

Breakdown – Industry Comments (April 2022 to May 2022)

Chapter – 5 Retirement Funds

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
Standard RF.S.5.11 Alternative forms of payment of retirement benefits for the purposes of defined contribution funds				
	<p>The proposed standard issued in terms of Chapter 5 of the Namibia Institutions and Market Act, 2021 is a disaster and promotes corruption.</p> <p>The retirement structure as proposed in terms of the issued standard PF.R.5. 11 does not make provision for to persons who opt to retire at the age of 55 /60 and have a lamp sum but rather get an annuity. "Who does that". I want my money all of it.</p> <p>Colleagues this is in human towards the people of this country. We want a flexible regulation which accommodates every person's situation.</p>	<p>Suggestions: SUGGESTION 1: Upon retirement one should have a lamp sum and then annuity. A lamp sum will help us in settling other small expenses while waiting for annuity.</p> <p>SUGGESTION 2: Upon retirement one should be allowed to withdraw all cash instead of annuity.</p> <p>SUGGESTION 3: Staff should be allowed to opt for either to buy annuity or withdrawal. Therefore 75% withdraw cash and 25% preserved.</p> <p>SUGGESTION 4: Upon resignation or retrenchment staff should be allowed to Preserve 50% and withdraw 50%</p> <p>SUGGESTION 5: What prompted a change in the regulation, we are happy with the current regulation.</p> <p>I almost became a Millionaire. Oh, what a disturbing legislation.</p>	<p>Standard RF.S.5.11 to be consulted on with Minister of Finance, before amendments are made to standard.</p>	
<p>STANDARD RF.S.5.11, clause 2(d)</p>	<p>There appears to be a contradiction, or otherwise stated, a potential practical implementation problem, between what is provided for under paragraph (b) of the definition of "defined contribution fund" in section 249 of the Act and clause 2(d) of the draft standard.</p> <p>In our understanding, paragraph (b) of the definition of "defined contribution fund" makes provision for 3 options: 1. "any benefit payable on retirement must be fully secured through an annuity policy <u>owned by the fund</u>"; or 2. "any benefit payable on retirement must be fully secured through an annuity policy <u>purchased in the name of the member</u>"; or 3. "any benefit payable on retirement must be fully secured through an annuity policy <u>paid to the member in accordance with such other form of payment that is permitted under the standard</u>".</p> <p>Clause 2(d) then specifies that the Standard applies "to the balance of a member's individual account or retirement income account that is</p>	<p>Please provide clarification on the payment of lumpsums upon early and or normal retirement.</p> <p>The Standard should clearly indicate whether lumpsum payments will continue to be permissible upon early or normal retirement.</p> <p>Clarify whether it would be permissible under Clause 2(d) to provide in the Fund Rules for the entire Fund Credit to be paid out in full upon early retirement or normal retirement.</p> <p>Kindly clarify how will funds be able to make provision for payment of a lump sum, if "any benefit payable on retirement must be fully secured through an annuity policy" as provided for in the definition of a defined contribution fund?</p>	<p>Standard RF.S.5.11 to be consulted on with Minister of Finance, before amendments are made to standard.</p>	

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	<p><i>available for conversion into a retirement income after the payment of such portion thereof as a lump sum, provided that such amount as may have been paid as a lump sum was paid according to the rules of the defined contribution fund, and further, subject to the payment of such lump sum being limited to any maximum amounts specified in any applicable legislation, regulation or subordinate legislation."</i></p> <p>As per the above extract from the Standard, a lump sum may thus be paid to the member if provided for in the rules of the fund and subject to maximums (which has not yet been specified anywhere in our knowledge). If payment of a lump sum is a possibility, does a conflict then not arise with paragraph (b) of the definition of "defined contribution fund"?</p> <p>How will funds be able to make provision for payment of a lump sum, if "any benefit payable on retirement must be fully secured through an annuity policy" as provided for in the definition?</p> <p>In terms of clause 2(d) will a Fund be able to indicate in its rules that the entire retirement benefit is payable as a lump sum upon early or normal retirement?</p>			
STANDARD RF.S.5.11, clause 3	Clause 3(a) provides for life annuities only. Life annuities do not pay out the remaining balance of the annuity purchased upon the policyholder/member's death. Given the prevailing socio-economic conditions in Namibia we are of the view that members of retirement funds must be afforded the option to choose between life and living annuities. With a living annuity a member will be able to bequeath the remaining portion of the purchased annuity to their dependants or beneficiaries upon their death.	Remove clause 3(a) and indicate that life and living annuities may be purchased.	Standard RF.S.5.11 to be consulted on with Minister of Finance, before amendments are made to standard.	
Withdrawal of Fund credit upon retirement (early or normal retirement) Implementation of RFS 5. 5.11 should be postponed to allow for further consultations with all stakeholders.	<p>No enough consultations done in the first round. The targeted stakeholders choice was narrow. This is a very crucial legislation as it speaks to people's money and the consultation should be far wide to have diverse views.</p> <p>The mere recognition that there are people who affected this decision, they have a right to be consulted at all times.</p>		Standard RF.S.5.11 to be consulted on with Minister of Finance, before amendments are made to standard.	

