



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No.

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General Notice

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. 202-

STANDARDS UNDER THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

PRELIMINARY AND GENERAL

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

PRELIMINARY CHAPTER

THE CATEGORIES OF PROFESSIONS AND PERSONS OF WHICH AN EXPERT MUST BE A MEMBER FOR THE PURPOSES OF THE DEFINITION OF “VALUATOR” IN SECTION 1 OF THE ACT

Standard No. PRE.S.1.1

issued by NAMFISA under section 1 and section 410(2)(a) 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; and
 - (b) “actuary” means a fellow of one of the societies, institutes or faculties referred to in clause 2.
- (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, which are defined in section 1 of the Act -
 - (a) financial institution;
 - (b) financial intermediary;
 - (c) NAMFISA; and
 - (d) Public Accountants’ and Auditors’ Act.

Requirements for a valuator

2. An individual who is a fellow of one of the following actuarial societies, institutes or faculties is an actuary for the purposes of the Act:
 - (a) the United Kingdom Institute and Faculty of Actuaries;
 - (b) the Actuarial Society of South Africa;
 - (c) the American Society of Actuaries; or

- (d) any other professional actuarial society, institute, faculty or body recognised by NAMFISA after due consideration.

3. Subject to clauses 4, 5, 6 and 7, and subject to the approval by NAMFISA, an individual who falls within paragraphs (a), (b) or (c) may be appointed or retained as a valuator by a financial institution or financial intermediary or required by NAMFISA to make a valuation report with respect to a financial institution or financial intermediary under the Act:

- (a) an actuary;
- (b) a member in good standing under the Public Accountants' and Auditors' Act; or
- (c) a member in good standing of any other professional association approved by NAMFISA.

4. A person may not be appointed or retained as a valuator, unless the person is fit and proper within the meaning of Standard No. GEN.S.10.2 – Fit and Proper Requirements, and independent within the meaning of Standard No. GEN.S.10.8 - The independence of directors, members of a board, trustees, custodians, auditors and valuers and any other person required to be independent under the Act.

5. A person may not be appointed or retained as a valuator unless, in the opinion of NAMFISA, the person has the necessary -

- (a) training, knowledge and experience to understand the business of financial institutions and financial intermediaries in Namibia; and
- (b) training and knowledge to understand the business of the particular industry concerned, and at least five years' experience working with:
 - (i) a similar financial institution or financial intermediary; or
 - (ii) another valuator who has been appointed or retained as a valuator by such a financial institution or financial intermediary.

6. NAMFISA may maintain a list of persons approved by NAMFISA who, subject to clauses 4, 5 and 7 may be appointed or retained as a valuator by a financial institution or financial intermediary, or required by NAMFISA to make a valuation report with respect to a financial institution or financial intermediary under the Act, the purpose of the list being to expedite the appointment of a valuator and the approval of such appointment by NAMFISA.

7. Notwithstanding anything contained in this Standard, NAMFISA retains the right, in its discretion, to require any particular financial institution or financial intermediary to appoint an actuary as its valuator, or to appoint an actuary as its valuator for any particular part of its business.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

THE INDEPENDENCE OF DIRECTORS, MEMBERS OF A BOARD, TRUSTEES, CUSTODIANS, AUDITORS AND VALUATORS AND OF ANY OTHER PERSON REQUIRED TO BE INDEPENDENT UNDER THE ACT

Standard No. GEN.S.10.8

issued by NAMFISA under section 410(2)(e) 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) “conflict of interest” means a situation which a director, key person, auditor, valuator or any other service provider encounters, while rendering a financial service to a client, if that situation -
 - (i) impairs the objectivity of the director, key person, auditor, valuator or any other service provider in any aspect of rendering the financial service to the client; or
 - (ii) prevents the director, key person, auditor, valuator or any other service provider from rendering the financial service to the client in an unbiased and fair manner or from acting in the best interest of the client;
 - (c) “familiarity risk” means risk that may arise due to a long or close relationship with a client, which could make a financial institution or financial intermediary become too sympathetic to the client's interests or too accepting of the client's work or product; and
 - (d) “key person” means 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.
- (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) auditor;
 - (iv) board;
 - (v) client;
 - (vi) director;
 - (vii) entity;
 - (viii) financial institution;
 - (ix) financial intermediary;
 - (x) financial service;
 - (xi) principal officer;
 - (xii) valuator; and
- (b) as defined in section 168 of the Act –
- (i) custodian; and
 - (ii) trustee.

Applicability

2. This Standard applies to any person who is required under the Act to be independent including, without limitation, directors, members of a board, principal officers, trustees, custodians, auditors and valutors.

General criteria

3. (1) Unless the person can show that there is no direct conflict of interest, the person will not be considered independent in respect of an election or appointment to a position with a financial institution or financial intermediary if the person -

- (a) is an associate of -
 - (i) the financial institution or financial intermediary; or
 - (ii) an entity that is an affiliate of the financial institution or financial intermediary; or
- (b) derives any benefit in the provision of a financial service to a client, other than through the contractual relationship with the financial institution or financial intermediary in terms of which the election or appointment to the position was made.

(2) In relation to a financial institution or financial intermediary, unless the person can show that there is no direct conflict of interest, the person will not be considered independent in respect of an election or appointment to a position with that financial institution or financial intermediary if the person is employed by, or has within the immediate preceding year been employed by –

- (a) the financial institution or financial intermediary; or
- (b) an associate or affiliate of that financial institution or financial intermediary.

Specific criteria

4. (1) In addition to the general criteria, unless the person can show that there is no direct conflict of interest, an auditor will not be considered independent, whether as an individual not associated with a firm of auditors or associated to a firm of auditors, if the auditor -

- (a) is a key person with respect to the financial institution or financial intermediary concerned, or is a key person of an associate or affiliate of that financial institution or financial intermediary; or
- (b) is associated with the valuator of that financial institution or financial intermediary or with the member of the firm of valutors designated pursuant to section 402(2)(b) and (4) of the Act.

(2) In addition to the general criteria, unless the person can show that there is no direct conflict of interest, a valuator will not be considered independent if the valuator -

- (a) is a key person with respect to the financial institution or financial intermediary concerned, or is a key person of an associate or affiliate of that financial institution or financial intermediary; or
- (b) is associated with the auditor of that financial institution or financial intermediary or with the member of the firm of auditors designated pursuant to section 401(2) of the Act.

Disclosure

5. Where it is contemplated that a person may be elected or appointed to a position with a financial institution or financial intermediary, that person must disclose to the financial institution or financial intermediary any matter which relates or may possibly relate to the independence of the person, both before the election or appointment and on an ongoing basis.

Familiarity risk

6. (1) Financial institutions and financial intermediaries must have a policy outlining how familiarity risk and threats to the independence of directors, members of a board, trustees, custodians, auditors and valutors and of any other person required to be independent under the act, will be managed.

(2) In managing conflict of interest, financial institutions and financial intermediaries must –

- (a) clearly define where actual or potential conflict of interest may arise;
- (b) define the roles and responsibilities of persons accountable for the management and oversight of the conflict of interest;
- (c) provide for corrective actions that must be taken for non-compliance with the arrangements;
- (d) provide for adequate processes and procedures for transaction with related parties; and
- (e) address and provide for any additional matters relating to conflict of interest

arrangements that have been prescribed.



FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

CODE OF CONDUCT

Standard No. GEN.S.10.9

issued by NAMFISA under sections 410(2)(bbb), 410(4)(q) and 410(6)(u) 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) “fiduciary” means a financial institution or financial intermediary or a functionary of a financial institution or financial intermediary;
 - (c) “functionary” means a director, member of the board, principal officer, other officer and employee of a financial institution or financial intermediary; and
 - (d) “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.
- (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) director;
 - (iv) entity;
 - (v) financial institution;
 - (vi) financial intermediary;
 - (vii) financial service;
 - (viii) NAMFISA;
 - (ix) principal officer;
 - (x) valuator; and
 - (b) as defined in section 168 of the Act -
 - (i) custodian; and

- (ii) trustee.

Applicability

2. This Standard applies to all financial institutions and financial intermediaries registered under the Act.

General Requirements

3. (1) Every financial institution and financial intermediary must ensure that a policy on the Code of Conduct is in place, containing the elements described in clause 4(1) and is acknowledged and embraced by all board members, directors, principal officers, trustees, custodians, auditors, valuers, other key persons and employees.

