients or entrance where it is not in the public interest.

(5) The listing requirements must be designed to further the objects of the Act as provided in section 79, without prejudice to the objects of the exchange or of the issuer.

(6) The prospective issuer must disclose to the exchange details concerning –

(a) any legal or arbitration proceedings that have taken place in the previous 12 months and any that are pending or threatened, that might have a material effect on the financial position of the issuer or its affiliates or associates;

(b) any material contracts entered or to be entered into by the issuer;

(c) any person who controls the issuer within the meaning of the Act; and

(d) the group, if the issuer is a member of a group.

(7) The listing requirements must provide that issuers may not submit or publish documents or information that is misleading, deceptive or false in a material respect and must provide for penalties or remedial action for such conduct, including barring a prospective issuer from listing or quoting securities on the exchange.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

ANNUAL REPORT OF SELF-REGULATORY ORGANISATION

Standard No. FM.S.3.2

issued by NAMFISA under section 410(4)(p) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard –

(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) "clearing" means clear as defined in section 78 of the Act;

(c) "CSD" means a central securities depository as defined in the Act;

(d) "settlement" means settle as defined in section 78 of the Act; and

(e) "transaction" has the meaning ascribed thereto by section 78 of the Act, but for the purposes of this Standard also includes any other transfer, e.g., by way of a gift, testamentary disposition, cession, or pledge, of listed securities outside the registered exchange on which such securities are listed.

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

(a) as defined in section 1 of the Act –

(i) auditor;

(ii) board;

(iii) client;

(iv) director;

(v) financial year;

(vi) NAMFISA;

(b) as defined in section 78 of the Act –

(i) authorised user;

(ii) central securities depository;

(iii) exchange;

(iv) exchange rules;

(v) foreign exchange;

(vi) issuer;

(vii) listed security;

(viii) participant;

(ix) security; and

(x) self-regulatory organisation.

Applicability

2. This Standard applies to every self-regulatory organisation and includes an exchange referred to in section 86 of the Act.

General requirements

3. (1) A self-regulatory organisation must submit to the registrar within 90 days after the end of its financial year an annual report that must contain the following information:

(a) a list of the members of the board of the self-regulatory organisation and any changes thereto over the last financial year;

(b) a list of members of the executive management of the self-regulatory organisation and any changes thereto over the last financial year;

(c) a list of authorised users or participants of the self-regulatory organisation and any changes thereto over the last financial years;

(d) a report by the chairperson of the board or the principal officer responsible for reviewing the operations of the self-regulatory organisation, including delegated functions, over the last financial year;

(e) the auditor's report on financial statements;

(f) a summary of market information which must reflect the salient features of the trading, clearing and settlement, depository or other activities, as applicable, of the self- regulatory organisation and disciplinary or remedial actions taken or penalties imposed by the self-regulatory organisation;

(g) a report detailing the self-regulatory organisation's initiatives and plans to comply with governance requirements under the Act or to implement any recommended governance principles or standards; and

(h) a report on risk management, operational integrity and related issues.

Requirements for registered exchange

4. Where the self-regulatory organisation is a registered exchange, the annual report must also contain:

(a) the surveillance program and compliance plan with respect to the exchange rules, including trading, clearing and settlement of securities transactions;

(b) compliance by issuers with the listing requirements and disclosure requirements, and a summary of applications refused, suspended or removed with reasons;

(c) capital raised during the financial year;

(d) a summary of, and the appropriation of penalties imposed, if any;

(e) any levy imposed under section 110 of the Act and appropriation thereof;

(f) arrangements with respect to segregation and management of trust property of clients; and

(g) any other matter pertaining to the operation of the registered exchange.

Requirements for registered CSD

5. Where the self-regulatory organisation is a registered CSD, the annual report must also contain:

(a) a description of supervisory developments in relation to the depository rules, repository of securities, and the central securities account;

(b) a reconciliation of central securities accounts with the records of the issuers;

(c) a list and a description of uncertificated securities administered and maintained by its participants;

(d) a description of any matter pertaining to the ownership, registration, transfer or pledge or cession of securities or any attachment of interest;

(e) a description of developments in the settlement regime of the CSD, including measures put in place to prevent, monitor and address settlement fails; and

(f) any other matter pertaining to the operation of the registered CSD.

General requirements

6. (1) A self-regulatory organisation must put policies and procedures in place to ensure that the annual report submitted to NAMFISA complies with the requirements of this Standard and that the annual report is signed by a duly authorised person and submitted within the specified time limit.

(2) The board of the self-regulatory organisation must assume the responsibility for the annual report.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

MATTERS TO BE INCLUDED IN A REPORT REFERRED TO IN SECTION 113 OF THE ACT AND THE MANNER AND TIMING OF SUCH REPORT

Standard No. FM.S.3.3

issued by NAMFISA under sections 113 and 410(4)(h) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard -

(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) "NAMFISA ERS" means the Electronic Regulatory System which facilitates communication between NAMFISA and financial institutions or financial intermediaries; and

(c) "transaction" has the meaning ascribed thereto by section 78 of the Act, but for the purposes of this Standard also includes any other transfer, e.g., by way of a gift, testamentary disposition, cession, or pledge, of listed securities outside the registered exchange on which such securities are listed.

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

(a) "NAMFISA" as defined in section 1 of the Act;

(b) "control" as defined in section 3 of the Act;

(c) as defined in section 78 of the Act –

(i) exchange;

(ii) foreign exchange; and

(iii) regulated person.

Applicability

2. This Standard applies to every person, including a regulated person, who concludes a transaction in listed securities outside a registered exchange which results in a change of control of beneficial ownership of those securities.

Filing of report

3. (1) Every person who concludes any transaction in listed securities outside a registered exchange which results in a change in control of beneficial ownership, must simultaneously report such transaction to NAMFISA and the exchange on which the securities are listed within two days after the conclusion of the transaction.

(2) The report referred to in sub-clause (1) must be submitted electronically to NAMFISA on the NAMFISA ERS and to the registered exchange on which the securities concerned are listed.

(3) Where necessary and when so directed by NAMFISA, specified information or documentation must be submitted manually to NAMFISA.

Content of report

4. The report referred to in clause 3 must contain the following information:

(a) the name and address of the person or persons who have acquired beneficial ownership of the securities and if any of those persons is a regulated person, the type of registration of that person;

(b) the name of the transaction;

(c) the type and number of securities;

(d) whether the securities are convertible;

(e) the consideration, if any, paid;

(f) whether the person or persons who have acquired control of beneficial ownership had any beneficial ownership in those securities prior to the transaction;

(g) the name and address of the person or persons from whom control of beneficial ownership of the securities was acquired and if any of those persons is a regulated person, the type of registration of that person;

(h) the relationship among the persons referred to in paragraphs (a) and (g);

(i) the name and address of the registered exchange on which the securities concerned are listed; and

(j) the reasons why the transaction was concluded outside the registered exchange.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

INFORMATION ABOUT AN ISSUER AND SECURITIES BEING ISSUED BY THE ISSUER TO CLIENTS OR POTENTIAL CLIENTS OF A REGULATED PERSON, WHEN THE SECURITIES ARE BEING SOLD BY OR THROUGH THE SERVICES OF THAT REGULATED PERSON

Standard No. FM.S.3.4

issued by NAMFISA under section 410(4)(r) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard -

(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) "Companies Act" means the Companies Act, 2004 (Act No. 28 of 2004);

(c) "equity securities" means shares as defined in section 1 of the Companies Act;

(d) "material" means any factual information about an issuer or securities issued which is likely or reasonably expected to influence and investor's decision;

(e) "NAMFISA ERS" means the Electronic Regulatory System which facilitates communication between NAMFISA and financial institutions or financial intermediaries;

(f) "non-equity security" means securities that are not equity securities;

(g) "offer" means to sell or offer to sell any security to a client or potential client for valuable considerations;

(h) "offer document" means a document containing information about an issuer or offer of securities whether referred to as a prospectus, a term sheet, notice, circular or by any other name and whether in printed or in electronic form, and includes the particulars specified in section 109(6) of the Companies Act; and

(i) "prospectus" means a prospectus within the meaning of section 1 of the Companies Act.

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

(a) as defined in section 1 of the Act -

(i) affiliate;

(ii) associate;

(iii) client;

(iv) director;

(v) foreign entity;

(vi) NAMFISA;

(b) "control" as defined in section 3 of the Act;

(c) as defined in section 78 of the Act –

(i) exchange;

(ii) foreign exchange;

(iii) issuer;

(iv) listed security;

(v) regulated person; and

(vi) security.

Applicability

2. (1) This Standard applies to every regulated person to the extent that securities are sold by or through the services of that regulated person and to the issuer of those securities.

(2) Where the Standard is applicable to a regulated person, that regulated person must provide the information on the matters referred to in the applicable sub-clauses below to clients or potential clients.

Required information

3. (1) Without prejudice to any requirement under the Companies Act, the regulated person concerned must provide the following information about an issuer:

(a) the name, address, date and place of incorporation and registration of the issuer;

(b) a brief summary of the business activities or proposed business activities of the issuer;

(c) a brief history of the issuer since incorporation including any restructuring, re-organisation or mergers or acquisitions, changes in its capital structure, and borrowings, if any;

(d) if the issuer is a foreign entity, its country of incorporation and date of registration in Namibia;

(e) a copy of the most recent audited annual financial statements and interim report of the issuer;

(f) details of any person that controls the issuer, and if the issuer is part of a group, a description of the group and the issuer's position in the group;

(g) names, occupations and addresses of the directors of the issuer, including whether executive or non-executive, and their terms of office;

(h) details of the auditor of the issuer and the date of appointment, and the names of the trustees under the trust deed under which any debentures were issued or are proposed to be issued; and

(i) a description of the capital structure of the issuer, including without limitation, equity and non-equity securities.