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Comments/Suggestions	<p>A lot of loopholes in the draft ,the decision to preserve will be immature pending consultations</p> <p>I believe RFS 5. 5.11 in its current form, does not cater for all the needs of the Namibians as a whole, whether in a one size-fits all or individual circumstance basis. There is need for more consultations to be done to make provision for those disadvantaged Namibians that do not qualify for pensions or which do not have representation (Unions) to be able to have an input into the regulations, we cannot pride ourselves as a rainbow Nation yet we are excluding the grass root levels from the this consultations.</p> <p>More scenarios need to be considered above "the purpose of a pension fund is to provide income after retirement". This is quite obvious and it is not a sufficient argument to advocate for compulsory preservation or compulsory annuities. Things evolve (markets, economies, people's income levels/inflation, peoples risk appetites) and so should our thinking; the pension funds concept was introduced many moons ago.</p> <p>My understanding of RFS 5.11 is that it creates an additional form of payment of retirement savings upon retirement than what is currently available.</p> <p>The existing forms of payment and funds seem to remain in tact. Hence, it would not be necessary to delay the implementation of this standard.</p>			
Standard RF.S.5.11	<p>My view is that the existing options of getting a lump sum upon retirement should remain (such as 1/3 lump sum for pension funds or the option of commuting or cashing everything for some provident funds). I think many NAMFISA Provident Fund members are relatively financially literate and are better equipped (in terms of investment skills and financial skills) to manage their retirement savings upon reaching retirement (if one so wishes). It's not fair to restrict one to taking my entire retirement savings to purchase an annuity.</p> <p>I generally don't have an issue with the principle of pension preservation (although the proposed 75/25 split could be reviewed and also exceptional cases such as retrenchment provided for) because saving for retirement is very</p>		Standard RF.S.5.11 to be consulted on with Minister of Finance, before amendments are made to standard.	

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	<p>essential and the current trend of withdrawals needs to be curbed – I know this is another bone of contention. However, the options of receiving lump sums upon retirement as it is now should remain in my view.</p> <p>My individual plan is to save (and preserve) as much retirement savings as possible and upon reaching retirement age, I would want my savings cashed in full (as currently allowed under our fund rules) whereby I can use my own financial and investment skills (even with the assistance of an expert wealth manager) to invest it in capital markets myself and live off the interest knowing that I will have the flexibility depending on life circumstances then and not be bound by fund rules for the rest of my life after retirement. I believe I will be able to even grow my own retirement savings further to sustain me longer (any way, investment risk is borne by me as the member in a defined contribution fund), I do not want to be forced to just live off an annuity which could even run out sooner. Therefore, I believe we should be granted that flexibility upon retirement.</p>			
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Regulation R.F.R.5.8				
The protection of unpaid contributions and the rate of interest payable on contributions not transmitted or received				
RF.R.5.8 clause 7 <i>(R.F.R.5.8 - The protection of unpaid contributions and the rate of interest payable on contributions not transmitted or received)</i>	<p>Clause 7 requires the late payment interest to be credited to the affected members' records.</p> <p>Late payment interest should be recorded separately from the members' interest earnings and should be credited to the fund's reserve account instead of to the affected members' records due to the following:</p> <ul style="list-style-type: none"> • Currently, even if the employer pays late, contributions are updated and invested as if the employer paid on time (as per the Funds' Rules). As a result, late payment of contributions does not impact the member negatively. • LPI could be much higher or lower than the actual investment return. Crediting the affected members' records with the LPI 	Delete clause 7.		<p>The interest is paid as a result of the late transmission of contributions which if the contributions were timely received by the fund and invested, same would have seen growth. Thus, it's just fair that interest be credited to the affected member's records.</p> <p>Suffice also to noted that fund reserve account is generally an account that members have no absolute entitlement to receive credit.</p>