(2) A financial intermediary who is an individual and who is not employed by a financial institution or another financial intermediary that is an entity, must ensure that he or she has a policy on the Code of Conduct in place, containing the elements described in clause 4(1) in so far as applicable and that such policy is followed by all employees.

Basic Elements

4. (1) The basic elements of the policy on the Code of Conduct are:
- (a) Code of Conduct Policy: this is a policy statement that defines ethical standards for conduct;
 - (b) Conflicts of Interest: the policy must include a definition of “conflicts of interest” and policy statement on:
 - (i) conflicts of interest;
 - (ii) actions that are required to be taken where conflicts of interest arise or are likely to arise, including disclosure and recusal; and
 - (iii) sanctions for breaches of the policy on the Code of Conduct involving conflicts of interest;
 - (c) Legal Compliance: this requires the board, directors, principal officer, other officers, trustees and all employees to abide by the Act and all other applicable laws, including rules, regulations and standards relevant to the financial institution or financial intermediary;
 - (d) Company or Individual Information and Assets: the Code of Conduct policy must include standards relating to the:
 - (i) disclosure of audited financial statements and other operational information to customers;
 - (ii) treatment of confidential information; and
 - (iii) fiduciary responsibilities;
 - (e) Workplace Practices: the policy on the Code of Conduct must provide for ethical behavior, reporting of dishonest, unethical or illegal activities, and compliance with the Code of Conduct and the Act and other applicable laws, including provisions regarding authorisation to enter into contracts on behalf of the financial institution or financial intermediary and sanctions for such actions taken without such authority;

- (f) Confidentiality: the policy on the Code of Conduct must provide for the maintenance of confidentiality with respect to all information regarding the financial institution or financial intermediary and all stakeholder information, and for oaths of confidentiality by members of the board and management as well as staff;
- (g) Reporting, Enforcement and Sanctions: the policy on the Code of Conduct must provide for recording and reporting breaches of the Act, other applicable laws, rules, regulations, standards or the policy on the Code of Conduct to NAMFISA, provide for procedures for enforcement of the policy on the Code of Conduct, including investigations and disciplinary action, and provide for clear, appropriate and proportional sanctions for such breaches; and
- (h) Appropriate sanctions: must be proportional to any breaches of the policy on the Code of Conduct and for the consistent application of such sanctions. The policy on the Code of Conduct must provide, at a minimum, the following:
 - (i) procedures for the enforcement of the policy on the Code of Conduct, including how investigations and disciplinary actions taken are defined or determined in order to ensure that submitted evidence based on investigations, and recommendations, are appropriate;
 - (ii) clear sanctions; and
 - (iii) oaths of confidentiality by members of the board and management as well as all staff.

(2) Records of and reporting on breaches of the policy on the Code of Conduct and sanctions: As the elements of the policy on the Code of Conduct are concerned, it is expected that the board and management as well as all staff of a financial institution or financial intermediary and a financial intermediary who is an individual, shall exercise discretion in ensuring that the following principles are taken into account:

- (a) act in good faith and in the best interest of the financial institution or financial intermediary and customers;
- (b) act with prudence and reasonable care;
- (c) act with skill, competence and diligence;
- (d) maintain independence and objectivity by, among other actions, avoiding conflicts of interest, refraining from insider trading, and refusing any gift that could reasonably be expected or perceived to affect conduct;
- (e) comply with the Act, all other applicable laws, rules, regulations, standards or other subordinate measures, and constitutive documents and the Codes of Conduct of the financial institution or financial intermediary;
- (f) deal fairly, objectively, and impartially with all customers;
- (g) take actions that are consistent with the established objectives of the financial institution or financial intermediary and the policies that support those objectives and to review on a regular basis the efficiency and effectiveness of the financial institution or financial intermediary in meeting its goals, including assessing the performance and actions of its financial service providers;

- (h) maintain confidentiality of the financial institution or financial intermediary and stakeholder information; and
 - (i) communicate with stakeholders, NAMFISA and other supervisory authorities in a timely, accurate, and transparent manner.
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FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

INSTITUTIONAL INVESTMENT

Standard No. GEN.S.10.11

issued by NAMFISA under section 410(3)(i), 410(6)(s), 410(7)(j) and 410(8)(e) 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) “fiduciary” means a financial institution or financial intermediary or a functionary of a financial institution or financial intermediary;
 - (c) “fiduciary duty” means a duty arising when a client or investor reposes confidence and trust in a fiduciary, to act in the interest of and for the benefit of the client or investor, with the necessary loyalty and care required of a fiduciary, before, during or after providing a financial service; and
 - (d) “functionary” means a director, member of the board, principal officer, other officer and employee of a financial institution or financial intermediary.
- (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) board;
 - (ii) entity;
 - (iii) financial institution;
 - (iv) financial intermediary;
 - (v) financial service;
 - (vi) NAMFISA; and
 - (b) “custodian” as defined in section 168 of the Act.

Applicability

2. (1) This Standard applies to all insurers, reinsurers, funds, friendly societies and medical aid funds registered under the Act or to which the Act otherwise applies (hereafter “Investing Institution(s)").
 - (2) This Standard sets out -
 - (a) the matters that must be considered in the investment process of an Investing

Institution; and

- (b) the matters that must be addressed in the investment policy statement of the Investing Institution.

Transparency

3. (1) An Investing Institution must have a written investment policy statement (referred to in this Standard as the “Investment Policy Statement”) that –

- (a) identifies the investment decisions or categories of investment decisions of the Investing Institution that are required to be made, and identifies the person, whether the board, a member or members of the board, officer or officers of the Investing Institution or outside experts, designated to take each decision or category of decisions, and the reason why this particular structure has been selected;
- (b) sets out the investment objectives of the Investing Institution;
- (c) sets out the Investing Institution’s strategic asset allocation, including projected investment returns on each asset class, and how the strategic asset allocation has been determined;
- (d) sets out the mandates given to all advisors, investment managers and other experts; and
- (e) sets out the nature of the fee structures in place for all advisors, investment managers and other experts, and why these particular fee structures have been selected.

(2) An investment policy statement must address all of the issues stated in this Standard, including but not limited to:

- (a) investment, return and risk objectives;
- (b) portfolio investment policies, including diversification;
- (c) liquidity and cash flow requirements;
- (d) organisational structure and investment procedures;
- (e) exercise of voting rights, including proxy voting;
- (f) valuation procedures or methodologies for unlisted investments;
- (g) monitoring portfolio investments and performance;
- (h) related party transactions;
- (i) risk management;
- (j) quantitative asset exposure limits;
- (k) investment restrictions;
- (l) use of financial derivatives or structured products that have the economic effect of financial derivatives; and
- (m) the frequency with which the investment policy statement and matters related thereto must be reviewed and revised.

Accountability

4. (1) The board of an Investing Institution is ultimately responsible for the investment activities of the Investing Institution.

(2) The board has a fiduciary duty to deal with investments with due care, skill and diligence and in good faith and to ensure that any investment activity complies with the Act, including this Standard, all other applicable laws and the investment policy statement of the Investing Institution.

(3) The guidelines contained in this Standard must be adapted by each board to suit the particular circumstances and objectives of the Investing Institution, taking into account all other factors that may affect the solvency (where applicable) and funding of the Investing Institution and its ability to meet its financial obligations.

(4) The provisions contained in this Standard are intended to serve as minimum requirements only, with out limiting the care that the boards of Investing Institutions are expected to take in the performance of their duties.

Effective decision-making

5. (1) Decisions pursuant to the investment policy statement of an Investing Institution must be taken-

(a) only by individuals or entities with the skills, experience, knowledge, information and resources necessary to take such decisions effectively; and

(b) only by persons authorised under the Act to do so.

(2) Where the board elects to take investment decisions itself, the board must make such decisions -

(a) pursuant to and in furtherance of the investment policy statement;

(b) with due regard to the expertise of the board and any expert advice obtained;

(c) in the interest of the Investing Institution and of persons deriving a benefit from the Investment Institution, or vested with rights by the Act or any other law;

(d) with due regard to the nature and extent of the risks involved; and

(e) in accordance with the Act and any other applicable laws.