(2) In addition to any disclosures required under the Companies Act, the regulated person concerned must provide the following information about the securities being issued or proposed to be issued by the issuer:

(a) a full description of the securities, including, without limitation, any voting, conversion, dividend and redemption rights, as applicable, and the amount, exercise price, expiration date and purchase price of options or share warrants, if any, and in the case of debentures, whether secured or unsecured;

(b) the class of securities and nominal value;

(c) the number and price of the securities being issued;

(d) the purpose for which the proceeds of sale of the securities will be used;

(e) the terms of the offer, including any rights that the client or proposed client may have to cancel an agreement to purchase the securities;

(f) the particulars of any debt securities being issued including any issue of debt securities in the past;

(g) the debt to equity ratio of the issuer prior to and after the issue of the securities;

(h) the rating, if any, of the securities by a rating agency;

(i) the tax consequences, if any, of the acquisition of the securities;

(j) if the issuer or any person that controls the issuer is an affiliate or associate of the regulated person, the relationship between the regulated person and the issuer or person; and

(k) the name of every registered exchange or foreign exchange on which the issuer's securities are listed or are proposed to be listed and whether in-principle approval has been obtained from the relevant exchange.

(2) The report must be submitted electronically to NAMFISA on the NAMFISA ERS and to the registered exchange on which the securities concerned are listed.

(3) If necessary and when so directed by NAMFISA, specified documentation or information must be submitted manually to NAMFISA.

Time periods

4. The regulated person concerned must provide the offer document to clients or potential clients within a reasonable period before the closing date of the offer to enable the clients or potential clients to make informed decisions.

Disclosures

5. (1) If the issuer or any person that controls the issuer is an affiliate or associate of the regulated person concerned, the regulated person concerned must disclose the relationship between the regulated person and the issuer or the person.

(2) In addition to any relationship between the issuer or a person that controls the issuer and the regulated person described in clause 3(2)(j), the regulated person must identify and

disclose to the client or potential client any other conflicts of interest that exist or that might arise between the regulated person and the issuer or between the regulated person and the client or potential client, as a result of the offer of the securities to the client or potential client.

(3) The regulated person must inform the client or potential client whether, in the opinion of the regulated person, the securities are a suitable investment given the investment needs and objectives, the financial circumstances and the risk tolerance of the client or potential client.

(4) The issuer must ensure that the regulated person provides the offer documents to clients or potential clients and that the offer documents:

(a) contain material disclosures to enable clients or potential clients to make informed decisions;

(b) contain information that is not misleading in a material respect or that is calculated to be manipulative or deceptive;

(c) are truthful, fair and in plain language as may be provided in any standard issued by NAMFISA;

(d) do not contain a statement, promise or forecast which is not factual or constitutes a misrepresentation in the circumstances under which these are made;

(e) are not based on matters which are extraneous to the contents of the offer document;

(f) state the time limit for the validity of the offer documents;

(g) include the memorandum of association and articles of the issuer;

(h) include the listing approval by a registered exchange or a foreign exchange, if any; and

(i) include a copy of the trust deed relating to debentures issued or proposed to be issued.

(5) Where there are any material changes to the matters contained in an offer document, the regulated person must ensure that the changes are effected and that the clients or potential clients to whom an offer document was provided or is about to be provided are notified of these changes forthwith but in any event before the clients or potential clients are expected to make a decision.

(6) The regulated person and the issuer must ensure that offer documents are in the public interest and enhance confidence in the capital markets.

(7) NAMFISA may issue a directive to the regulated person concerned to take specified remedial action and may impose penalties, as prescribed by the Minister, for any contravention of this Standard.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

DEMUTUALISATION OF A SELF-REGULATORY ORGANISATION

Standard No. FM.S.3.5

issued by NAMFISA under section 410(4)(n) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard -

(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) "business day" means any day except a Saturday, Sunday, public holiday or any other day on which the self-regulatory organisation is closed;

(c) "demutualisation" means the process by which a self-regulatory organisation changes its legal status from an organisation or association not incorporated under the Companies Act and owned by its members, into a company having share capital and incorporated under the Companies Act;

(d) "demutualised self-regulatory organisation" means a self-regulatory organisation following the completion of demutualisation on the demutualisation date;

(e) "facility" when used with respect to a self-regulatory organisation includes its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction (including, among other things, any system of communication to or from the self-regulatory organisation, by ticker or otherwise, maintained by or with the consent of the self-regulatory organisation), and any right of the self-regulatory organisation to the use of any property or service;

(f) "member" means a person who is designated as a member of a self-regulatory organisation in accordance with its constitutive documents and rules; and

(g) "ticker" means a telegraphic or electronic receiving machine or instrument that automatically prints out data on stock market information or news reports on a strip of paper.

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

(a) as defined in section 1 of the Act -

(i) affiliate;

(ii) auditor;

(iii) authorised user;

(iv) board;

(v) Companies Act;

(vi) corporate body;

(vii) NAMFISA;

(viii) officer;

(ix) valuator;

(b) as defined in section 78 of the Act -

(i) exchange;

(ii) issuer;

(iii) listing requirements;

(iv) securities advisor;

(v) securities dealer;

(vi) self-regulatory organisation; and

(vii) stockbroker.

Resolutions for demutualisation

2. (1) Prior to making an application to NAMFISA for the approval of its demutualisation, in accordance with its constitutive documents, and subject to the provisions of this Standard –

(a) a self-regulatory organisation must adopt, at a general meeting of the members, of which not less than 14 clear days' notice has been given, a resolution that it must be converted from a mutual organisation or a voluntary association of members into a company having a share capital and incorporated under the Companies Act; and

(b) a self-regulatory organisation must adopt, at a general meeting of which not less than 21 clear days' notice has been given, specifying the intention to propose the resolution as a special resolution, the terms and effect of the resolution and the reasons for it, a special resolution –

(i) on the proposed allotment of shares to the initial shareholders of the demutualised self-regulatory organisation; and

(ii) approving the proposed memorandum and articles of association of the demutualised self-regulatory organisation.

(2) The notices referred to in paragraphs (a) and (b) of sub-clause (1) shall be exclusive of the day on which they are served or deemed to be served, and of the day for which they are given.

(3) The notice must be given in the manner and form provided for in the self-regulatory organisation's constitutive documents, provided that where notice is given by post, it shall be deemed to be served on the seventh day after posting, and where such seventh day falls on a non-business day, the next business day thereafter.

(4) Where the notice is published on the website, if so authorised by its constitutive documents, the notice must be available on the website throughout the period beginning with the date of that notification and ending with the conclusion of the meeting.

(5) Any person entitled to receive notice, attend and vote at a general meeting, is entitled to appoint another person, whether a member or not, as proxy to attend, speak, and vote in that person's stead at any general meeting, and the form appointing such a proxy shall be deemed to confer authority to demand or join in demanding a poll, and a demand by a person as proxy for a member is the same as a demand by the member.

(6) The form appointing a proxy must be in writing under the hand of the appointer or of his agent duly authorised in writing, or, if the appointer is a corporate body, under the hand of an officer or agent authorised by that body.

(7) Any person, present and entitled to vote as a member or as a proxy of a member or as a representative of a corporate body at any general meeting, has, on a show of hands, only one vote irrespective of the number of rights that such person holds or represents.

3. (1) A resolution which is adopted in terms of clause 2(1)(b), other than a resolution referred to in clause 2(1)(a) adopted by an exchange, is of no force and effect unless -

(a) there are present at that general meeting, in person as a member or as a proxy of a member or as a representative of a corporate body holding in the aggregate not less than 25% of the total votes of all the members entitled to vote; and

(b) the resolution has been passed, on a show of hands, by not less than 75% of the number of members entitled to vote on a show of hands at the meeting or, where a poll has been demanded, by not less than 75% of the total votes to which the members present in person or as a proxy of a member or as a representative of a corporate body are entitled.

(2) If less than 25% of the total votes of all the members entitled to attend the general meeting and to vote are present or represented at a general meeting called for the purpose of passing a special resolution, the general meeting stands adjourned to a day not earlier than seven days and not later than 21 days after the date of the meeting.

(3) Where a general meeting has been adjourned as aforesaid, the self-regulatory organisation shall, upon a date not later than three days after the adjournment, publish in two newspapers circulating widely in Namibia, a notice stating –

(a) the date, time and place to which the meeting has been adjourned;

(b) the matter before the meeting when it was adjourned; and

(c) the ground(s) for the adjournment.

(4) At the adjourned meeting, the members who are present in person or as a proxy of a member or as a representative of a corporate body and are entitled to vote may deal with the business for which the original meeting was convened, and a resolution passed by not less than 75% of those members is deemed to be a special resolution, even if less than 25% of the total votes are represented at that adjourned meeting.

Application for demutualisation

4. (1) The self-regulatory organisation shall not be considered to be a demutualised self-regulatory organisation unless it has obtained written approval of NAMFISA in accordance with this Standard.