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	<p>thereby causes inequity among those members and the other members participating in the fund.</p>			
	<p>Supports the requirement that interest be levied on late retirement fund contributions by Employers. We do, however, believe that the manner in which the Prescribed Rate referred to in Regulation RF.R.5.8 is to be calculated will introduce risk to retirement funds.</p> <p>Clause 5 of Regulation RF.R.5.8 indicates that the Prescribed Rate is to be calculated as the greater of:</p> <p>(a) the average of the rates of interest, expressed as effective annual rates, paid on securities of the Government of Namibia that mature in no less than 5 years from their issue, that are available for purchase on or after the commencement of the Prescribed Period and prior to the date of termination of the Prescribed Period;</p> <p>(b) the average of the rates of interest, expressed as effective annual rates, paid on deposit certificates issued by the four largest banks in Namibia, measured by total assets as reported to the Bank of Namibia that mature in no less than 5 years from their issue, that are available for purchase on or after the commencement of the Prescribed Period and prior to the date of termination of the Prescribed Period;</p> <p>(c) the rate of interest, expressed as an effective annual rate, equal to the greater of:</p> <p>(i) the rate of return on the retirement fund over the fund's last 3 financial years; or</p> <p>(ii) the rate of return on the retirement fund over the fund's most recent financial year; and</p> <p>(d) the greater of the rate of inflation, plus 4%, expressed as an effective annual rate:</p> <p>(i) over the 12 months preceding the commencement of the Prescribed Period, or</p> <p>(ii) over the 12 months of the immediately preceding calendar year.</p> <p>We believe that the application of the aforementioned Prescribed Rate will introduce undue risk to the retirement fund for the following reasons:</p> <ul style="list-style-type: none"> - the calculation is complex; - some of the information required to perform the calculation is not readily available; - some of the rates on which the calculation must be based change frequently; and 	<p>We propose that Clause 5 should be amended as follows:</p> <p>The Prescribed Rate is the greater of-</p> <p>(a) (i) in the case of an umbrella fund where the unpaid contributions affect a particular participating employer and assets of the participating employers are held in separate accounts within the umbrella fund, the rate of interest on the participating employer accounts over the 12 months preceding the commencement of the Prescribed Period, expressed as an effective annual rate;</p> <p>(ii) in any case other than (i), the rate of interest on the retirement fund over the 12 months preceding the commencement of the Prescribed Period, expressed as an effective annual rate; and</p> <p>(b) the rate of inflation plus 4%, expressed as an effective annual rate over the 12 months preceding the commencement of the Prescribed Period.</p>	<p>Prescribed rate changed to Repo plus 4%. Amended accordingly.</p>	

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	- the Prescribed Rate calculated in this manner might have no bearing on the returns actually earned by the retirement fund.			
	1. In case of an employer commit late payment of contributions including late payment interest, there will be a penalty of N\$ 2 million, irrespective of the root causes of the late payment . The penalty is so huge and does not look at each case it will be applied blindly whether it is a first time offender and has good and valid reasons to explain why the late payment. I propose that there can be a sliding scale penalties for example first offender who willingly pay the contribution late , with no reason N\$ 100 000 , second time without any reason N\$ 500 000 and 3rd time without any valid reason N\$ 2 million penalty. But there must be an assessment platform opportunity to give Employers a chance to explain their respective situations why the late payment. The employer should also be given an opportunity to indicate or request in advance that due to internal technical issue there will be some delay in paying the pension contribution and if that is done before the expiry of the 7 days deadline and payment is done within 15 days after the deductions , employers should not be penalized as long as they indicated their internal challenges in writing to Namfisa or respective Pension Fund before the 7th day after the deductions and they make the payment within 15 days of the deductions. This is to accommodate some technical issues employers will be facing in their operations. But the above should not be done more than 6 times per annum, any occurrence after the 6 times set maximum per annum will be regarded as that the employer has no valid reason and the relevant penalties will apply as I proposed above.			The penalty that may be imposed for in case of late payment of contribution is in principal legislation (section 270) thus it is beyond this ongoing public consultation. In any event, the said penalty is a maximum amount that may be imposed by a criminal court on conviction, which conviction comes after a criminal procedure proceedings where the accused employer has right to defend themselves against the charges levelled against them; and its not the minimum. Thus, the court may impose such amount as it deems appropriate but not more than the amount prescribed in section 270.
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Standard RF.S.5.26 Governance of Retirement Funds				
Clause 1(c)	The clause defines “conflict of interest” and makes reference to the board of trustees as opposed to the individual trustees	The clause should refer to individual trustees and not the board itself.	Agreed to delete the word “board”	
Clause 11	This clause on board composition provides that the board of trustees must be comprised of persons that are Namibian citizens, permanent residents or foreign persons who are ordinarily resident in Namibia.	The Board Composition is regulated by section 261 of the Act, consider removing this provision.		This is for founding jurisdiction over trustees. A foreigner in a foreign country is almost impossible to take civil action against which makes enforcement powers mute.