Clear objectives

6. The board must set out an overall investment objective in the investment policy statement of the Investing Institution that:

(a) represents its best judgment of what is necessary to meet the Investing Institution's liquidity needs, liabilities (actual or contingent) and solvency requirements (where applicable); and

(b) takes account of its attitude to risk, and specifically its willingness to accept underperformance due to market conditions.

Focus on investment strategy

7. (1) Strategic asset allocation decisions must receive a level of attention that fully

reflects the contribution such decisions can make towards achieving the Investing Institution's investment objectives.

(2) The strategic asset allocation adopted by an Investing Institution will be a function of its liabilities, in particular -

- (a) the need to ensure that it holds sufficient assets to match its liabilities by nature, term and currency; and
- (b) the need to balance its expected rates of return with the levels of risk that it is able to accept having regard to its financial condition.

(3) In the case of Investing Institutions that are funds pursuant to the meaning of the term "fund" as defined in section 249 of the Act, but excluding defined contribution funds, and similarly structured Investing Institutions, detailed analysis and management of the asset/liability relationship will be a pre-requisite to the determination and review of the strategic asset allocation.

(4) The board must consider a full range of investment opportunities, not excluding from consideration any major asset class, including unlisted investments.

Expert advice

8. (1) The members of a board must collectively have sufficient expertise to understand the important issues relating to the investment process and must ensure that all individuals conducting and monitoring investment activities have sufficient levels of knowledge, skills and experience.

(2) In the event that a board does not have sufficient expertise, it must obtain expert advice and guidance from persons with the required qualifications and expertise and in this regard -

- (a) contracts for experts must be open to competition; and
- (b) the Investing Institution must ensure that the fee charged by the expert is market related and be prepared to pay such fees for each service to attract a broad range of experts.

Written mandates

9. A board must enter into a written investment mandate with an investment manager, which must be in accordance with Standard No. GEN.S.10.12 – Content of Investment Mandate.

Activism

10. (1) A board must have an explicit policy on whether the Investing Institution allows shareholder or member activism and, if so, the terms and conditions of the activism allowed must:

- (a) promote the economic interests of the Investing Institution and its clients and beneficiaries;
- (b) enhance the economic value of the Investing Institution's long-term investments that cannot easily be converted or exchanged into cash without incurring some losses; and

(c) monitor and, where appropriate and possible, influence the management of entities in which the Investing Institution has invested.

(2) For purposes of this clause, “shareholder or member activism” means efforts of the shareholders or members of an entity to bring about a desired change or to influence the management in governing the entity to protect the interest of the shareholders or members.

(3) The board must have a written policy on proxy voting generally, and specifically in respect of shareholder or member activism if allowed, which policy must be made with due regard to the costs (in both time and money) and the desirability of such a policy, and must specifically name the fiduciaries who may exercise such fiduciary authority.

(4) In delegating shareholder or member activism decisions by way of a proxy voting policy, such a policy must require the named fiduciary to -

(a) make proxy voting decisions in the interest of the Investing Institution and its clients and beneficiaries;

(b) not subordinate the Investing Institution’s interests to unrelated objectives or other interests;

(c) avoid conflicts of interest, including own interests and excessive fees; and

(d) report to the board on proxy voting decisions, including the rationale for the decisions (which must be to enhance the economic interest or value of the Investing Institution’s investments in accordance with sub-clause (3)).

(5) The board must periodically review the proxy voting decisions.

Appropriate benchmarks

11. The board of an Investing Institution must:

(a) set appropriate benchmarks against which to measure the investment performance of the Investing Institution;

(b) in consultation with the investment manager of the Investing Institution, consider and review the appropriateness of benchmarks from time to time, and in particular, whether the benchmarks may lead to sub-optimal investment strategies;

(c) if limits are set on divergence from an index, ensure that such limits reflect the approximations involved in index construction and selection; and

(d) where the board believes active management has the potential to achieve higher returns, set both target and risk controls that reflect this, giving the investment manager the freedom to pursue genuinely active strategies.

Performance measurement

12. (1) The board of an Investing Institution must arrange, at least annually, for the measurement of the performance of investments and assess investment procedures and decisions.

(2) The board must arrange, at least annually, for the formal assessment of performance and decision making delegated to an investment manager or other experts.

(3) Where active portfolio management is chosen, the board must assess the performance of the investment manager in relation to the objectives and any benchmarks set,

to determine:

- (a) whether the performance has generated returns commensurate with the active investment mandate; and
- (b) the risks taken to achieve such performance and whether the performance justifies the risks.

Investment control

13. (1) The board of an Investing Institution must exercise sufficient oversight and control over the assets and investments of the Investing Institution.

(2) In exercising oversight and control, the board must have regard to the provisions of the Act pursuant to which assets of Investing Institutions may not be alienated, hypothecated, pledged or otherwise encumbered to the detriment of the Investing Institution or its clients and beneficiaries.

(3) The board must have a policy for custodial (and sub-custodial), settlement and securities administration arrangements which impact control over the Investing Institution's investments with a view to reducing the risk of alienation, hypothecation, pledging or other encumbrance of assets.

(4) The board must pay special attention to securities lending arrangements and decide whether the assets of the Investing Institution may be subject to securities lending (e.g. for portfolio management and yield enhancement purposes), and the terms and conditions (e.g. insurance, hedging) subject to which securities lending may be undertaken.

(5) The board must have regard to the rights and obligations of the investment manager or other financial intermediary in managing or dealing with the Investing Institution's assets, especially with regard to the collection of income (dividends and interest), proceeds from securities disposals, investment of additional assets, and rights and bonus issues and in dealing with these funds in relation to the Investing Institution's bank accounts or otherwise.

(6) The board must ensure that the assets and investments of the Investing Institution are at all times kept separate from the assets of fiduciaries or other persons, in accordance with the Act and any standard dealing with the segregation and separation of assets of financial institutions that may be issued by NAMFISA, and ensure that the assets of the Investing Institution are at all times recorded in the name of the Investing Institution, with due regard to e.g. pooled portfolios or arrangements.

(7) The board must only enter into and maintain an arrangement for the safekeeping of the Investing Institution's assets with a person duly authorised under the Act, and must periodically review such arrangement.

(8) The board must pay particular attention to the fitness and propriety of persons in foreign jurisdictions, including putting in place requirements for the custodian to conduct due diligence on any sub-custodian to be used in a foreign jurisdiction and to satisfy the board of the fitness and propriety of the sub-custodian, and ensure that the sub-custodian is a regulated entity.

Regular reporting

14. (1) Where appropriate, the board of an Investing Institution must publish at least annually, its investment policy statement and the results of monitoring advisors, investment managers and other experts, and make the investment policy statement and such results

available to interested parties, including NAMFISA.

(2) The board must explain to NAMFISA and any interested parties, any deviations from the investment policy statement.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

THE CONTENT OF INVESTMENT MANDATES

Standard No. GEN.S.10.12

issued by NAMFISA under section 410(2)(hh) 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) “Investment Mandate” means the agreement between an Investing Institution and an investment manager with respect to the investments of the Investing Institution;
 - (c) “Investing Institution” means a registered financial institution that is a party to an Investment Mandate; and
 - (d) “investment manager” means a company that is in the business of investment management.
- (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) auditor;
 - (iv) financial institution;
 - (v) financial intermediary;
 - (vi) NAMFISA; and
 - (b) “custodian” as defined in section 168 of the Act.

Applicability

2. This Standard applies to:
 - (a) every Investing Institution; and
 - (b) every investment manager registered under the Act that is a party to an Investment Mandate.

Investment Mandate Assessment

3. (1) An Investment Mandate, and all amendments thereto and renewals thereof, must

be in writing and must be signed by the Investing Institution and the investment manager before the Investment Mandate, or any renewal or amendment thereof, commences.

(2) Discretion must be exercised by the Investing Institution in assessing the appropriateness and adequacy of the provisions of an Investment Mandate and must take into account all relevant matters including, but not limited to, the following:

- (a) the investment objective of the Investing Institution;
- (b) investment and counter-party restrictions;
- (c) expected returns and risk tolerance;
- (d) nature of mandate (e.g., discretionary);
- (e) portfolio and risk management;
- (f) custody and use of assets;
- (g) reporting and disclosure requirements;
- (h) fees and remuneration of the investment manager; and
- (i) delegation of mandate and termination.