(2) An application to NAMFISA for approval of the demutualisation of a self-regulatory organisation shall be accompanied by the following additional documents and information:

(a) every resolution adopted by the self-regulatory organisation pursuant to clause 2;

(b) a valuation report of the self-regulatory organisation based on any internationally accepted method of valuation undertaken by a valuator;

(c) the proposed authorised share capital of the demutualised self-regulatory organisation;

(d) the proposed total issued share capital of the demutualised self-regulatory organisation;

(e) the names of members of the self-regulatory organisation who are proposed to be the initial shareholders of the demutualised self-regulatory organisation and the number and value of shares to be allotted to each such shareholder;

(f) the valuation methodology or conversion ratio applied in determining the equitable split of shareholding amongst members of the demutualised self-regulatory organisation and the methodology for determining the value per one right of the demutualised self-regulatory organisation;

(g) information regarding its insurance, a guarantee fund, a compensation fund or other warranty to enable it to provide compensation to clients;

(h) the proposed memorandum and articles of association of the demutualised self-regulatory organisation;

(i) the proposed plan for the independent management of the commercial and regulatory functions of the demutualised self-regulatory organisation and timelines for implementation of necessary structures to ensure the functional separation of commercial and regulatory functions;

(j) a detailed five-year business development plan for the demutualised self-regulatory organisation together with the capital expenditure estimates and the sources of finance for the five-year period;

(k) the manner in which the rights and liabilities of the existing members shall be treated in the demutualisation;

(l) the proposed timelines for the completion of operational manuals to guide the self-regulatory functions of the demutualised self-regulatory organisation detailing the scope of regulatory functions to be performed by the demutualised self-regulatory organisation;

(m) the proposed rules of the demutualised self-regulatory organisation;

(n) if the self-regulatory organisation is an exchange, the proposed listing requirements of the demutualised self-regulatory organisation;

(o) the most recent audited annual financial statements of the self-regulatory organisation;

(p) the risk assessment and mitigation framework for the assessment and mitigation of risks associated with the demutualisation; and

(q) the proposed policies to address conflicts of interest at the demutualised self-regulatory organisation.

(3) Before making an application for approval referred to in sub-clause (2), the applicant must give notice of the proposed application, once in each three consecutive weeks in two newspapers circulating widely in Namibia at the expense of the applicant.

(4) The notice referred to in sub-clause (3) shall state –

(a) the name of the self-regulatory organisation;

(b) the intention of the self-regulatory organisation to demutualise;

(c) the place where the proposed rules of the demutualised self-regulatory organisation may be inspected by members of the public;

(d) the place where the proposed listing requirements, in case of an exchange, may be inspected by members of the public; and

(e) the period within which, and the manner in which, objections to the proposed application, rules or listing requirements, as the case may be, may be lodged with NAMFISA by the members of the public, not being less than 30 days from the date of the last publication of the notice.

(5) NAMFISA may, in writing, direct the self-regulatory organisation to provide any additional information which NAMFISA may require.

Approval

5. (1) NAMFISA may, if it considers it necessary, direct the self-regulatory organisation to make appropriate amendments to the documents and information submitted with an application under clause 4.

(2) Upon receipt of all the information submitted under clause 4 and subject to any amendments under sub-clause (1), NAMFISA may approve the application with or without conditions.

(3) Every approval required pursuant to this Standard shall be subject to the fit and proper requirements within the meaning of the Act.

Shareholding and voting rights

6. If the self-regulatory organisation is an exchange -

(a) no person shall, as from the demutualisation date, hold directly or indirectly, more than 10% of the voting shares of the exchange without the prior approval of NAMFISA;

(b) the trading members of the exchange shall, with effect from the demutualisation date, reduce their cumulative shareholding in the demutualised exchange to not more than 40% within three years; and

(c) no person shall, as from the demutualisation date, in a general meeting, exercise voting rights, directly or indirectly, of more than 10% of the total voting rights.

Governance – board

7. (1) The demutualised self-regulatory organisation shall be governed by a board.

(2) The board of a self-regulatory organisation must be composed of a majority of independent directors.

(3) The board must have a written charter setting out the roles and responsibilities of the board, including procedures for its functioning and procedures for identifying, addressing and managing conflicts of interest.

(4) The self-regulatory organisation must adopt rules implementing governance guidelines that, at a minimum, establish policies regarding –

(a) director qualification standards;

(b) director responsibilities;

(c) director access to management and independent advisors;

(d) director compensation;

(e) director orientation and continuing education;

(f) management succession; and

(g) annual performance evaluations of the board.

(5) The self-regulatory organisation must, at a minimum, have the following board committees:

(a) nominating committee;

(b) governance committee;

(c) compensation committee;

(d) audit committee; and

(e) regulatory oversight committee, or their equivalent.

(6) Each of the board committees must report to the board.

(7) All board committees must be composed of a majority of independent directors and must be chaired by an independent director.

(8) Each board committee must have the authority to direct and supervise inquiries into any matter brought to its attention within the scope of its duties, and to obtain advice and assistance from independent legal counsel and other advisors as it deems necessary to carry out its duties.

(9) The self-regulatory organisation must provide sufficient funding and other resources, as determined by each board committee, to permit the board committees to fulfil their responsibilities and to retain independent legal counsel and other advisors.

(10) The nominating committee must have a written charter that addresses the nominating committee's purpose and responsibilities, which, at a minimum, must be to identify

individuals qualified to become board members, consistent with criteria approved by the board and administer a process for the nomination of individuals to the board.

(11) The governance committee must have a written charter that addresses the committee's purpose and responsibilities, which, at a minimum, must be to develop and recommend to the board a set of governance principles applicable to the self-regulatory organisation and to oversee the evaluation of the board and management.

(12) The governance committee must conduct an annual performance evaluation of the governance of the self-regulatory organisation, including the effectiveness of the board and its committees.

(13) The compensation committee must have a written charter that addresses the compensation committee's purpose and responsibilities, which, at a minimum, must be to have –

(a) direct responsibility to review and approve corporate goals and objectives relevant to the compensation of the executive officers of the self-regulatory organisation;

(b) evaluate the performance of the executive officers in light of those goals and objectives, and

(c) consider and approve recommendations with respect to the compensation level of the executive officers, based on this evaluation.

(14) The audit committee must have a written charter that addresses the audit committee's purpose and responsibilities, which, at a minimum, must be to assist the board in oversight of the –

(a) integrity of the self-regulatory organisation's financial statements;

(b) self-regulatory organisation's compliance with related legal and regulatory requirements;

(c) qualifications and independence of the self-regulatory organisation's auditor, including –

(i) direct responsibility for the appointment, disengagement, termination and compensation of the auditor;

(ii) overseeing the auditor's engagement;

(iii) meeting regularly with the auditor;

(iv) reviewing the auditor's reports with respect to the self-regulatory organisation's internal controls;

(v) pre-approving all audit and non-audit services performed by the auditor;

(vi) determination of the budget and staffing of the self-regulatory organisation's internal audit department; and

(vii) establishment of procedures for the receipt of complaints regarding accounting, internal accounting controls, or auditing matters of the self-regulatory organisation and the confidential submission by employees of the

self-regulatory organisation of concerns regarding questionable accounting or auditing matters.

(15) The regulatory oversight committee must have a written charter that addresses the regulatory oversight committee's purpose and responsibilities, which, at a minimum, must be to -

(a) assure the adequacy and effectiveness of the regulatory program of the self-regulatory organisation;

(b) assess the self-regulatory organisation's regulatory performance;

(c) determine the regulatory plan, programs, budget, and staffing for the regulatory functions of the self-regulatory organisation;

(d) assess the performance of, and recommend compensation and personnel actions involving, the chief regulatory officer and other senior regulatory personnel to the compensation committee;

(e) monitor and review regularly with the chief regulatory officer matters relating to the self-regulatory organisation's surveillance, examination, and enforcement units;

(f) assure that the self-regulatory organisation's disciplinary and arbitration proceedings are conducted in accordance with the self-regulatory organisation's rules and policies and any other applicable laws or rules, including those of the NAMFISA;

(g) prior to the self-regulatory organisation's approval of an affiliated security for listing, certify that such security meets the self-regulatory organisation's rules for listing; and

(h) approve reports filed with NAMFISA.

(16) The self-regulatory organisation may establish such other committees of the board as it deems appropriate, on condition that if such committee has the authority to act on behalf of the board, the committee must be composed of a majority of independent directors.

(17) The self-regulatory organisation may not delegate to any committee not consisting solely of independent directors the authority to act on matters that otherwise are within the jurisdiction of a board committee.

Independence

8. (1) No director may qualify as an independent director unless the board affirmatively determines that the director has no direct or indirect material relationship with the self-regulatory organisation or any of its affiliates.

(2) The board must make the determination referred to under sub-clause (1) upon the director's nomination or appointment to the board and thereafter no less frequently than annually and as often as necessary in light of the director's circumstances.

(3) A director is not independent, unless he has no direct or indirect material relationship with the self-regulatory organisation or any affiliate of the self- regulatory organisation, any authorised user of the self-regulatory organisation or any affiliate of such

authorised user, or any issuer that are listed or traded on a facility of the self-regulatory organisation.

(4) For the purposes of sub-clauses (1) and (3), a "material relationship" is a relationship which could, in the view of the self-regulatory organisation's board, be reasonably expected to interfere with the exercise of a member's independent judgement.