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Clause 12(b)	The clause provides that the chairperson of the board must proactively raise issues of concerns, on behalf of the board with the sponsor, the employer, the administrator or other service providers. The clause is not clear whether this requirement is only with regards to the specified categories of persons or whether it generally applies to other persons	NAMFISA to clarify intention of the clause.	Amended clause by adding the words “or any other person” to the end of the clause.	The identified persons have been deemed critical and also the provision does not prohibit the chairperson from raising issues of concerns with any other person.
Clause 18(a)	The clause provides that the board must demonstrate their independence in the way they exercise any discretion and are not influenced by inappropriate considerations. It is not clear by what would be deemed as an inappropriate consideration. ‘Inappropriate consideration’ would be a subjective assessment	Reference to ‘inappropriate considerations’ should be removed	Amended accordingly, by deleting the words “and are not influenced by inappropriate considerations”.	
Clause 18(b)	Refers to the consideration of what is in the best interest and its beneficiaries. There might be instances where the best interest of a beneficiary conflicts with that of the Fund	The words “and its beneficiaries” should be removed	Amended clause by deleting the words “and its beneficiaries”	
Clause 18(c)(ii) and (iii)	These clauses place a duties on the board to ensure the confidentiality of sensitive information and preventing the improper use of privileged or confidential information. These absolute requirements are challenging and increase board liability.	NAMFISA should consider softening the provision by adding that the board should “take reasonable steps”.		The ‘appropriate controls’ includes reasonable controls. NAMFISA deems that “appropriate controls” are the equivalent to “taking reasonable steps”.
Clause 25	The clause limits service of trustees to two consecutive terms. The lengths of term vary from board to board. “Term” is not identified	NAMFISA must consider specifying the length of a term and extend this to 3 or 4 terms as it takes trustees 2 terms to understand the business of the Fund or NAMFISA must consider prescribing a maximum number of years (regardless of term) to give trustees sufficient time to add value to the fund.	Amended by limiting number of terms to 3, and tenure for one term to 3 years (consistent with MAF governance standard)	
Clause 26	The clause seeks to ensure the independence of auditors and provides that the auditor may not serve for more than 2 consecutive terms. “Term” is not defined. Auditors are regulated by PAAB and not NAMFISA. The independence of auditors should be regulated by PAAB. Further, the provision does not draw a distinction between an auditor and an audit firm	The clause should differentiate between an audit firm and auditor for purposes of independence and the rotation of auditors should be regulated by PAAB. The Standard should also state the period after which the auditor will be considered independent again.	Amended by limiting the term to 6 years for auditor. Also amended the clause so that partner rotation complies with requirements prescribed by the Code of Ethics issued by the International Ethics Standards Board for Accountants. Also added a “cooling off” period of 3 years before the same auditor can be appointed again.	
Clause 27	The clause seeks to ensure the independence of valuers and provides that a valuator may not serve for more than 2 consecutive terms. “Term” is not defined and is different for every fund. The provision is also not clear on the period required for a valuator to be considered to be independent again. Further, the provision turns a blind eye to the fact that skilled valuers are in short supply in the industry.	Consider setting a defined term and stating when a valuator will be considered to be independent.	Since fund valuation in respect of DC funds takes place every after 3 years, we need to consider extending the tenure of a valuator to be different from that of trustees and auditors. Amended by limiting tenure for DB fund to 6 years (annual valuations), and for DC fund to 9 years (triennial valuations)	
Clause 28	The clause refers to the occasional rotation of members and of the chairs of sub-committees or tenure limits to serve on a sub-committee, to	The board must be allowed to assess itself. Trustees have specific skillsets and rotation of trustees may not always be appropriate. Delete Clause 28		Governance of a retirement fund is critical to it delivering on its mandate, thus NAMFISA naturally has regulatory interest in the

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	avoid undue concentration of power and promote fresh perspective. Regulating the operation/management Fund is beyond the scope of the powers and responsibilities of NAMFISA.			governance of funds based on historical experience.
Clause 31	The clause prescribes that the board must evaluate its performance annually and this would place extra duties on time constrained boards.	Propose that evaluations should be conducted every 2 years		The point of departure is why board evaluation is important. Annual board evaluation will ensure that the board is able to address its shortcoming so as to ensure that it deliver on the mandate.
Clauses 44 to 51	These clauses are on risk management. Collectively, these clauses are too prescriptive and limit the discretion of the board on how to manage risk	These provisions should rather be focused on that there should risk policies in place and the principles to be contained therein and ensuring that the board complies with risk policies.		These clauses provides guidance on risk management by the board thus cannot be deleted.
Clause 52	The clause states that the board must ensure that there are processes in place to enable timely, relevant, accurate and accessible risk disclosure to stakeholders. This provision is too detailed and the term “stakeholders” is not defined. Further, not all stakeholders needs to know all the risks. The provision also conflicts with the management of confidential information and places an additional burden on the board at the cost of the members.	Delete clause 52.		The clause provides sufficient guidance to the board. The term stakeholder should be given its ordinary meaning, which is any person whom the board deems appropriate in the context of disclosure of risk. As far as management of confidential info is concerned, the board must decide the information that may be shared with the stakeholder.
PART 3 – Management of Stakeholder Relationships	“Stakeholders” is a broad category and is not defined.	Define stakeholders		The term stakeholder should be given its ordinary meaning. It is impossible to provide an exhaustive list of possible/potential stakeholders. Therefore, the board must identify such stakeholders, depending on the nature of the information being disclosed.
Clause 58(e)	The clause says that the board must ensure that stakeholder interests and expectations, even if not considered warranted or legitimate, must be dealt with and not ignored. The board must in any event always consider stakeholder interests. Regardless of whether they are warranted or not.	Delete clause 58(d)		NAMFISA agrees that they must consider and then decide for a, b, c they are not warranted. This prevents cases where members who ask questions are regarded as problematic and ignored. The requirement is to consider not agree.
Clause 58(f)	The clause provides that all communication with members, beneficiaries and other stakeholders must be responded to promptly by or on behalf of the board with thoroughness and respect. Respect is subjective and the provision does not provide for how disrespect would be determined.	Delete “respect”. The clause should rather read that ‘communication must be appropriate’.	Deleted the word “respect”	
Clause 58(g)	This provides for communication to stakeholder of any ruling made against the fund and any regulatory issues raised by NAMFISA and all deviations from fund rules. “Stakeholders” is not defined in the Standard and it is not necessary to publish all regulatory issues raised by NAMFISA to stakeholders.	The clause should be rephrased to state that communication should be made to stakeholders that are impacted as the board may determine	Clause (g) deleted.	
General comment	There is no reference to Umbrella Funds in this Standard. Umbrella funds are unique in their set up and there should be clear provisions that deal with that.	Distinguish between Umbrella and Stand Alone Funds.		This Standard, like FIMA, applies to all funds notwithstanding the set up.