Objective

4. The factors set out in clause 3(2)(a) to (c) are relevant to the assessment of the adequacy and appropriateness of the objective of an Investment Mandate, which must, at a minimum, address:

- (a) the investment objectives of the Investing Institution;
- (b) the investment strategy to be adopted in the short- and long-term; and
- (c) the terms and conditions of appointment of the investment manager.

Portfolio management

5. The Investment Mandate must, at minimum, set out the following:

- (a) the duties of the investment manager;
- (b) the types and classes of assets in which investments are to be made;
- (c) the composition of asset classes and limits thereto;
- (d) jurisdictional gross exposure to asset classes and restrictions thereto;
- (e) maximum exposure limits for each asset class;
- (f) the index or other measure to be used for benchmarking performance;
- (g) actions and procedures in the case of non-performance; and
- (h) valuation methods and policies adopted in valuing the listed and unlisted assets in the portfolio.

Custody of assets

6. The Investment Mandate must, at minimum, address the following:

- (a) the provision of a power of attorney for the investment manager to perform investment management functions on behalf of the Institutional Investor;
- (b) responsibility for appointing a custodian or nominee;
- (c) the separation of the funds and assets of the Investing Institution from the funds and assets of the investment manager and its affiliates and associates, and those of any other clients;
- (d) the obligation of the investment manager to deal with the funds of the investor in accordance with the requirements of the Act and the Investment Mandate; and
- (e) any other information that NAMFISA deems necessary.

Reporting

7. The Investment Mandate must stipulate:

- (a) the provision of monthly statements to the Investing Institution, reflecting at a minimum, the following:
 - (i) a statement of the investment objectives governing the portfolio as at the closing and starting date of the monthly statement;
 - (ii) a summary of the portfolio structure;
 - (iii) investments purchased or sold during the reporting period;
 - (iv) investments delivered or returned to the Investing Institution or its nominee;
 - (v) cash received and payments made;
 - (vi) details of non-cash transactions;
 - (vii) income accruals earned and expenses incurred;
 - (viii) aggregate charges of the investment manager and any subsidiaries, affiliates or associates of the investment manager;
 - (ix) any remuneration received by the investment manager or any of its subsidiaries, affiliates or associates from a third party in respect of the transactions entered into, or in respect of any other services provided, in connection with the portfolio; and
 - (x) book and market values of all investments in the portfolio;
- (b) the provision of quarterly portfolio reports to the Investing Institution, setting out at a minimum the following:
 - (i) all information required by paragraph (a);
 - (ii) a statement with respect to how the Investment Mandate was executed;
 - (iii) rates of return and comparison to relevant benchmarks;
 - (iv) commentary on the investment outlook; and
 - (v) the investment strategy the investment manager intends to follow in the short- and long-term;

- (c) the requirement for the appointment of an auditor to the investment manager as required by section 401(1)(c) of the Act and the audit of the financial records of the investment manager;
- (d) access to the audited records and other reports of the investment manager by the auditor of the Investing Institution or other person designated by the Investing Institution; and
- (e) the requirement that all records pertaining to the Investing Institution and the Investment Mandate must be maintained for at least five years after the Investment Mandate has come to an end.

Fees and remuneration

- 8.** The Investment Mandate, at minimum, must address:
- (a) the basis for calculating the investment management and performance fees of the investment manager and any other remuneration; and
 - (b) the responsibility for transactional, brokerage, transfer and other incidental fees borne by the investment manager or charged to the Investing Institution.

Risk management

- 9.** The Investment Mandate must provide for:
- (a) acknowledgment of possibility of loss by the Investing Institution;
 - (b) the policy of the investment manager on risk management and internal controls;
 - (c) acquisition by the investment manager of fidelity guarantee insurance;
 - (d) procedures regarding amendments to, and renewal of, the Investment Mandate;
 - (e) confidentiality and custody of the Investing Institution's information;
 - (f) corporate governance policies of the investment manager and how they are applied to investment policies and the Investment Mandate;
 - (g) procedures to deal with conflicts of interest;
 - (h) procedures to be followed in the event of a breach of any of the terms of the Investment Mandate by the investment manager or the Investing Institution; and
 - (i) arbitration and dispute resolution procedures.
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FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

PAYMENT OF CONTRIBUTIONS

Standard No. GEN.S.10.13

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

Definitions

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

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

- (a) “fund” as defined in section 249 of the Act;
- (b) “friendly society” as defined in 284 of the Act;
- (c) “medical aid fund” as defined in section 321 of the Act.

Applicability

2. This Standard applies to all registered funds, friendly societies and medical aid funds.

Payment of contributions

3. (1) The total amount of all contributions due to a registered fund, medical aid fund or friendly society by an employer, employee or member, as the case may be, must be paid in full to the registered fund, medical aid fund or friendly society and deposited in a bank account opened in the name of the fund, medical aid fund or friendly society by not later than seven calendar days after payment thereof became due in respect of which the contributions are payable.

(2) The amount of any contributions or any part thereof which remains unpaid after the seven day period referred to in sub-clause (1), together with interest payable thereon, if applicable, shall be a debt due to the registered fund, medical aid fund or friendly society, as the case may be, recoverable from the person liable for the payment, and the board of the fund, medical aid fund or friendly society may file with the clerk or registrar of a competent court a statement certified by it as correct stating the amount of unpaid contributions and any interest thereon, and thereupon such statement has all the effects of a civil judgment lawfully given in that court against the person in favour of the registered fund, medical aid fund or friendly society for a liquid debt in the amount specified in the statement and may be enforced as such.

(3) Notwithstanding sub-clause (2), NAMFISA may direct the person liable for the unpaid amounts forthwith to make payment of such amounts to the registered fund, medical aid fund or friendly society, as the case may be, and the rules of the registered fund, medical aid fund or friendly society must state if any interest is payable on outstanding contributions

and the manner of determining any such interest.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

INFORMATION AND MATERIAL REGARDING INSURANCE AGENTS WHO ARE INCLUDED IN ANY LIST PURSUANT TO SECTION 55 THAT MUST BE PROVIDED BY THE REGISTERED INSURER;

INFORMATION AND MATERIAL TO BE PROVIDED PURSUANT TO SECTION 91(6);

INFORMATION AND MATERIAL TO BE PROVIDED PURSUANT TO SECTION 180(4)

Standard No. GEN.S.10.14

issued by NAMFISA under section 410(2)(c), 410(3)(s), 410(4)(b) and 410(5)(c), read with sections 55, 91 and 180 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) “list applicant” means –
 - (i) for the purposes of Chapter 2 of the Act, a registered insurer, as defined in section 4 and referred to in section 55(1) of the Act;
 - (ii) for the purposes of Chapter 3 of the Act, the following, as defined in section 78 and referred to in sections 91(1) to (4) of the Act –
 - (aa) a registered exchange;
 - (bb) a registered investment manager;
 - (cc) a registered securities advisor that is a company; and
 - (dd) a registered securities dealer that is a company; and
 - (iii) for the purposes of Chapter 4 of the Act, a manager, as defined in section 168 and referred to in section 180(1) of the Act;
 - (c) “listed company” means a company that is –
 - (i) for the purposes of Chapter 3 of the Act, an authorised user as defined in section 78 of the Act, and referred to in section 91(1) of the Act; and
 - (ii) for the purposes of Chapter 4 of the Act, an authorised representative as defined in section 168 of the Act, and referred to in section 180(1) of the Act;
 - (d) “listed entity” for the purposes of Chapter 2 of the Act, means a corporate insurance agent as defined in section 53 and referred to in section 55(1) of the Act;

- (e) “listed individual” means an individual who is –
 - (i) for the purposes of Chapter 2 of the Act, an insurance agent, as defined in section 53 and referred to in section 55(2) of the Act;
 - (ii) for the purposes of Chapter 3 of the Act, the following, as defined in section 78 and referred to in sections 91(1) to (4) of the Act –
 - (aa) an authorised user;
 - (bb) a portfolio manager;
 - (cc) an authorised advisor; and
 - (dd) an authorised representative; and
 - (iii) for the purposes of Chapter 4 of the Act, an authorised representative, as defined in section 168 and referred to in sections 180(1) of the Act; and
- (f) “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.