(5) Despite sub-clause (4), the following individuals are considered to have a material relationship with the self-regulatory organisation –

(a) an individual who is, or has been within the last three years, an employee or executive officer of the self-regulatory organisation;

(b) an individual whose immediate family member is, or has been within the last three years, an executive officer of the self-regulatory organisation;

(c) an individual who -

(i) is a partner of a firm that is the self-regulatory organisation's internal or external auditors;

(ii) is an employee of that firm; or

(iii) was within the last three years a partner or employee of that firm and personally worked on the self-regulatory organisation's audit within that time;

(d) an individual whose spouse, minor child or stepchild, or child or stepchild who shares a home with the individual –

(i) is a partner of a firm that is the self-regulatory organisation's internal or external auditors;

(ii) is an employee of that firm and participates in its audit, assurance or tax compliance (but not tax planning) practice; or

(iii) was within the last three years a partner or employee of that firm and personally worked on the self-regulatory organisation's audit within that time;

(e) an individual who, or whose immediate family member, is or has been within the last three years, an executive officer of an entity, if any of the self- regulatory organisation's current executive officers serves or served at that same time, on the entity's compensation committee; and

(f) an individual who received, or whose immediate family member who is employed as an executive officer of the self-regulatory organisation received more than N$75,000.00 in direct compensation from the self-regulatory organisation during any 12-month period within the last three years.

(6) Despite sub-clause (5), an individual will not be considered to have a material relationship with the self-regulatory organisation solely because –

(a) he had a relationship identified in sub-clause (5) if that relationship ended three years prior to the appointment; or

(b) he had a relationship considered to be material under this clause with the subsidiary of the self-regulatory organisation that ended three years prior to the appointment.

(7) For the purposes of sub-clauses (5)(c) and (5)(d), a partner does not include a fixed income partner whose interest in the firm that is the internal or external auditor is limited to the receipt of fixed amounts of compensation (including deferred compensation) for prior service with that firm if the compensation is not contingent in any way on continued service.

(8) For the purposes of sub-clause (5)(f), direct compensation does not include:

(a) remuneration for acting as a member of the board of directors or of any board committee of the self-regulatory organisation; and

(b) the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the self- regulatory organisation if the compensation is not contingent in any way on continued service.

(9) Despite sub-clause (5), an individual will not be considered to have a material relationship with the self-regulatory organisation solely because the individual or his immediate family member -

(a) has previously acted as an interim chief executive officer of the self- regulatory organisation; or

(b) acts, or has previously acted, as a chair or vice-chair of the board of directors or of any board committee of the self-regulatory organisation on a part-time basis.

(10) The self-regulatory organisation must include industry representatives on its board, of which at least one director must be representative of issuers and at least one director must be representative of investors, and, in each case, such director must not be associated with an authorised user, stockbroker, securities advisor or securities dealer.

(11) When the board considers any matter that is recommended by, or otherwise is within the authority or jurisdiction of a board committee, a majority of the directors who vote on the matter must be independent directors.

(12) The self-regulatory organisation must establish policies and procedures to require each director, on his own initiative and upon request of the self-regulatory organisation, to inform the self-regulatory organisation of the existence of any relationship or interest that may reasonably be considered to bear on whether such director is an independent director.

(13) If the self-regulatory organisation fails to comply with the requirement that the board be composed of a majority of independent directors because there is a vacancy on the board or a director ceases to be independent, it must comply with this requirement by the earlier of its next annual meeting or one year from the date of the occurrence of the event that caused the failure to comply with this requirement.

(14) The self-regulatory organisation must establish procedures for interested persons to communicate their concerns regarding any matter within the authority or jurisdiction of a board committee directly to the independent directors.

(15) The independent directors must have the authority to direct and supervise inquiries into any matter brought to their attention within the scope of their duties and to obtain advice and assistance from independent legal counsel and other advisors as they determine necessary to carry out their duties.

(16) The self-regulatory organisation must provide sufficient funding and other resources, as determined by the independent directors, to permit the independent directors to fulfil their responsibilities, and to retain independent legal counsel and other advisors.

(17) The self-regulatory organisation must adopt, implement and maintain policies to ensure the enhancement of market integrity, market efficiency, and investor protection.

Regulatory programme

9. (1) The self-regulatory organisation must establish policies and procedures to assure the independence of its regulatory programme from its market operations or other commercial interests.

(2) The self-regulatory organisation's regulatory programme must be –

(a) structurally separated from the market operations and other commercial interests of the self-regulatory organisation by means of separate legal entities; or

(b) functionally separated within the same legal entity from the market operations and other commercial interests of the self-regulatory organisation.

(3) The board must appoint a chief regulatory officer to administer the regulatory programme of the self-regulatory organisation, and the chief regulatory officer must report directly to the regulatory oversight committee.

(4) Any funds received by the self-regulatory organisation from regulatory fees, fines, or penalties must be applied only to fund programmes and operations directly related to such self-regulatory organisation's regulatory responsibilities.

(5) The self-regulatory organisation must make and keep books and records necessary to demonstrate compliance with the requirement in sub-clause (4).

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

MINIMUM CAPITAL, CAPITAL ADEQUACY, SOLVENCY AND LIQUIDITY REQUIREMENTS FOR INVESTMENT MANAGERS, AND THE CONDUCT OF THE BUSINESS OF INVESTMENT MANAGEMENT WITH INTEGRITY, PRUDENCE AND PROFESSIONAL SKILL AND IN A WAY THAT ENSURES THAT A SOUND FINANCIAL POSITION IS MAINTAINTED AND DOES NOT CAUSE OR PROMOTE INSTABILITY IN THE FINANCIAL SYSTEM OF NAMIBIA

Standard No. FM.S.3.6

issued by NAMFISA under section 410(2)(l) and (q) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard –

(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 and controlled by a person 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) "client asset" means money, assets, contractual rights, participatory interests, trust property and other property held for and on behalf of clients and controlled or administered or managed by a financial institution or financial intermediary;

(g) "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;

(h) "conflict of interest" means a situation which a person encounters, while rendering a financial service to a client, if that situation –

(i) impairs the objectivity of the person in any aspect of rendering the financial service to the client; or

(ii) prevents the person from rendering the financial service to the client in an unbiased and fair manner or from acting in the best interest of the client;

(i) "debenture" means a debenture stock, debentures bonds and any other financial instrument, whether constituting a charge on the assets of the issuer or not;

(j) "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 to which the security is issued;

(k) "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;

(l) "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;

(m) "financial market" means any market where the buying and selling of securities take place;

(n) "issuer" means an issuer of securities, including an issuer of money market instruments;

(o) "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;

(p) "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;

(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;

(q) "marketable securities" means financial instruments that can easily be bought, sold or traded, are very liquid and can be easily and quickly converted into cash at a reasonable price;

(r) "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;

(s) "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;

(t) "negotiable certificate of deposit" means a certificate of deposit issued by a bank, and payable to order or bearer;

(u) "paid-up share capital" means the amount of money a company has received from shareholders in exchange for participation in the ownership of the company by selling its shares on the primary market directly to investors;

(v) "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; and

(w) "treasury bill" 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 Standard, unless the context indicates otherwise, including without limitation, the following –

(a) as defined in section 1 of the Act –

(i) client;

(ii) collective investment scheme;

(iii) entity; and

(iv) NAMFISA;

(b) as defined in section 78 of the Act –

(i) investment manager; and

(ii) investment management.

Applicability

2. This Standard applies to all financial intermediaries involved in investment management.

Capital Based Requirements Minimum Capital and Solvency

3. The investment manager must maintain, on an ongoing basis, paid-up share capital of at least N$250,000.00 (two hundred and fifty thousand Namibia dollar) for employment in the business.

4. The investment manager must not be under liquidation or provisional liquidation.

5. Subject to clause 6, the investment manager must maintain professional indemnity insurance or fidelity insurance cover or both such insurances sufficient to cover the risk of losses due to fraud, dishonesty, negligence, errors, omissions or any other dishonest acts or breaches of professional duty of its employees, directors or representatives.

6. The nature and extent of the insurance contemplated in clause 5 must be adequate and appropriate to the level of complexity and size of the business operations undertaken by the investment manager.

7. If the investment manager forms part of a group of companies, the professional indemnity insurance or fidelity insurance cover may be obtained at group level, but –

(a) each entity that is covered by the group policy must be clearly identified in the policy documentation;

(b) the amount of cover must be sufficient to cover the amounts required for each individual entity's situation; and

(c) each entity that is covered must have a certified copy of the policy documentation available for scrutiny by NAMFISA.

8. The minimum professional indemnity insurance or fidelity insurance cover must be N$1,000,000.00 (one million Namibia dollar), or such other amount as may be determined, by way of written notice from time to time, by NAMFISA.

Capital adequacy

9. The assets of the investment manager, excluding non-marketable securities, immovable property, goodwill and any other intangible assets, must at all times exceed its liabilities.

10. The investment manager must, at all times, maintain marketable securities that exceed its liabilities by a sufficient margin to cover the risks to the investment manager's net worth, and must be structured to result in capital addressed to the full range of risks to which the investment manager is subject.

Liquidity adequacy

11. The investment manager must, at all times, maintain liquid assets equal to 13/52 weeks of annual budgeted expenditure.

12. In determining the "annual budgeted expenditure" to meet the 13/52 weeks liquidity requirement as prescribed under clause 11, the following items may be excluded:

(a) employee bonuses and commissions (except where guaranteed);

(b) employees', directors', and members' share in profits;

(c) emoluments of directors or members;

(d) other appropriation of profits to directors or members;

(e) asset management fees that are calculated as a percentage of assets under management;

(f) donations;

(g) provision for bad debts;

(h) any loss resulting from the sale of fixed assets; and

(i) any charge for depreciation.