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General comment	There are still questions about the composition of the Board of Trustees and the Sponsor's rights to appoint independent trustees. How may a sponsor be represented at the Board / the sponsor's interest be protected?	Kindly clarify.		A fund exists for the members; and not the sponsor. The Standard does not prohibit sponsor from appointing trustees to the board and remain the discretion of the Fund.
Section 1(c)	Defines a conflict of interest, which includes inherent conflicts when trustees are also members of the fund they represent. However, it is unclear whether NAMFISA will require these conflicts to be declared and managed or avoided completely?	Kindly clarify		Every conflict of interest must be avoided or managed Clause 39(d) [previously clause 40(d)] requires the monitoring and resolution of actual, potential or perceived conflict of interests.
Section 15	Requires trustees to receive regular briefings on the business of the Fund.	What would constitute 'regular' briefings? Is it monthly, quarterly or is this meant to be subjective?		The wording must be given its ordinary meaning. The frequency is at the discretion of the board.
Section 25, 26 & 27	Length of a "term" not expressly defined. Furthermore, the tenure of office is 2 consecutive terms. Does this mean that if the trustees has a break between terms, that they could theoretically proceed to act in this capacity longer than 2 terms? Also, limiting tenure in this fashion poses a risk of continuity of the fund, especially for complex funds where institutional knowledge is important. There is a lot of merit in terms of cost, continuity, experience for trustees to remain on the fund for longer. Also bear in mind the lack of skills or appropriately qualified trustees in Namibia. If the concern is independence, there are other FIMA standards and provisions which already speak to this. Similarly, there is a limitation of 2 consecutive terms for valuers. Here the exact same concerns arise as aforementioned.	Perhaps standards must include an express provision that the "term" is as defined in the fund rules, or alternatively NAMFISA to define same. Suggest removing this requirement in respect of trustees and valuers.	Amended by limiting number of terms for board members to 3, and tenure for one term to 3 years. Terms for valuers amended by limiting tenure for DB fund to 6 years (annual valuations), and for DC fund to 9 years (triennial valuations). Also added a "cooling off" period of 3 years before the same trustee can be appointed/elected again (after serving 3 consecutive terms).	
Section 65	"The board must be independent and maintain their independence in their relationship with the employer or a sponsor in matters pertaining to the governance of the fund". In a commercial Umbrella Fund scenario, an employer must be able to participate in the election of trustees, but what about if the employer is also the administrator or sponsor?	Kindly clarify. Propose that where a sponsor or administrator is also a participating employer in an umbrella fund, that same be allowed to participate in the ordinary election procedures as any normal member or participating employer of an umbrella fund would.		This clause does not prohibit sponsor or employer from electing trustees. Section 261(5) of FIMA prohibits directors, employees or officers of fund's administrator from serving on the board of trustees
Clause 4(a), (d) & (f)	The meaning of the terms is unclear "ethical foundation" "Ethical Values" "Ethical standards"	Clarify or define		The terms are used in their ordinary grammatical meaning. In common law, if a term is not defined, it should be given its ordinary meaning as per the English dictionary.