Applicability

- 2.** This Standard applies to:
- (a) all list applicants, listed companies, listed entities and listed individuals;
 - (b) all exchanges, authorised users and authorised representatives referred to in section 95(1) of the Act; and
 - (c) all managers, authorised representatives and designated representatives, referred to in section 182(1) of the Act.

Information required for registration of listed companies, listed entities and listed individuals

3. (1) Where a list of listed individuals is submitted to NAMFISA by a list applicant, in the case of each listed individual who has not yet been registered by NAMFISA, the list applicant must provide NAMFISA with the following:

- (a) full names;
- (b) the address and contact details;
- (c) the financial services which the individual will be authorised to provide;
- (d) confirmation that the individual complies with section 55(3) and (4), 91(5) or 180(2) of the Act, as applicable; and
- (e) the registration fee required by NAMFISA.

(2) Where a list of listed companies or listed entities is submitted to NAMFISA by a list applicant, in the case of each listed company or listed entity which has not yet been registered by NAMFISA, the list applicant must provide NAMFISA with the following:

- (a) full company or entity name;
- (b) the company or entity registration number;
- (c) the address of the principal office and contact details;
- (d) the address and contact details of the members of the board and principal officer;
- (e) the financial services which the company or entity will be authorised to provide;
- (f) confirmation that the company or entity has a policy on the code of conduct and applicable systems in place with respect to its listed individual insurance agents, authorised representatives or designated representatives, as applicable; and
- (g) the registration fee required by NAMFISA.

(3) Where a list of employees who are its authorised representatives is submitted to an exchange by an authorised user that is a company, pursuant to section 95(1) of the Act, in the case of each authorised representative who has not yet been registered by NAMFISA, the authorised user must provide the exchange with the information and items referred to in sub-clause (5).

(4) Where a list of employees who are its designated representatives is submitted to a manager by an authorised representative that is a company, pursuant to section 182(1) of the Act, in the case of each designated representative who has not yet been registered by NAMFISA, the authorised representative must provide the manager with the information and items referred to in sub-clause (5).

- (5) The information and items referred to in sub-clauses (3) and (4) are the following:
- (a) full names;
 - (b) the address and contact details;
 - (c) the financial services which the individual will be authorised to provide;
 - (d) confirmation that the individual complies with section 95(2) or 182(2) of the Act, as applicable; and
 - (e) the registration fee required by NAMFISA.

Policy on the Code of conduct and systems

4. (1) Each list applicant must have a policy on the code of conduct and applicable systems in place to ensure that its listed individuals, listed companies and listed entities comply, on an on-going basis, with the policy on the code of conduct, and in the case of listed individuals, with the requirements of section 55(3) and (4), 91(5) or 180(2) of the Act, as applicable.

(2) Each authorised user and each authorised representative must have a policy on the code of conduct and applicable systems in place to ensure that its authorised representatives or designated representatives, as the case may be, comply, on an ongoing basis, with its policy on the code of conduct and with the requirements of section 95(2) or 182(2) of the Act, as applicable.

Updating lists

5. (1) A list of individuals, a list of companies or a list of entities referred to in clause 3 shall be updated forthwith by the list applicant or by the authorised user or authorised representative concerned at any time that:

- (a) an individual, company or entity is added to the list; or
- (b) a registered individual, registered company or registered entity is deleted from the list.

(2) In the event that sub-clause (1)(a) applies, the list applicant, authorised user or authorised representative, as applicable, must provide NAMFISA, the exchange or the manager, as applicable, with the information and fee referred to in clause 3 and confirm that the policy on the code of conduct and the systems referred to in clause 4(1) or (2) are in place.

(3) In the event that sub-clause (1)(b) applies, the list applicant, authorised user or authorised representative, as applicable, must provide NAMFISA, the exchange or the manager, as applicable, with the registration number assigned by NAMFISA to the individual or company at the time of registration, a statement of the reasons for the removal of the individual or company from the list, and confirmation that the individual or company has been given those reasons and granted a reasonable opportunity to be heard.

(4) An exchange and a manager must, upon receipt of the information and items referred to in clauses 3(5), 5(2) or 5(3) verify the information, and having done so, forward the information forthwith to NAMFISA, together with any required fee.

Other information

6. (1) NAMFISA may at any time, both before and after a listed individual, a listed company or listed entity is registered, require the list applicant, listed individual, listed company or listed entity to submit to NAMFISA any additional information that NAMFISA may require.

(2) An exchange and an authorised user may at any time, both before and after an authorised representative or a designated representative is registered, require the authorised representative or designated representative, as applicable, to submit to the exchange or authorised user any additional information that the exchange or authorised user may require.

(3) NAMFISA may at any time, both before and after an authorised representative or a designated representative is registered, require the exchange or authorised user, or the authorised representative or designated representative to submit to NAMFISA any additional information that NAMFISA may require.

(4) A list applicant must inform NAMFISA forthwith in the event that with respect to a listed individual, listed company or listed entity registered by NAMFISA:

- (a) any of the circumstances referred to in sections 56(1), 92(1) or 181(1), as applicable, exist with respect to the listed individual, listed company or listed entity; or
- (b) the listed individual, listed company or listed entity is not in compliance with the code of conduct referred to in sub-clause 5(1).

(5) An authorised user and an authorised representative must inform the exchange or the manager, as applicable, forthwith in the event that with respect to an authorised representative or designated representative registered by NAMFISA:

- (a) any of the circumstances referred to in section 96(1) or 183(1), as applicable, exist with respect to the authorised representative or designated representative; or
- (b) the authorised representative or designated representative is not in compliance with the policy on the code of conduct referred to in clause 5(2).

(6) An exchange and a manager must, upon receipt of any information referred to in sub-clause (5) verify the information, and having done so, forward the information forthwith to NAMFISA.

Manner of submission

7. (1) A list applicant, an exchange or a manager must submit to NAMFISA the information required by this Standard electronically on the NAMFISA ERS.

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

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

THE IMPOSITION OF PENALTIES ON REGISTERED INSURERS PURSUANT TO SECTION 56(2)(i);

THE IMPOSITION OF PENALTIES ON LIST APPLICANTS PURSUANT TO SECTION 92(2)(i) AND ON AN AUTHORISED USER WHERE A REGISTERED EXCHANGE HAS REFERRED A MATTER TO NAMFISA PURSUANT TO SECTION 96(2)(g) AND THE APPLICATION OF THE PROVISIONS OF SECTION 92 PURSUANT TO SECTION 96(6);

THE IMPOSITION OF PENALTIES ON AN AUTHORISED REPRESENTATIVE PURSUANT TO SECTION 181(2)(i) AND ON A DESIGNATED REPRESENTATIVE WHERE A MANAGER HAS REFERRED A MATTER TO NAMFISA PURSUANT TO SECTION 183(2)(g) AND THE APPLICATION OF THE PROVISIONS OF SECTION 181 PURSUANT TO SECTION 183(6)

Standard No. GEN.S.10.16

issued by NAMFISA under section 410(3)(u), 410(4)(c) and 410(5)(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) “list applicant” means –
 - (i) for the purposes of Chapter 2 of the Act, a registered insurance company, as defined in section 4 and referred to in section 55(1) of the Act;
 - (ii) for the purposes of Chapter 3 of the Act, the following, as defined in section 78 and referred to in sections 91(1) to (4) of the Act –
 - (aa) a registered exchange;
 - (bb) a registered investment manager;
 - (cc) a registered securities advisor that is a company; and
 - (dd) a registered securities dealer that is a company; and
 - (iii) for the purposes of Chapter 4 of the Act, a manager, as defined in section 168 and referred to in section 180(1) of the Act;
 - (c) “listed company” means a company that is –
 - (i) for the purposes of Chapter 3 of the Act, an authorised user as defined in section 78 of the Act, and referred to in section 91(1) of the Act; and
 - (ii) for the purposes of Chapter 4 of the Act, an authorised representative as

defined in section 168 of the Act, and referred to in section 180(1) of the Act;

- (d) “listed entity” for the purposes of Chapter 2 of the Act, means a corporate insurance agent as defined in section 53 and referred to in section 55(1) of the Act; and
- (e) “listed individual” means an individual who is –
 - (i) for the purposes of Chapter 2 of the Act, an insurance agent, as defined in section 53 and referred to in section 55(1) of the Act;
 - (ii) for the purposes of Chapter 3 of the Act, the following, as defined in section 78 and referred to in sections 91(1) to (4) of the Act –
 - (aa) an authorised user;
 - (bb) a portfolio manager;
 - (cc) an authorised advisor; and
 - (dd) an authorised representative; and
 - (iii) for the purposes of Chapter 4 of the Act, an authorised representative, as defined in section 168 and referred to in sections 180(1) of the Act.