13. The investment manager must have in place sound, effective and comprehensive strategies and processes to assess and maintain on an ongoing basis, the amounts, types and distribution of capital that it considers adequate to cover the nature and level of the risks to which it is or might be exposed, and maintain records such that capital levels can be readily determined at any time, and report to NAMFISA at least quarterly, or as may be determined by way of written notice from time to time by NAMFISA.

Non-Capital Based Requirements (Conduct of business obligations when providing investment management services to clients)

Standards of conduct

14. The investment manager must observe high standards of integrity, prudence, professional care and fair dealing when conducting investment management activities, and must act in the best interest of clients with due skill, care, diligence and good faith.

15. The investment manager must have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.

16. Outsourcing of important operational functions, where permitted, may not be undertaken in such a manner as to impair materially the quality of its internal control and the ability of NAMFISA to monitor the investment manager's compliance with all obligations.

Conflict of interest

17. The investment manager must take all reasonable steps to identify actual or perceived conflicts of interest between itself, including its managers, employees and representatives, or any person directly or indirectly linked to it by control and its clients, or between one client and another, that arise in the course of providing any investment management services.

18. The investment manager must adopt and document appropriate policies to minimise those conflicts of interest by identifying the instances where it would refuse to act and, where this is not necessary, making arrangements to minimise the risk of any loss to the client.

19. The investment manager must not take advantage of information it obtained from providing services to a client for its own benefit or the benefit of its employees or the benefit of another client, and where such an eventuality is likely to occur, the investment manager must –

(a) adopt and document procedures, including the erection of information barriers, barriers between information technology systems, physical barriers or, if necessary,

separate office locations, to minimise the possibility of information from one client being used for the benefit of another client, its employees;

(b) train employees in matters relating to conflicts of interest and the procedures developed to avoid them; and

(c) obtain undertakings from employees that they will not use information gained from clients to the benefit of the investment manager or for their personal benefit.

20. Where the investment manager has a material interest in a transaction to be entered into with or for a client, or a relationship which gives rise to a conflict of interest, the investment manager must not advise or exercise discretion in relation to that transaction unless it has –

(a) disclosed the material interest or relationship that may give rise to a conflict, as the case may be, to the client; and

(b) taken reasonable steps to ensure that neither the material interest nor relationship would adversely affect the interests of the client.

21. The investment manager must take reasonable steps to ensure that neither it nor any of its employees or agents offers or gives, or solicits or accepts, any inducement that is likely to conflict with any of the duties owed to clients.

Protection, segregation and safekeeping of client assets

22. The investment manager must take reasonable steps to ensure continuity and regularity in the performance of investment management services and activities. To that end, the investment manager must employ appropriate and proportionate systems, resources and procedures.

23. The investment manager must hold its clients' assets in trust for and on behalf of the clients on behalf of whom the assets were received.

24. The investment manager must open one or more client accounts for purposes of segregating clients' assets.

25. The investment manager must segregate its client bank accounts from any account holding assets belonging to the investment manager.

26. The investment manager must ensure that clients' assets do not form part of the assets of the investment manager for any purpose and must not be available in any circumstance for payment of any debt of the investment manager.

27. The investment manager must deposit into a client bank account all funds received on behalf of, or from a client, upon receipt.

28. The investment manager must, on a daily basis, reconcile its records showing the amounts held on behalf of each client in the client bank account and the aggregate of clients' assets held in the client account or being held by third parties on behalf of clients.

29. Where there is more than one client bank account, the investment manager must reconcile each client bank account separately as well as the aggregate position on all clients' accounts.

30. The investment manager must keep records of:

(a) all the amounts it has deposited into a client bank account held by the investment manager, specifying the client on whose behalf the amounts are held and the dates on which they were deposited into the account;

(b) all withdrawals from a client bank account, the dates of the withdrawals, and the names of the client on whose behalf the withdrawals were made; and

(c) any other particulars as may be determined, by way of written notice from time to time, by NAMFISA.

Protection of client rights

31. The investment manager must not, in any written communication or agreement, exclude or restrict –

(a) any duty or liability to a client which it has under any law;

(b) any other duty to act with integrity, prudence, professional care, skill and diligence that is owed to a client in connection with the provision to that client, of investment management services; or

(c) any liability owed to a client for failure to exercise the degree of integrity, prudence, professional care, skill and diligence that may reasonably be expected of it in the provision of investment management services.

Client's understanding of risk

32. The investment manager must not –

(a) recommend a transaction to a client, or effect a transaction with or for a client, unless it has taken all reasonable steps to enable the client to understand the risks involved;

(b) knowingly mislead a client on any advantages or disadvantages of a contemplated transaction; or

(c) promise a return unless such return is contractually guaranteed.

33. When providing investment management services, the investment manager must obtain the necessary information regarding the client's knowledge and experience in the investment field relevant to the specific type of product or service, the client's financial situation and investment objectives, so as to enable the investment manager to recommend to the client, the investments and financial instruments that are suitable for them.

34. Appropriate information must be provided in a comprehensible form to clients or potential clients about –

(a) the investment manager and its services;

(b) financial instruments and proposed investment strategies, including appropriate guidance on, and warnings of the risks associated with investments in those instruments, or in respect of particular investment strategies; and

(c) costs and associated charges, so that they are reasonably able to understand the nature and risks of the investment management service and of the specific type of financial instrument that is being offered and, consequently, to take investment decisions on an informed basis.

35. The investment manager must, when making recommendations to a client, take all reasonable steps to satisfy itself that the client has a full understanding of the –

(a) nature of the investment;

(b) fees and charges associated with the investment;

(c) risks of the investment;

(d) factors that are likely to affect the performance of the investment;

(e) terms and conditions of the investment; and

(f) consequences of deviating from the terms and conditions of the investment.

Fair and clear communication

36. Clients must receive from the investment manager, adequate reports on the service provided. These reports must include, where applicable, the costs associated with the transactions and services undertaken on behalf of the client.

37. All information, including marketing communication, addressed by the investment manager to clients or potential clients must be fair, clear and not misleading. Marketing communication must be clearly identifiable as such.

Investment manager's understanding of investment options

38. When assessing an investment, the investment manager must assess the availability, reliability and relevance of information available both on the market and on the underlying assets. The analysis of the structure of the investment must be conducted both in normal and in stress scenarios.

39. When assessing an investment, the unique properties of the specific pool of assets must not be assumed to be identical to the broader asset category. Investment managers must ensure that their analysis of the underlying assets is based on information that is relevant for that specific type of underlying assets.

40. The investment manager must understand how cash flows will be allocated to the different tranches of the investment, whatever the structure of the investment.

41. The investment manager must have the appropriate expertise, including legal expertise and processes in place to perform credit risk assessment appropriate to the nature, scale and complexity of any investment strategy they implement and the type and proportion of debt instruments they invest in, and must refrain from investing in products or issuers when they do not have enough information to perform an appropriate credit risk assessment.

42. The investment manager must ensure when investing on behalf of a collective investment scheme that the investment is consistent with the disclosures, mandate and internal operations of the collective investment scheme, or with the way it has been marketed to investors.

43. The investment manager must make its own determination as to the credit quality of a counterparty, collateral or financial instrument before investing and throughout the holding period.

Reliance on credit rating agencies and other third parties

44. External credit ratings may form one element, among others, of the internal assessment process but do not constitute the sole factor supporting the credit analysis.

45. Where external credit ratings are used, the investment manager must understand the methodologies, parameters and the basis on which the assessment of a credit rating agency was produced, and have adequate means and expertise to identify the limitations of the methodology and assumptions used to form that assessment. The investment manager must also have adequate means and expertise to challenge the methodology and parameters.

46. The investment manager must review with the client, its disclosures describing alternative sources of credit information in addition to external credit ratings and make available to investors, as appropriate, a brief summary description of their internal credit assessment process, including how external credit ratings may be used to complement or as part of the manager's own internal credit assessment methods.

47. Where external credit ratings are used, a downgrade should not automatically trigger the immediate sale of investment assets. Should the investment manager decide to divest, the transaction must be conducted within a timeframe that is in the best interests of the investors.

48. The investment manager must ensure that its internal assessment process is regularly updated and applied consistently.

49. The investment manager must ensure, when relying on a third party for the performance of operational functions which are critical for the provision of continuous and satisfactory investment management services to clients and the performance of investment management activities on a continuous and satisfactory basis, that it takes reasonable steps to avoid undue additional operational risk.

Safekeeping and retention of records

50. The investment manager must safely preserve the transaction, accounting and other records for a minimum period of five years from the date on which they are made, or any such later period as may be required by any other applicable law.

Client confidentiality

51. The investment manager must keep all information in its possession confidential, relating to a client, whether obtained from the client or third parties.

52. The investment manager must adopt and document policies and procedures designed to ensure that information obtained from clients and third parties is kept confidential and secure.

53. The policies and procedures adopted under clause 52 must include:

(a) a requirement that employees undertake to maintain confidentiality in their contract of employment;

(b) how to determine the employees who may have access to confidential information;

(c) procedures that effectively restrict access to confidential information by employees through the use of secure document management, storage systems and encryption protected information within the investment manager's Information Technology system; and

(d) systems designed to safeguard the integrity of any electronic record or transaction recording system.