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Clause 6	<p>This requirement contradicts Fit and Proper Standard.</p> <p>Essentially only Financial related degrees are required in the Fit and Proper Standard. This Standard not only speaks to knowledge and experience but diversity as well (age, race and gender).</p>	Fit and Proper Standards need to align with this requirement.		There is no contradiction between this clause / standard and the fit and proper requirements stipulated in the General Standard as the latter prescribes the education and experience; and the competence and capability of key persons / management. Whereas the current provides that when composing a board, the fund must consider the factors mentioned in this clause.
Clause 9	Contradicts requirements listed in the Fit and Proper Standard.	Fit and Proper Standard need to align with this requirement.		Similar to above, there is no contradiction between this clause and the fit and proper requirements. This clause expands on the fit and proper requirements and also on clause 6 of this standard (which refers to diversity).
Clause 20	Spelling error	"Sub-committees"	To be corrected. Amended.	
Clause 31	Would the board solely be given the responsibility to review its own performance? The sponsor and members should have an opportunity to review board and chairperson's performance. How would information be sourced from members? How would rating work? This can reduce the number of complaints issued, and give an opportunity to have their voices heard.	Clarification is sought on the reason for self-assessment by the board and why sponsor and members are excluded from giving their input.		It is up to the board to adopt measures on how to -evaluate its own performance. The board is independent from its members and thus, members and sponsors cannot evaluate the performance of the board in this context. Members may evaluate the performance of the board at annual members' general meeting
Clause 55(d) & (g)	"who" gives guidance and relevant projections based on expected benefits and how is it given. Is this not putting the board in the position of giving advice, and are they allowed to give advice?	Clarification is required.	Agreed to remove the word 'guidance' and then to revise the clause Amended accordingly.	
Clause 57(a), (b) & (c)	<p>Impact will be severely detrimental to fund members.</p> <p>Currently MVA's are applied in smooth bonus funds. These MVA's are currently stated in the Master rules of the fund.</p> <p>Smooth bonus funds should be governed the same as market linked portfolios. This provision seems to discriminate against smooth bonus funds.</p> <p>Smooth bonus funds are the only funds that guarantee capital. Smooth bonus funds are of great value to retirement funds because capital is protected.</p> <p>When some members exit a fund, Market Value Adjustments are required to protect the assets of all the other members in the fund.</p>	Recommend this section be removed in its entirety because of its potential discriminatory effect.		<p>This clause requires the fund to ensure that terms and conditions of fund insurance policy are reasonable and consistent with the fund rules and FIMA; charges levied by insurer are reasonable; and that member's benefits are protected as envisaged in the Act.</p> <p>The clause does not discriminate but impose an obligation on the fund. The protection of members' benefit is provided for in section 274 of FIMA.</p>
Clause 1 (c)	The definition of conflict of interest includes an inherent conflict when Trustees are also members of the fund they represent.	Will NAMFISA require these conflicts to be declared and managed or avoided altogether? This include business		The Standard requires the board to manage the conflict of interest thus, the management

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	There is also the risk of limiting service provisions to the Fund from Participating Employers	relationships existing and potential between the Fund and Participating Employers.		of conflict of interest is dependent on the merits of each case.
Clause 11	Requires Namibian citizenship, permanent residence for foreigners or people ordinarily resident in Namibia to make up the board of trustees.	What does ordinarily constitute? Would Namibians working for extensive periods abroad be allowed to be Trustees?		Yes. The word "ordinarily" must be given its ordinary meaning.
Clause 33 (c)	Evaluations must be conducted by the chairperson – This is very subjective and challenging as Boards meet 4 times per annum	Peer evaluation might be a better objective measurement where a Trustee is evaluated by three peers (other Trustees)	Evaluation by the chairperson should be the default position; and we make provision that the board may decide on who else besides the chairperson is allowed to evaluate the other trustees	
Clause 25: Tenure of Office	To ensure independence and reduce the risk of familiarity, no trustee may serve for more than two (2) consecutive terms.	Please provide clarity as to why this should not be set by the rules of the fund?	Amended accordingly	The fund rules can set the term of the board of trustees, however a trustee may not serve for more than 3 consecutive terms of 3 years each. Thus, this is the limit.
	Grammar: <ul style="list-style-type: none"> • Clause 14, spelling error, s missing on trustees. • Clause 7, spelling error "delegates " • Clause 8(a), grammar. • Clause 8(a), grammar. • Clause 5, spelling error "delegates". 	Recommended corrections.	The grammar to be reviewed again. Corrected.	
Clause 3 (R.F.S.5.26 Governance retirement funds) – of	Clause 3 states that "this standard applies only to the extent that the subject matter dealt with in this standard is not dealt with specifically in the Act or regulations made by the Minister or standards issued by NAMFISA." NAMFISA is the custodian of the Act and the standards and also knows what is included in the regulations. NAMFISA should therefore decide the subject matter/ requirements to be included in each of these documents, whilst avoiding duplications. It is already a nightmare navigating through FIMA and statements like this only complicate the application of the compliance requirements.	Delete clause 3 and take out all requirements in this standard that are already included specifically in the Act or regulations made by the Minister or standards issued by NAMFISA.		The clause highlights the priority of application of the Standard. Regulations are issued by the Minister and therefore takes precedence over a standard which is issued by NAMFISA. Similarly, the FIMA is an Act of Parliament, and therefore takes precedence over a regulation.
Clause 11	This clause requires that only Namibian citizens, permanent residents or foreign persons who are ordinarily resident in Namibia may serve on the board of the fund. Disallowing foreign persons to serve on the board may disadvantage the fund and its members where these persons could add their knowledge and expertise. Also, local expertise is limited.	Rephrase clause 11 by inserting the underlined phrase: The board must be comprised of a majority of persons that are Namibian citizens, permanent residents or foreign persons who are ordinarily resident in Namibia.		This is for founding jurisdiction over trustees. A foreigner in a foreign country is almost impossible to take civil action against which makes enforcement powers mute. The provision allows for foreigners living in Namibia to participate, thus does not exclude foreigners completely.
Clause 25	Tenure of office of trustees is restricted to 2 consecutive terms. This poses a risk to the continuity of the fund, especially for complex funds. There is a lot of merit in terms of costs, continuity, experience for trustees to remain on the fund for a longer period. In addition, there is a	Delete clause 25.	Amended by limiting number of terms for board members to 3, and tenure for one term to 3 years.	No. Trustees cannot perpetually serve on the board of trustees this is contrary to good corporate governance principles. The funds are not prohibited from managing institutional knowledge and ensure continuity of the board of trustees.