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

Applicability

2. This Standard applies to:

- (a) all list applicants, listed entities, listed companies and listed individuals;
- (b) all authorised users and authorised representatives referred to in section 95(1) of the Act; and
- (c) all authorised representatives and designated representatives referred to in section 182(1) of the Act.

Penalties

3. (1) Where NAMFISA is satisfied that the circumstances described in section 56(1), 92(1) or 181(1) exist, NAMFISA may impose on the list applicant a penalty:

- (a) not exceeding 2% of its revenue earned from its business activity in its immediately preceding financial year; or
- (b) suspending part or all of its business activity for which it is registered for a period not exceeding one month.

(2) Where NAMFISA is satisfied that the circumstances described in sections 96(1) and (6) exist, NAMFISA may impose on the authorised user or authorised representative, as applicable, a penalty:

- (a) not exceeding 1% of its revenue earned from its business activity in its immediately preceding financial year; or
- (b) suspending part or all of the business activity of the authorised user or authorised representative for a period of three months.

(3) Where NAMFISA is satisfied that the circumstances described in sections 183(1) and (6) exist, NAMFISA may impose on the authorised representative or designated representative, as applicable, a penalty:

- (a) not exceeding 1% of its revenue earned from its business activity in its immediately preceding financial year; or
 - (b) suspending part or all of the business activity of the authorised representative or designated representative for a period of three months.
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FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

DESCRIPTION OF PLAIN LANGUAGE

Standard No. GEN.S.10.17

issued by NAMFISA under section 410(2)(bbb) and 410(3)(k) of the Financial Institutions and Markets Act, 2021

Definitions

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

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

Applicability

2. This Standard applies -

- (a) to all financial institutions and financial intermediaries and to their boards, directors, principal officers, other officers, employees, trustees, custodians and agents; and
- (b) in respect of all documents presented to clients of registered financial institutions and financial intermediaries.

Certification Requirements

3. (1) To comply with this Standard, a document must -

- (a) be written for the clients, not for the financial institution or financial intermediary;
- (b) be as informative as possible;
- (c) be written in a manner that clearly conveys the content;
- (d) avoid legal and technical terms or jargon unless these terms are plainly explained; and
- (e) not use abbreviations without first defining or explaining the abbreviations.

(2) To ensure that a document meets these requirements, all persons to whom this Standard applies must –

- (a) ensure that the document complies with sub-clause (1);
- (b) include a glossary of terms, if appropriate, where terms unique to a financial service or product are used;
- (c) documents should have questions directed at clients in order to require answers from clients; and
- (d) review and omit unnecessary words, e.g., “due and payable”.

(3) In order to meet the requirements of this Standard, the following must be used in all documents:

- (a) every day, ordinary words;
- (b) short sentences and paragraphs;
- (c) active voice rather than passive voice, unless necessary to convey a specific message;
- (d) the first person;
- (e) a large enough readable font, i.e., 12-point typeface or more;
- (f) direct verbs instead of hidden verbs, e.g., “please apply” instead of “please make an application”;
- (g) “must” where a client is required to act;
- (h) avoidance of double negatives and exceptions to exceptions, e.g., “at least” instead of “no fewer than”;
- (i) examples, lists, illustrations, and tables, if relevant; and
- (j) highlighting important content by bolding or underlining, if relevant.

(4) A person to whom this Standard applies must be satisfied that, after reading the relevant document requiring a signature, a client:

- (a) has understood the content, and would acknowledge in writing without duress if prompted to do so;
 - (b) is making an informed decision; and
 - (c) understands the rights and obligations set out in the document.
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THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

THE FIDUCIARY RESPONSIBILITIES OF FINANCIAL INSTITUTIONS AND FINANCIAL INTERMEDIARIES AND OF THEIR DIRECTORS, MEMBERS OF BOARDS, PRINCIPAL OFFICERS AND OTHER OFFICERS

Standard GEN.S.10.18

issued by NAMFISA under section 410(2)(cc) 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 under the Act;
 - (b) “conflict of interest” means a situation which a director, key person, auditor, valuator or any other service provider encounters while rendering a financial service to a client, if that situation –
 - (i) impairs the objectivity of the director, key person, auditor, valuator or any other service provider in any aspect of rendering the financial service to the client; or
 - (ii) prevents the director, key person, auditor, valuator or any other service provider from rendering the financial service to the client in an unbiased and fair manner or from acting in the best interest of the client;
 - (c) “fiduciary” means a financial institution or financial intermediary or a functionary of a financial institution or financial intermediary;
 - (d) “fiduciary duty” means a duty arising when a client or investor reposes confidence and trust in a fiduciary, to act in the interest of and for the benefit of the client or investor, with the necessary loyalty and care required of a fiduciary, before, during or after providing a financial service;
 - (e) “functionary” means a director, member of the board, principal officer, other officer and employee of a financial institution or financial intermediary;
 - (f) “material information” means information that would enable a client or investor to make an informed decision or information that, if not provided, would result in the client or investor not making an informed decision; and
 - (g) words and phrases defined in the Act have the same meaning in this Standard unless the context indicates otherwise.

Applicability

2. This Standard applies to all financial institution and financial intermediaries, and to their functionaries.

Fiduciary Requirements

3. (1) All financial institutions and financial intermediaries and their functionaries owe a fiduciary duty to existing or potential clients and investors.
 - (2) A financial institution and financial intermediary must -
 - (a) act at all times in the best interest of clients or investors;
 - (b) disclose to the client or investor all material information before entering into a transaction or relationship with the client or investor;
 - (c) avoid, or disclose to manage the unavoidable, conflicts of interest in respect of clients or investors; and
 - (d) ensure that their functionaries act in accordance with the requirements of this Standard.

Functionary

4. A functionary of a financial institution or financial intermediary must -
 - (a) act in the best interest of clients or investors;
 - (b) keep client or investor information confidential;
 - (c) avoid conflicts of interest, or manage unavoidable conflicts of interest, with respect to the financial institution or financial intermediary concerned and its clients or investors;
 - (d) fully and factually disclose all dealings with the financial institution, financial intermediary or other persons that may cause conflicts of interest with respect to clients or investors;
 - (e) make decisions affecting clients or investors based on reliable information and in good faith;
 - (f) seek expert advice, where necessary, in dealing with client or investor affairs or transactions;
 - (g) act with diligence, skill and care in executing client or investor requests or transactions;
 - (h) manage the affairs of the financial institution or financial intermediary in a prudent manner so as not to prejudice clients or investors;
 - (i) act lawfully and in accordance with the Act and governance framework of the financial institution or financial intermediary; and
 - (j) provide material information to clients or investors whenever necessary or required to enable clients or investors to make informed decisions.

Records

5. (1) Financial institutions and financial intermediaries and their functionaries must keep records of material dealings involving clients or investors in order to be in a position to demonstrate the execution of fiduciary duties.

(2) Such records required under sub-clause (1) must be in writing and kept either in hard or electronic copies for –

- (a) five years effective from the date the relationship is terminated; or
 - (b) an extended period of time if specifically so requested by a competent authority before the expiry of the five year period referred to under paragraph (a).
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FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

THE FORM AND CONTENT OF ANY APPLICATION FOR APPROVAL OF A CHANGE OF NAME, USE OF ANOTHER NAME OR USE OF A SHORTENED FORM OR DERIVATIVE FORM OF A NAME MADE TO NAMFISA UNDER THIS ACT

Standard No. GEN.S.10.19

issued by NAMFISA under sections 391(4) and 410(9) 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; and
 - (b) “NAMFISA ERS” means the Electronic Regulatory System which 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 as defined in section 1 of the Act:
 - (a) principal officer; and
 - (b) NAMFISA.