54. Notwithstanding clause 51, the investment manager may disclose information relating to a client to an authority permitted to request such information, on request, or if it is ordered to do so by a court of competent jurisdiction.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

MANNER AND FORM OF APPLICATION FOR REGISTRATION AS A CENTRAL SECURITIES DEPOSITORY, AN EXCHANGE, A SECURITIES CLEARING HOUSE, AN INVESTMENT MANAGER, A LINKED INVESTMENT SERVICE PROVIDER, A SECURITIES RATING AGENCY, A SECURITIES DEALER OR A SECURITIES ADVISOR PURSUANT TO SECTION 83(4)

Standard No. FM.S.3.7

issued by NAMFISA under section 410(2)(c), read with sections 83(1), (2), (3) and (4), of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard –

(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) "key person" means any person responsible for managing or overseeing, either alone or together with another responsible person, the activities of a financial institution or financial intermediary relating to the rendering of the financial services, and includes those individuals or other entities holding more than 20% of the financial institution or financial intermediary's voting rights; and

(c) "NAMFISA ERS" means the Electronic Regulatory System which facilitates communication between NAMFISA and financial institutions.

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

(a) as defined in section 1 of the Act –

(i) banking institution;

(ii) board;

(iii) director;

(iv) document;

(v) NAMFISA;

(vi) public company;

(b) as defined in section 78 of the Act –

(i) authorised advisor;

(ii) central securities depository;

(iii) clearing house;

(iv) exchange;

(v) investment manager;

(vi) linked investment service provider;

(vii) securities advisor;

(viii) securities clearing house;

(ix) securities dealer; and

(x) securities rating agency.

Applicability

2. This Standard applies to an entity referred to in sections 83(1) and (2) of the Act, applying for registration as a central securities depository, an exchange, a securities clearing house, an investment manager, a linked investment service provider, a securities rating agency, a securities dealer or a securities advisor (hereinafter referred to as "applicant").

3. An application for registration as a central securities depository, an exchange, a securities clearing house, an investment manager, a linked investment service provider, a securities rating agency, a securities dealer or a securities advisor must be made to NAMFISA in accordance with clause 4.

Particulars to be furnished upon application

4. Pursuant to section 83 of the Act, an applicant that intends to apply for registration as a central securities depository, an exchange, a securities clearing house, an investment manager, a linked investment service provider, a securities rating agency, a securities dealer or a securities advisor must –

(a) be in writing, and provide the particulars as specified in the Schedule, Application form for registration granted pursuant to sections 83(1), (2), (3) and (4);

(b) be signed by a person duly authorised to represent the applicant;

(c) be accompanied by proof of registration as a Namibian Company with the Registrar of Companies (BIPA) (CM 1 form);

(d) be accompanied by its Memorandum and Articles of Association (CM 2 and CM 44 forms);

(e) be accompanied by a Certificate to commence business (CM 46);

(f) be accompanied with the details of all directors (CM 29);

(g) be accompanied by the relevant completed parts and other information required pursuant to Standard No. GEN.S.10.2 – Fit and Proper Requirements;

(h) be accompanied by the applicant's company organogram and confirmation of operational systems;

(i) be accompanied by details of its bank account with a banking institution;

(j) be accompanied with details of its nominee company;

(k) be accompanied by a board resolution authorising the applicant's representative to apply for registration on behalf of the applicant;

(l) be accompanied by a detailed business plan;

(m) be accompanied by proof of sufficient paid-up capital and unimpaired reserves;

(n) be accompanied by Tax Certificate from the Receiver of Revenue;

(o) be accompanied by proof of the newspaper notice under section 83(5);

(p) if the applicant is a central securities depository, be accompanied by the proposed rules of the central securities depository;

(q) if the applicant is an exchange, be accompanied by the proposed listing requirements and proposed rules of the exchange; and

(r) be accompanied by proof of payment of the prescribed application fee.

5. The applicant must disclose all information as required in the Schedule and all parts must be duly completed.

6. (1) An application, incomplete in all respects and not conforming to the instructions specified in the Schedule may be rejected on the basis of being non-compliant with this Standard.

(2) In instances where the application is deemed incomplete, NAMFISA must give the applicant the opportunity to provide the required information to complete the application. The required information must be provided within the period of seven days, or such other period stipulated or agreed to by NAMFISA, failing which the application shall be rejected.

7. Nothing shall prevent NAMFISA from seeking further or additional information or documents as may be reasonably necessary for processing of the application for registration.

8. The applicant or its duly authorised representative may[1], if so required, be called to appear before NAMFISA for a personal representation in connection with the application.

Submission

9. (1) An application for registration must be submitted to NAMFISA electronically on the NAMFISA ERS.

(2) Where necessary and when so directed by NAMFISA, the applicant must submit specified documentation manually to NAMFISA.

SUPPORTING SCHEDULE

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

Schedule: APPLICATION FORM FOR REGISTRATION AS A CENTRAL SECURITIES DEPOSITORY, AN EXCHANGE, A SECURITIES CLEARING HOUSE, AN INVESTMENT MANAGER, A LINKED INVESTMENT SERVICE PROVIDER, A SECURITIES RATING AGENCY, A SECURITIES DEALER OR A SECURITIES ADVISOR

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[1] Applicant to attach a copy of the letter or document of authorisation

SCHEDULE (to Standard No. FM.S.3.7)

APPLICATION FORM FOR REGISTRATION AS A CENTRAL SECURITIES DEPOSITORY, AN EXCHANGE, A SECURITIES CLEARING HOUSE, AN INVESTMENT MANAGER, A LINKED INVESTMENT SERVICE PROVIDER, A SECURITIES RATING AGENCY, A SECURITIES DEALER OR A SECURITIES ADVISOR PURSUANT TO SECTION 83 OF THE ACT

PART 1
COMPANY INFORMATION

SECTION 1: GENERAL

1.1 Full registered name: _____

1.2 Previously registered name(s), if any: _____

1.3 Trading name(s): _____

1.4 Company registration No.: _____

1.5 Country of registration: _____

1.6 Income Tax registration No. and VAT registration No., if applicable: _____

_____

1.7 Financial year-end of the company: _____

1.8 Registered address of the company: _____

1.9 Principal office address: _____

_____

_____

1.10 Postal address: _____

_____

1.11 Telephone No: _____

1.12 Website, if any: _____

1.13 Email address: _____

1.14 Is the company subject to regulation in a foreign country or financial services intermediary in a foreign country? _____

1.15 If yes, which jurisdiction? _____

1.16 Name of foreign regulator(s)? _____

SECTION 2: FINANCIAL RESOURCES

We hereby confirm that the applicant has, at minimum, paid-up share capital adequate for employment in the business and will maintain liquid resources that cover 13 weeks of annual expenditure at all times.

	Paid-up share capital
Paid-up share capital	N$

SECTION 3: AUDITOR

3.1 Full name of appointed auditor: _____

3.2 Company Registration No.: _____

3.3 Auditor's registration number with PAAB: _____

3.4 Tax Reference No.: _____

3.5 Contact person: _____

3.6 Postal address: _____

_____

3.7 Physical address: _____

_____

_____

3.8 Telephone No.: _____

3.9 Email address: _____

3.10 Website, if any: _____

SECTION 4: DIRECTORS AND OTHER KEY PERSONS

<Provide details of each director or key person, using a separate sheet as attachment where applicable>

4.1 Full names of director/key person: _____

_____

4.2 Identification/Passport No.: _____

4.3 Nationality: _____

4.4 Postal address: _____

_____

4.5 Telephone No.: _____

4.6 Mobile No.: _____

4.7 Email address: _____

SECTION 5: SHAREHOLDERS OR OTHER OWNER THAT CONTROLS THE APPLICANT

<Attach the full shareholder organigram.

Provide details of each shareholder or other owner who controls the applicant, using a separate sheet as attachment where applicable; if it is a company, provide contact person's details>

5.1 Full name/registered name of shareholder: _____

_____

5.2 Previous surname(s) / previously registered name(s): _____

_____

5.3 Identification/Passport/Company registration No.: _____

5.4 Date of birth/ Date of incorporation: _____

5.5 Nationality/Country of incorporation:_____

5.6 Postal address: _____

_____

5.7 Telephone No.: _____

5.8 Mobile No.: _____

5.9 Email address of contact person: _____

_____

5.10 Shareholding percentage: _____

If more than one such shareholder or owner, please complete and attach share certificate and indicate % held by each:

Name	**Individual**	**Company**	**Partnership**	**Joint Venture**	**Close Corporation**	**Other**	**% held by each**

SECTION 6: HOLDING COMPANY OF THE APPLICANT (IF APPLICABLE)

6.1 Full registered name: _____

6.2 Previously registered name(s): _____

_____

6.3 Company registration No.: _____

6.4 Date of incorporation: _____

6.5 Country of incorporation: _____

6.6 Postal address: _____

_____

6.7 Registered address: _____

_____

_____

6.8 Telephone No.: _____

6.9 Email address of shareholder or contact person: _____

_____

6.10 Shareholders : _____

If more than one holding company, please complete and attach share certificate and indicate % held by each:

Name	**Individual**	**Company**	**Partnership**	**Joint Venture**	**Close Corporation**	**Other**	**% held by each**

SECTION 7: CHIEF EXECUTIVE OFFICER

7.1 Full names: _____

7.2 Identification/Passport No.: _____

7.3 Nationality: _____

7.4 Postal address: _____

_____

7.5 Telephone No.: _____

7.6 Mobile No.: _____

7.7 Email address: _____

SECTION 8: APPOINTED PRINCIPAL OFFICER

8.1 Full names: _____

8.2 Identification/Passport No.: _____

8.3 Nationality: _____

8.4 Physical address: _____

_____

_____

8.5 Postal address: _____

_____

8.6 Telephone No.: _____

8.7 Mobile No.: _____

8.8 Email address: _____

SECTION 9: BANK DETAILS (operational account)