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	<p>lack of skills in Namibia especially when it comes to trustees, so it would be of great interest to the fund to retain skills and experience where possible.</p> <p>The FIM Act and the standards have sufficient checks in place to ensure independence and reduce the risk of familiarity:</p> <ul style="list-style-type: none"> • Clauses 16 – 18 of this Standard dealing with Independence and conflicts of interest • Clauses 31 – 33 of this Standard dealing with Performance evaluation of the board • Duties of trustee are set out in Act and Standards • GEN.S.10.8 Independence • GEN.S.10.2 Fit and proper requirements 		Also added a “cooling off” period of 3 years before the same trustee can be appointed/elected again (after serving 3 consecutive terms).	
Clause 26	<p>The clause distinguishes between an auditor that is an audit firm and an auditor which is not.</p> <p>The wording of this clause should make the distinction clear.</p>	<p>Rephrase clause 26 by deleting the struck-through word and inserting the underlined word:</p> <p>To ensure independence and reduce the risk of familiarity in respect of the auditor of the fund, the auditor must be appointed for a fixed period and the auditor may not serve for more than two (2) consecutive terms; and <u>or</u>, in the case the auditor is a firm of auditors, an audit partner may not be engaged for more than two (2) consecutive terms.</p>	Amended by limiting the term to 6 years for auditor. Also amended the clause so that partner rotation complies with requirements prescribed by the Code of Ethics issued by the International Ethics Standards Board for Accountants. Also added a “cooling off” period of 3 years before the same auditor can be appointed again.	
Clause 27	Tenure of office of the valuator of the fund is restricted to 2 consecutive terms. This poses a risk to the continuity of the fund, especially for complex funds. There is a lot of merit in terms of costs, continuity, experience for valuers to remain on the fund for a longer period. In addition, there is a lack of skills in Namibia, so it would be of great interest to the fund to retain skills and experience where possible.	Delete clause 27.	<p>Terms for valuers amended by limiting tenure for DB fund to 6 years (annual valuations), and for DC fund to 9 years (triennial valuations).</p> <p>Also added a “cooling off” period of 3 years before the same trustee can be appointed/elected again (after serving 3 consecutive terms).</p>	The funds are not prohibited from managing institutional knowledge and ensure continuity in respect of a valuation. Suffice to add that its against good governance to have a service provider appointed for an indefinite period.
Clause 31	The clause requires annual performance evaluations of the board. To avoid this being a paper exercise only due to time constraints, this should rather be done properly every two years.	Replace “annually” with “every two years”.		The point of departure is why board evaluation is important. Annual board evaluation will ensure that the board is able to address its shortcoming so as to ensure that it deliver on the mandate.
Clause 45	The clause requires annual review of the risk management policy. To avoid this being a paper exercise only due to time constraints, this should rather be done properly every two years	Replace “annually” with “every two years”.	Agreed, there is a risk of this becoming a paper exercise only without adding value. Amended by replacing “annually” with “every two years”.	
Claus 55 - 56	The requirements of these clauses are already covered by the Fund’s investment policy statement.	Delete clauses 55-56		The requirements are not all covered by Standard RF.S.5.18. For instance, enhanced member communication with regards to the regular review of investment choices by members, the fact that members bear the investment risk of their investments, and additional disclosure requirements for

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
				member choice are not covered by standard RF.S.5.18.
Clause 51 & 52	The following requirements are considered excessive for a retirement fund, which will result in additional costs to the fund without the corresponding benefit: Clause 51: The board must receive assurance regarding the effectiveness of the risk management process, for outsourced or delegated function. Clause 52: The board must ensure that there are processes in place enabling complete, timely, relevant, accurate and accessible risk disclosure to stakeholders.	Delete clauses 51 & 52		It is important that the board does receive the assurance regarding the effectiveness of the risk management process for outsourced or delegated functions. It is equally critical that the person actually bearing the risk be informed on matters pertaining to risk timeously. The discretion of the information to be shared is with the board.
Clause 7 and 9	Refer to minimum qualifications of the board for oversight of the fund's business	Merge clause 7 with clause 9 of the Standard	Agreed	
Clause 11	Requires Namibian citizenship, permanent residence for foreigners or people ordinarily resident in Namibia to make up the board of trustees	This provision should have been contained in the Act as a main legislative provision and not as part of the subordinate legislation as it does not give effect to any provision within the FIMA		This is for founding jurisdiction over trustees. A foreigner in a foreign country is almost impossible to take civil action against which makes enforcement powers mute. The provision allows for foreigners living in Namibia to participate, thus does not exclude foreigners completely.
Clause 16	A member of the board, principal officer, employee or any other officers, auditor, valuator, administrator and any other service providers must report to the board any conflict of interest encountered during the performance of their duties	Add the word Trustee to the list of officers and for the term Trustee to be defined in the definitions under clause 1 of the Standard.		A trustee is a member of the board thus its not necessary to add the word 'trustee' to the list of officers.
Clause 18(b)	Refers to considerations to the fund and its beneficiaries	The words "and its beneficiaries" should be removed as the board is under a common law fiduciary duty to ensure that the best interests of the fund are looked after and where there might be a conflict between the fiduciary needs and the funds the board would have no choice than to cater for the needs of the fund at large. As it read, the Trustees can be liable for making the correct decisions in terms of the fiduciary duties bestowed on them. Alternatively, the clause should state what should happen in the event of conflicting interests on which the trustees are required to make a decision.	Amended by deleting the words "and its beneficiaries".	
Clause 34	The clause requires for the board to be involved in the determination and approval of the long terms and short-terms strategies of the fund and to monitor the implementation	The board should be responsible for determining and approving the long terms and short-terms strategies of the fund.	Amended by deleting the words "involved in" and replacing same with "responsible for".	
Clause 1: Definitions	The word "terms" is not defined in the Standard	Add a definition to the word term to indicate what duration a normal term would constitute as referred to by NAMFISA throughout the standard.	Agreed in respect of trustees, auditor and valuator not definition but setting maximum length of a term maybe. Amended by limiting number of terms for board members to 3, and tenure for one term to 3 years.	