Application

2. (1) An application for approval of a change of name, use of another name or use of a shortened form or derivative of a name must be -
 - (a) made on the form set out in the Schedule attached to this Standard;
 - (b) signed by the principal officer or another duly authorised person;
 - (c) submitted together with supporting documents showing –
 - (i) proof of payment of the prescribed application fee;
 - (ii) a resolution made inclusive of reasons that supports the application; and
 - (iii) such other information and documents specified in the Schedule to this Standard or which NAMFISA may, from time to time, require and communicate to the applicant.
- (2) The applicant must disclose all information as required in the Schedule to this Standard and all parts must be duly completed.
- (3) An application, not complete in all respects and not conforming to the instructions

specified in the Schedule may be rejected on the basis of being non-compliant with this Standard.

(4) 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.

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

(6) 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.

(7) Where an application is made for a change of name, and where the applicant is an entity, certified copies of the relevant approved documents of the applicant, evidencing the name change, must be submitted to NAMFISA within 30 calendar days after the change of name has been approved by the Business and Intellectual Property Authority.

Submission

3. (1) The application must be submitted to NAMFISA electronically on the NAMFISA ERS.

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

Application fee

4. The non-refundable fee chargeable for the application, and the manner of payment, is stipulated in Standard No. GEN.S.10.23 - Fees.

SUPPORTING SCHEDULE

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

Schedule: APPLICATION FOR APPROVAL OF A CHANGE OF NAME, USE OF ANOTHER NAME OR USE OF A SHORTENED FORM OR DERIVATIVE OF A NAME

SCHEDULE (to Standard No. GEN.S.10.19)

APPLICATION FOR APPROVAL OF A CHANGE OF NAME, USE OF ANOTHER NAME OR USE OF A SHORTENED FORM OR DERIVATIVE OF A NAME

To be completed by the principal officer or another duly authorised person

1. In terms of section 391(4) of the Act, I, the undersigned, being the principal officer or duly authorised person of _____, hereby apply for - <i>(tick applicable box)</i>	
• a change of name;	<input type="checkbox"/>
• use of another name; or	<input type="checkbox"/>
• use of a shortened form or derivative of a name.	<input type="checkbox"/>
2. Registered name:	
3. NAMFISA Licence Registration Number:	
4. Proposed name:	
5. Required supporting attachments:	
<ul style="list-style-type: none">• Resolution on the decision to make the application and reason(s) for the proposed name;• Amended document(s) of the applicant must be submitted afterwards in accordance with clause 2(3); and• Original license or, if lost, a sworn declaration to that effect; and proof of payment of the non-refundable application fee.	
6. Additional file attachments	
By signing this document I confirm that all the above information is true and accurate and can be relied on and that I will disclose all necessary information that may be required by NAMFISA.	
SIGNED ON BEHALF OF THE APPLICANT:	
Name: _____	
Capacity: _____	
Signature: _____	
Date: _____	

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

DEFINITION OF RELATED PARTY TRANSACTIONS AND IDENTIFYING THOSE THAT ARE PROHIBITED UNDER THE ACT

Standard No. GEN.S.10.20

issued by NAMFISA under section 410(2)(o) 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 under the Act; and
 - (b) “conflict of interest” means a situation which a director, key person, auditor, valuator or any other service provider encounters while rendering a financial service to a client, if that situation –
 - (i) impairs the objectivity of the director, key person, auditor, valuator or any other service provider in any aspect of rendering the financial service to the client; or
 - (ii) prevents the director, key person, auditor, valuator or any other service provider from rendering the financial service to the client in an unbiased and fair manner or from acting in the best interest of the client;
 - (c) “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
 - (d) “related party transaction” means a transaction involving the transfer of resources, services or obligations between related parties, regardless of whether a price is charged; and
 - (e) words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including without limitation, the following as defined in section 1 of the Act -
 - (i) affiliate;
 - (ii) associate;
 - (iii) director; and
 - (iv) entity.
- (2) A party is related to another entity or person if the party is -

- (a) an affiliate of, or an associate of, the entity or person;
- (b) in a joint venture with the entity or person;
- (c) a member of the senior management personnel of the entity or person; or
- (d) considered to be controlled by the entity or person, pursuant to section 3 of the Act.

Applicability

2. This Standard applies to all financial institutions and financial intermediaries registered under the Act.

Disclosure of related party transactions

3. Conflict of interest could potentially arise from related party transactions, and irrespective of the level of significance of the conflict of interest, such transactions must be disclosed.

4. Upon a full disclosure pursuant to clause 3, the relevant related party must avoid any conflict of interest, or manage unavoidable conflicts of interest by –

- (a) clearly defining where actual or potential conflict of interest may arise;
 - (b) defining the roles and responsibilities of persons accountable for the management and oversight of the conflict of interest;
 - (c) providing for corrective actions that must be taken for non-compliance with the arrangements;
 - (d) providing for adequate processes and procedures for transaction with related parties; and
 - (e) addressing and providing for any additional matters relating to conflict of interest arrangements that have been prescribed.
-

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

FEES

Standard No: GEN.S.10.23

issued by NAMFISA under sections 410(2)(c) and 410(2)(bbb) 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 under the Act; and
 - (b) words and phrases defined in the Act have the same meaning in this Standard unless the context indicates otherwise.

Applicability

2. This Standard applies to all financial institutions and financial intermediaries registered under the Act.

Insurance

3. For the purpose of Chapter 2 of the Act, any application made under section 9(2), 13(2), 55(1), 55(2), 55(11), 57(2), 59(7) or 65(2) of the Act, must be accompanied by a fee as determined under Schedule 1, Part A.

Financial Markets

4. For the purpose of Chapter 3 of the Act, any application made under section 83(4), 88(2), 91(1), 91(2), 91(3), 91(4), 95(2), 97(1), or 136(2) of the Act, must be accompanied by a fee as determined under Schedule 1, Part B.

Collective Investment Schemes

5. For the purpose of Chapter 4 of the Act, any application made under section 174(2), 178(2), 180(1), 180(9), 182(2), 182(9) or 219(1) of the Act, must be accompanied by a fee as determined under Schedule 1, Part C.

Retirement funds

6. For the purpose of Chapter 5 of the Act, any application made under section 252(2) or 258(2) of the Act, must be accompanied by a fee as determined under Schedule 1, Part D.

Friendly Societies

7. For the purpose of Chapter 6 of the Act, any application made under section 289(2) or 294(2) of the Act, must be accompanied by a fee as determined under Schedule 1, Part E.

Medical Aids Funds

8. For the purpose of Chapter 7 of the Act, any application made under section 326(2),

331(2), 333(2) 335(7), or 337(2) of the Act, must be accompanied by a fee as determined under Schedule 1, Part F.

Fund and Society Administrators

9. For the purpose of Chapter 8 of the Act, any application under section 366(2) or 370(2) of the Act, must be accompanied by a fee as determined under Schedule 1, Part G.

General Provisions

10. For the purpose of Chapter 10 of the Act, any application under section 391(4) of the Act must be accompanied by a fee as determined under Schedule 1, part H.

Terms and Condition of Payment of Fees

11. The fees payable are non-refundable.

12. No cash payment is acceptable and unless otherwise stated, fees are payable into the bank account specified under Schedule 2 attached to this Standard.

13. In the event that interest becomes payable on any outstanding fee, interest will be charged at a rate of 20% per annum, calculated from the due date for payment until payment of the amount overdue.