<Proof of bank account to be attached>

9.1 Name of bank: _____

9.2 Branch name: _____

9.3 Account No.: _____

9.4 Branch code: _____

PART 2: OPERATIONAL ABILITY OF APPLICANT

SECTION 1: BUSINESS PLAN

The business plan of the applicant, that has been approved by the board of directors must at least deal with the following matters:

(a) Provide an overview of the entity's business operations (company profile, clientele and post- trade offering, investment platform, future growth, etc.), Corporate

Governance Framework, Risk Management Framework, Internal Control Framework, Business Continuity Plan, Systems for Portfolio Management, Agreements with Service Providers (internal and external), Information Technology Systems, Marketing Plan, Human Resources Plan, etc.;

(b) An explanation of the management and operational structure of the applicant including the names of the individuals responsible for the major functional areas and the number of personnel employed or to be employed in each functional area in the applicant;

(c) The planned development of the information technology systems and infrastructure of the applicant and arrangements for their supply, management, maintenance, upgrading and security including details pertaining to the method or facility by means of which the business will be carried on;

(d) The planned approach to qualifying, quantifying and managing risk within the applicant;

(e) Security procedures to ensure the integrity of the systems for recording transactions and the maintenance of records, the capacity of these systems in relation to the budgeted number of transactions and the back-up resources available in the event of a systems failure; and

(f) A report by the chairperson of the board of directors confirming that the applicant has adequate systems, procedures and policies in place to protect the information, data, records and documents relating to client accounts and the affairs clients against any unauthorized access, alteration, destruction or dissemination.

PART 3
ADDITIONAL ATTACHMENTS

	YES	**NO**
Proof of registration as a Namibian Company with the Registrar of Companies (BIPA) (CM 1)		
Certified copies of the applicant's Memorandum and Articles of Association and articles (CM 2 and CM 44);		
Certificate to commence business (CM 46)		
Details of all directors (CM 29)		
Completed parts and other information required pursuant to Standard No. GEN.S.10.2 – Fit and Proper Requirements		
Company's organogram and confirmation of operational systems		
Details of bank account with a banking institution		
Details of nominee company		

Board resolution authorising the applicant's representative to apply for registration on behalf of the applicant		
Detailed business plan approved by the board of directors		
Proof of sufficient paid-up capital and unimpaired reserves		
Tax certificate from the Receiver of Revenue		
In the case of an application for registration as a central securities depository, or an exchange, the proposed rules of the central securities depository or exchange		
In the case of an application for registration as an exchange, the proposed listing requirements of the exchange		
Proof of the newspaper notice pursuant to section 83(5)		
A certified copy of the appointment letter of the applicant's auditor		
Proof of payment of the required application fee.		

SIGNATURE OF PRINCIPAL OFFICER OR DULY AUTHORISED PERSON

By signing the document, I confirm that all the information contained in this application is true and correct and can be relied upon and I have disclosed all necessary material information that may be required by NAMFISA.

Full Name: _____

Capacity: _____

Signature: _____

Date: _____

_____

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

THE LIMITS FOR THE PURPOSES OF PARAGRAPH (b) OF THE DEFINITION OF "AFFECTED TRANSACTION" AS DEFINED IN SECTION 155 OF THE ACT AND DISCLOSURE OF AFFECTED TRANSACTIONS

Standard No. FM.S.3.8

issued by NAMFISA under section 410(4)(s) of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard –

(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) "Companies Act" means the Companies Act, 2004 (Act No. 28 of 2004);

(c) "material" means any factual information about an issuer or securities issued which is likely or reasonably expected to influence and investor's decision; and

(d) "transaction" has the meaning ascribed thereto by section 78 of the Act, but for the purposes of this Standard also includes any other transfer, e.g., by way of a gift, testamentary disposition, cession, or pledge, of listed securities outside the registered exchange on which such securities are listed.

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

(a) as defined in section 1 of the Act –

(i) affiliate;

(ii) associate;

(iii) board;

(iv) director;

(vi) NAMFISA;

(xi) officer;

(b) "control" as defined in section 3 of the Act;

(c) as defined in section 78 of the Act –

(i) issuer;

(ii) listed security;

(iii) regulated person; and

(iv) security.

Applicability

2. This Standard applies to listed securities and securities intended to be listed on a regulated market that –

(a) have voting rights attached, which vest the right to vote; or

(b) are convertible to a security with attributes referred to in paragraph (a).

Limits for the purpose of paragraph (b) of the definition of "affected transaction":

3. Any transaction in which a person, in whom control of a corporate body is vested, acquires further securities of that corporate body, whether acting alone or conjointly or in concert within the meaning of clause 4, in excess of:

(a) 5% of any class of voting securities; or

(b) 5% of any class of non-voting securities that are convertible into voting securities,

is an affected transaction for the purposes of section 155(b) of the definition of "affected transaction".

Acting conjointly or in concert

4. (1) For the purposes of paragraphs (a) and (b) of the definition of "affected transaction" under section 155 of the Act, two or more persons who, with respect to a corporate body, have entered into any transaction, whether formal or informal, verbal or written, in respect of:

(a) securities of that corporate body;

(b) securities of an affiliate; or

(c) associate of that corporate body,

are deemed to be acting conjointly or in concert.

(2) Without limiting the generality of sub-clause (1), any agreement, commitment or understanding by or between two or more persons who beneficially own securities of a corporate body or securities of any entity referred to in sub-clause (1)(b) or (c):

(a) whereby any of them or their nominees may veto any proposal put before the board of directors of that corporate body; or

(b) under which no proposal put before the board of directors of that corporate body may be approved except with the consent of any of them or their nominees,

is deemed to be a transaction referred to in sub-clause (1).

(3) For the purposes of this clause, persons shall be presumed not to have agreed to act conjointly or in concert solely by reason of the fact that –

(a) a person exercises voting rights by proxy or in a nominee or fiduciary capacity for and on behalf of one or more other persons in respect of securities referred to in sub-clause (1); or

(b) they exercise the voting rights attached to securities referred to in sub-clause (1) in the same manner.

(4) Where, in the opinion of NAMFISA, it is reasonable to conclude that a transaction referred to in sub-clause (1) or (2) exists by or among two or more persons, NAMFISA may designate those persons as persons who have agreed to act conjointly or in concert.

Affected transactions prohibited without disclosure

5. (1) A person must not enter into any affected transaction without first giving notice of the transaction, in writing, to NAMFISA and the regulated market concerned and must, after entering into the affected transaction, forthwith give notice to the public by means of a press release in at least two daily newspapers circulating in Namibia.

(2) The notice and the press release referred to in sub-clause (1) must be authorised by a senior officer of the corporate body concerned, contain the information set out in the Schedule to this Standard, and be accessible to the public.

Further disclosure

6. In the event that disclosure has been made by a person pursuant to clause 5 in respect of an affected transaction, and the person intends to enter into an additional affected transaction, that person must not enter into the additional transaction unless and until additional disclosure is made to NAMFISA and the regulated market in accordance with clause 5.

Exceptions

7. This Standard does not apply to a transaction that is –

(a) a merger or amalgamation of two or more corporate bodies;

(b) a transfer of all or substantially all of the business or assets of a corporate body;

(c) a scheme which has been voted for or will be voted for at a meeting of the security holders concerned of a corporate body;

(d) the result of a corporate body being placed under judicial management; or

(e) undertaken by a corporate body owned by the State.

SUPPORTING SCHEDULE

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

Schedule : INFORMATION TO BE PROVIDED TO NAMFISA AND THE REGULATED MARKET CONCERNED, AND TO BE CONTAINED IN A PRESS RELEASE, PURSUANT TO CLAUSES 5 AND 6 OF THIS STANDARD

SCHEDULE (to Standard FM.S.3.8)

INFORMATION TO BE PROVIDED TO NAMFISA AND THE REGULATED MARKET CONCERNED, AND TO BE CONTAINED IN A PRESS RELEASE, PURSUANT TO CLAUSES 5 AND 6 OF THIS STANDARD

1. For each class of securities involved in a transaction giving rise to an obligation to give notice to NAMFISA and the regulated market concerned and to the public by way of a press release pursuant to clause 5 or 6 of the Standard, and if applicable, for each class of voting securities into which the securities of the class are convertible, exercisable or exchangeable, the notice must include:

   (a) the name and address of the person who is or will be the acquirer;

   (b) the designation and number of securities and the percentage in the class of securities which the person acquired or will acquire;

   (c) the designation and number of securities and the total percentage in the class of securities which the person holds or will hold immediately after the transaction;

   (d) the designation and number of securities and the total percentage in the class of securities over which:

      (i) the person who is the acquirer, either alone, or together with any associates or other persons acting conjointly or in concert, has control;

      (ii) the person who is the acquirer, either alone or together with any associates or other persons acting conjointly or in concert, has control but does not have ownership;

   (e) the value, in Namibian dollars, of any consideration offered per security, if the person acquired ownership of a security;

   (f) the purpose of the person who is or will be the acquirer and any associates or other persons acting jointly or in concert in effecting the transaction;

   (g) the general nature and material terms of any agreement with respect to the securities of the corporate body, other than lending arrangements, entered into among the corporate body or any other entity and the person who is the acquirer and any associates or other persons acting conjointly or in concert with the acquirer, including any agreements with respect to the acquisition, holding, disposition or voting of any of the securities;

   (h) the names and addresses of any associates or other persons acting conjointly or in concert with the person who is the acquirer with respect to the transaction; and

   (i) any previously undisclosed inside information known by a person who is an insider.