SUPPORTING SCHEDULES

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

Schedule 1: FEES

Schedule 2: BANKING DETAILS

SCHEDULE 1 (to Standard No. GEN.S.10.23)

FEES

	Ref to section	Fee
Description		N\$
PART A: Chapter 2 – Insurance		
Application for registration as an insurer or reinsurer	s9(2)(f)	16,900
Application for voluntary cancellation	s13(2)(d)	Nil
Application for variation to classes of business for which it was registered or conditions subject to which registration was granted	s13(2)(d)	1,000
Agents & brokers:		
Application for registration - insurance broker or a reinsurance broker or a corporate insurance or reinsurance broker	s57(2)(f)	2,500
Application for registration - corporate insurance agent	s55(1)	1,000
Application for registration - insurance agent	s55(2)	1,000
Application for cancellation – insurance broker or a reinsurance broker or a corporate insurance or reinsurance broker	s65(2)(d)	Nil
Application for variation of conditions of registration - insurance broker or a reinsurance broker or a corporate insurance or reinsurance broker	s65(2)(d)	250
Renewal fees - insurance broker or a reinsurance broker or a corporate insurance or reinsurance broker	s59(7)	625
Renewal fees - corporate insurance agent	s55(11)	250
Renewal fees - insurance agent	s55(11)	250
PART B: Chapter 3 – Financial Markets		
Application for registration - Investment Manager	s83(4)(g)	13,660
Application for registration – Linked Investment Services Provider (LISP)	s83(4)(g)	13,660
Application for registration - Central Securities Depository	s83(4)(g)	16,900
Application for registration - Exchange	s83(4)(g)	16,900
Application for registration - Securities Dealer	s83(4)(g)	2,500
Application for registration - Securities Clearing House	s83(4)(g)	13,660

Application for registration - securities rating agency	s83(4)(g)	13,660
Application for registration - securities advisor	s83(4)(g)	2,500
Application for registration - as an authorised user of a registered exchange	s91(1)	2,500
Application for registration - registration of employees and portfolio managers by a registered investment manager or linked investment service provider	s91(2)	2,500
Application for registration - registration of employees and authorised advisors by a registered securities advisor	s91(3)	2,500
Application for registration - registration of employees and authorised representatives by a registered securities dealer	s91(4)	2,500
Application for registration - registration as authorised representative of an authorised user of a registered exchange	s95(2)(k)	2,500
Application for registration - registration as a participant in a registered securities depository	s97(1)	2,500
Application to be recognised as a self-regulatory organisation	s136(2)(f)	2,500
Application for cancellation as a central securities depository, exchange, investment manager, linked investment service provider, securities clearing house, securities rating agency, securities advisor or securities dealer.	s88(2)(d)	Nil
Application for variation of conditions of registration as a central securities depository, exchange, investment manager, linked investment service provider, securities clearing house, securities rating agency, securities advisor or securities dealer.	s88(2)(d)	250
Renewal fees - securities dealer	s85(7)	625
Renewal fees - securities rating agency	s85(7)	3,415
Renewal fees - securities advisor	s85(7)	625
PART C: Chapter 4 – Collective Investment Schemes		
Application for registration - registration as the manager of a collective Investment scheme	s174(2)(f)	13,660
Application for cancellation	s178(2)(d)	Nil
Application for variation of conditions of registration	s178(2)(d)	1,000
Registration as authorised representative of manager	s180(1)	1,000
Renewal fee in respect of authorised representative of manager	s180(9)	250
Registration as designated representative of authorised	s182(2)(k)	1,000

representative		
Renewal fee in respect of designated representative of authorised representative	s182(9)	250
Application by the manager or operator of a foreign CIS to solicit investments in such scheme from members of the public in Namibia	s219(1)(c)	1,000
Application by the manager or operator of a foreign collective investment scheme for approval to solicit investments in Namibia	s410(5)(h)	1,000
PART D: Chapter 5 – Retirement Funds		
Application for registration as a fund	s252(2)(g)	390
Application for cancellation of registration	s258(2)(d)	Nil
Application for variation of the conditions subject to which registration was granted	s258(2)(d)	250
PART E : Chapter 6 – Friendly Societies		
Application for registration as a friendly society	s289(2)(f)	Nil
Application for cancellation of registration	s294(2)d)	Nil
Application for variation of the conditions subject to which that registration was granted	s294(2)d)	250
PART F: Chapter 7 – Medical Aid Funds		
Application for registration as a medical aid fund	s326(2)(f)	7,000
Application for registration – medical aid fund broker	s333(2)(f)	2 500
Application for cancellation of registration of medical aid fund	s331(2)(d)	Nil
Application for variation of the conditions subject to which that registration was granted	s331(2)(d)	250
Annual renewal of registration as a medical aid fund broker	s335(7)	625
Application by medical aid fund broker for cancellation of registration	s337(2)(d)	Nil
Application by medical aid fund broker for variation of the conditions subject to which that registration was granted	s337(2)(d)	250

PART G: Chapter 8 – Fund and Society Administrators		
Application for registration as a fund administrator or society administrator	s366(2)(f)	5,000
Application for cancellation of registration	s370(2)(d)	Nil
Application for variation of the conditions subject to which that registration was granted.	s370(2)(d)	250
PART H: Chapter 10 - General provisions		
Application for approval of a change of name, use of another name or use of a shortened form or derivative of a name	s391(4)	75
Fee for requesting printed copies (per page, black & white)	s456(1)	2
Fee for requesting scanned copies	s456(1)	Nil

SCHEDULE 2 (to Standard No. GEN.S.10.23)

BANKING DETAILS

The fee must be paid into the bank account provided below:

Bank's Name: First National Bank
Account Name: NAMFISA
Account Number: 62062664141
Branch Code: 281872
Address: 209 Independence Avenue, Windhoek Namibia
Reference: ERS reference number for the application (service request)

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

GENERAL

APPLICATION FOR ANNUAL RENEWAL OF REGISTRATION MADE TO NAMFISA UNDER THE ACT

Standard No. GEN.S.10.25

issued by NAMFISA under sections 55(11) and (12), 59(7) and (8), 85(7) and (8), 180(9) and (10), 182(9) and (10), and 335(7) and (8) 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; and
 - (b) “NAMFISA ERS” means the Electronic Regulatory System which 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 as defined in the Act:
 - (a) authorised representative;
 - (b) financial service;
 - (c) insurance intermediary;
 - (d) medical aid fund broker;
 - (e) NAMFISA; and
 - (f) securities dealer.

Applicability

2. This Standard applies to financial intermediaries subject to annual renewal of registration.

Requirements for Renewal of Registration

3. An application for annual renewal of registration must be –
 - (a) made in the form of the Schedule to this Standard;
 - (b) duly signed by an authorised person;
 - (c) submitted together with –
 - (i) supporting documents showing proof of payment of the prescribed fee in terms of Standard No. GEN.S.10.23 – Fees; and
 - (ii) such other information that NAMFISA may from time to time require; and

(d) submitted not less than two months before the expiry date of the term of the existing registration.

(2) In assessing the application for renewal of registration, NAMFISA shall consider all the legislative requirements, findings from supervisory reports based on inspections conducted under section 418 of the Act, and the extent to which the applicant has addressed any finding of a contravention of or non-compliance with the Act made in the preceding periods.

(3) An application for renewal of registration must not be granted if –

(a) it is incomplete in respect of the requirements specified in the Schedule; or

(b) the applicant has outstanding mitigating interventions already required under administrative sanctions.

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

(5) 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

4. (1) The information required by this Standard must be submitted electronically to NAMFISA on the NAMFISA ERS.

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

SUPPORTING SCHEDULE

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

Schedule: APPLICATION FOR ANNUAL RENEWAL OF REGISTRATION

SCHEDULE (to Standard No. GEN.S.10.25)

APPLICATION FOR ANNUAL RENEWAL OF REGISTRATION

To be completed by the Principal Officer or another duly authorised representative of the applicant

1. In terms of section 55(11) and (12) <input type="checkbox"/> , 59(7) and (8) <input type="checkbox"/> , 85(7) and (8) <input type="checkbox"/> , 180(9) and (10) <input type="checkbox"/> , 182(9) and (10) <input type="checkbox"/> , and 335(7) and (8) <input type="checkbox"/> of the Act, I, the undersigned, being the Principal Officer or duly authorised representative of the applicant, hereby apply for an annual renewal of registration to NAMFISA. <i>(Please tick a box applicable to your type of business operations).</i>	
2. Full Registered Name:	
3. NAMFISA Registration Number:	
4. Contact Person:	
5. Designation of Contact Person:	
6. Postal Address:	
7. Telephone Number:	
8. E-mail Address:	
9. Name of Principal Officer:	
10. Telephone Number:	
11. E-mail Address:	
12. Required supporting attachments: Proof of payment of the non-refundable application for renewal fee.	
13. Additional file attachments	

By signing this document I confirm that all the above information is true and accurate and can be relied on and that I will disclose all necessary information that may be required by NAMFISA.

SIGNED ON BEHALF OF THE APPLICANT:

Full Names: _____

Capacity: _____

Signature: _____ Date: _____