2. The notice in the press may include:

   (a) other relevant information in addition to that required by this Schedule; or

(b) a declaration that the issue of the press release is not an admission that a person named in the press release owns or controls any described securities or is an associate or acting conjointly or in concert with another named person.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

FORM OF CERTIFICATE OF REGISTRATION A FOR CENTRAL SECURITIES DEPOSITORY, AN EXCHANGE, AN INVESTMENT MANAGER, A LINKED INVESTMENT SERVICE PROVIDER, A SECURITIES CLEARING HOUSE, A SECURITIES RATING AGENCY, A ASECURITIES ADVISOR OR A SECURITIES DEALER

Standard No. FM.S.3.9

issued by NAMFISA under section 410(2)(b), read with section 85(3), of the Financial Institutions and Markets Act, 2021

Definitions

1. In this Standard –

(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 Standard, unless the context indicates otherwise, including without limitation, the following as defined in section as defined in section 78(1) of the Act –

(i) central securities depository;

(ii) exchange;

(iii) investment manager;

(iv) linked investment service provider;

(v) securities advisor;

(vi) securities clearing house;

(vii) securities dealer; and

(viii) securities rating agency.

Applicability

2. This Standard applies to a registered central securities depository, exchange, investment manager, linked investment service provider, securities clearing house, securities rating agency, securities advisor or securities dealer (hereinafter referred to as "applicants") applying for registration granted pursuant to section 85 of the Act.

Form of certificate of registration

3. The certificate of registration to be issued to a central securities depository, an exchange, an investment manager, a linked investment service provider, securities clearing house, a securities rating agency, a securities advisor or a securities dealer, must take the form of the Annexure attached to this Standard.

ANNEXURE (to Standard No. FM.S.3.9)

Registration No ……

CERTIFICATE OF REGISTRATION

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021 (ACT NO. 2 OF 2021)

REGISTRATION AS (*insert the type*)

This is to certify that

_____ *(insert the name)*

with principal office at: _____ *(insert address of principal office)*,

has been duly registered in terms of section 85 of the Financial Institutions and Markets Act, 2021, is authorised to (*insert function*),

and may operate from Namibia.

_____ _____

CHIEF EXECUTIVE OFFICER **DATE OF REGISTRATION**

_____

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

FINANCIAL MARKETS

APPLICATION BY REGISTERED CENTRAL SECURITIES DEPOSITORY, EXCHANGE, INVESTMENT MANAGER, LINKED INVESTMENT SERVICE PROVIDER, SECURITIES CLEARING HOUSE, SECURITIES RATING AGENCY, SECURITIES ADVISOR OR SECURITIES DEALER FOR CANCELLATION OF REGISTRATION GRANTED PURSUANT TO SECTION 85 OF THE ACT OR FOR VARIATION OF THE CONDITIONS FOR REGISTRATION

Standard No. FM.S.3.12

issued by NAMFISA under section 410(2)(c), read with section 88(1) and (2), of the Financial Institutions and Markets Act, 2021

Definitions

1. (1) In this Standard -

(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) "special resolution" means a resolution passed by a company as contemplated in sections 207 through to section 211 of the Companies Act; and

(c) "NAMFISA ERS" means the Electronic Regulatory System that facilitates communication between NAMFISA and financial institutions or financial intermediaries.

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

(a) as defined in section 1 of the Act –

(i) auditor;

(ii) board;

(iii) principal officer;

(iv) regulated person;

(v) NAMFISA;

(b) as defined in section 78 of the Act –

(i) central securities depository;

(ii) exchange;

(iii) investment manager;

(iv) linked investment service provider;

(v) securities advisor;

(vi) securities clearing house;

(vii) securities dealer; and

(viii) securities rating agency.

Applicability

2. This Standard applies to a registered central securities depository, exchange, investment manager, linked investment service provider, securities clearing house, securities rating agency, securities advisor or securities dealer (hereinafter referred to as "applicants") applying for cancellation of its registration granted pursuant to section 85 of the Act.

3. An application for variation to the conditions subject to which registration was granted must also be dealt with in accordance with this Standard.

Application for cancellation of registration or variation of conditions

4. An application for cancellation of registration granted pursuant to section 85 of the Act or for variation of conditions of registration for which it was registered must be made to NAMFISA in accordance with clause 5.

Particulars to be furnished upon application

5. Pursuant to section 88(2) of the Act, an application for cancellation of registration granted pursuant to section 85 or variation of registration conditions must -

(a) be in writing and provide the particulars as specified in the Schedule, Application form for cancellation of registration granted pursuant to section 85 of the Act;

(b) be accompanied by a copy of the notice published in terms of section 88(3) of the Act;

(c) be accompanied by the original certificate of registration (declaration under oath where original lost);

(d) be accompanied by a bank letter confirming the closure of the bank account(s) opened and operated for purposes of segregating client assets;

(e) be signed by the principal officer or a person duly authorised to represent the applicant;

(f) other than a securities advisor that is an individual, be accompanied by a copy of a special resolution on the decision to apply for cancelation of its registration granted or vary its registration of business for which it was registered pursuant to section 85 of the Act;

(g) for securities advisor that is an individual, be accompanied by a written representation on why cancellation or variation of business, as the case may be, is necessary;

(h) specify the measures that the applicant has taken to discharge all its obligations and meet all its liabilities under any contractual obligation; and

(i) provide proof of payment of the prescribed application fee (if any).

6. The applicant must disclose all information as required in the Schedule and all parts must be duly completed.

7. (1) An application, not complete in all respects and not conforming to the instructions specified in the Schedule may be rejected on the basis of being non-compliant with this Standard.

(2) In instances where the application is deemed not complete, NAMFISA must give the applicant the opportunity to provide the required information to complete the application. The required information must be provided within the period of seven days, or such other period stipulated or agreed to by NAMFISA, failing which the application shall be rejected.

8. Nothing shall prevent NAMFISA from seeking further or additional information or documents as may be reasonably necessary for processing of the application.

9. The applicant, its principal officer or a duly authorised person may, if so required, be called to appear before NAMFISA for a personal representation in connection with the application.

Submission

10. (1) An application for cancellation of registration or variation of the conditions must be submitted to NAMFISA electronically on the NAMFISA ERS.

(2) Where necessary and when so directed by NAMFISA, the applicant must submit specified documentation manually to NAMFISA.

Effect of cancellation of registration

11. On and from the date of cancellation of the registration of a central securities depository, exchange, investment manager, linked investment service provider, securities clearing house, securities rating agency, securities advisor or securities dealer shall cease to act as such.

SUPPORTING SCHEDULE

The following supporting schedule is attached to and form part of this Standard:

Schedule: APPLICATION BY REGISTERED CENTRAL SECURITIES DEPOSITORY, EXCHANGE, INVESTMENT MANAGER, LINKED INVESTMENT SERVICE PROVIDER, SECURITIES CLEARING HOUSE, SECURITIES RATING AGENCY, SECURITIES ADVISOR OR SECURITIES DEALER FOR CANCELLATION OF REGISTRATION GRANTED PURSUANT TO SECTION 85 OF THE ACT OR FOR VARIATION OF THE CONDITIONS FOR REGISTRATION

SCHEDULE (to Standard FM.S.3.12)

APPLICATION BY REGISTERED CENTRAL SECURITIES DEPOSITORY, EXCHANGE, INVESTMENT MANAGER, LINKED INVESTMENT SERVICE PROVIDER, SECURITIES CLEARING HOUSE, SECURITIES RATING AGENCY, SECURITIES ADVISOR OR SECURITIES DEALER FOR CANCELLATION OF REGISTRATION GRANTED PURSUANT TO SECTION 85 OF THE ACT OR FOR VARIATION OF THE CONDITIONS FOR REGISTRATION

Indicate whether it is an application for –

Cancellation of registration ☐ **OR Variation of conditions** ☐

Please complete in full:

REGULATED PERSON

Full Name(s) .....

Company Registration Number/ Identity Number .....

NAMFISA Registration Number .....

Income Tax Number .....

CONTACT DETAILS

Physical address: .....

Postal address: .....

Tel. Work: .....

Cell. No: .....

Email address: .....

DETAILS OF PRINCIPAL OFFICER

First Names: .....

Surname: .....

ID/Passport No: .....

Nationality: .....

Physical address: .....

Postal Address: .....

Tel .....

Mobile: .....

Email address: .....

DETAIL OF SHAREHOLDER(S)

Name	Shareholding

DETAILS OF BOARD OF DIRECTORS

Name	Nationality	Executive/Non-Executive

Name of the Board Chairperson: ….....

Name	Name of Chairperson(s) of committee(s)

DETAILS OF AUDITOR

Name: ……

Name of professional regulatory body: ……

Membership No.: ……..

DETAILS OF TRUSTEE OR CUSTODIAN IF APPLICABLE

……..……...……

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…..……

……

SIGNATURE

By signing the document, I confirm that all the information contained in this application is true and correct and can be relied upon and I have disclosed all necessary material information that may be required by NAMFISA.

Full Names(s): .....

Signature: .....

Capacity: .....

Date: .....