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
			<p>Amended by limiting the term to 6 years for auditor.</p> <p>Terms for valuers amended by limiting tenure for DB fund to 6 years (annual valuations), and for DC fund to 9 years (triennial valuations).</p>	
Clause 1(c)	The definition of conflict of interest includes an inherent conflict when Trustees are also members of the fund they represent.	Will NAMFISA require these conflicts to be declared and managed or avoid altogether? Clarity is needed from NAMFISA on the dealings with inherent conflicts of interests as far as the Trustees are also members of the fund.		The Standard requires the board to manage the conflict of interest thus, the management of conflict of interest is dependent on the merits of each case.
Clause 3	<p>The clauses states that "this Standard applies only to the extent that the subject matter dealt with in this Standard is not dealt with specifically in the Act or Regulations made by the Minister or Standards issued by NAMFISA.</p> <p>NAMFISA, as the custodian of the FIMA and the Standard in question should therefor be aware of what is contained in the Regulations and the FIMA. NAMFISA should thus decide on the subject matter to be included in each Standard and to ensure that these matters are not duplicated or contradicted in the Act or other Subordinate legislative documents. Statements like these might complicate the reading of the FIMA further taking in mind that the language required to be used should be plain and simple and this would be confusing to even any reader of the FIMA and subordinate legislation.</p>	Delete the entire clause 3 and remove any requirements that are already contained in other Standards, Regulations or the FIMA.		The clause highlights the priority of application of the Standard. Regulations are issued by the Minister and therefore takes precedence over a standard which is issued by NAMFISA. Similarly, the FIMA is an Act of Parliament, and therefore takes precedence over a regulation.
Clause 4 (f)	The industry is unsure whether the annual report or the annual financial statements are applicable in this instance.	The Audited Financial Statements of funds already contains a trustee report which would contained the information sought here, will this negate the need for the trustee report in the AFS or will it amount to duplicate reports on the same subject matter?		The clause does not prescribe how the board must disclose the fund's ethics performance but that the ethics performance must be disclosed. Therefore, funds have discretion on how the ethics performance will be disclosed in the Annual Financial Statements.
Clause 7	Refers to the knowledge, skills and qualifications of the board to monitor service providers.	Proposal is for the merging of clause 7 with clause 9 of the Standard.	Agreed, to merge clauses 7 and 9.	
Clause 8 (b)	Refers to the management of the diversity of the board, disagreements etal and prescribes that these matters should be included in the code of conduct of the board.	<p>How will NAMFISA ensure compliance herewith even if these provisions are contained in a code of conduct? The code of conduct and acceptance of trust essentially governs the decision making and dealing with conflicts in terms of provisions laid out in the code. There is a requirement for the code to be implemented and the board has the responsibility to maintain and ensure application thereof, NAMFISA will not be able to govern this provision.</p> <p>We therefore propose the deletion of clause 8(b).</p>		This clause 8(b) requires the code of conduct to reflect on dealing with diversity of the board; and not about NAMFISA ensuring compliance. It is important for funds to be concerned on addressing the identified issue; rather than how the regulator will monitor whether or not the fund is compliant with the law.

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
Clause 9	Refers to minimum qualifications of the board for oversight of the fund's business.	Proposal is for the merging of clause 7 with clause 9 of the Standard.	Agreed, to merge clauses 7 and 9.	
Clause 9(a)	Require the board to continuously have and maintain skills and understanding of the fund's business to be able to fulfil the roles of Trustees.	This is not always practically possible in practice, especially when dealing with members elected Trustees who might not have knowledge or skills to fully discharge their duties as required but were nonetheless elected to the board by the members of the Fund. On the flip side of the coin, the appointment of independent trustees would increase the costs of the board fees for the fund, and this might have a major impact, especially for smaller standalone funds.		It is expected that all Board members to be trained and gain the required skills, where trustees do not themselves have the required expertise they must ensure they get appropriate and experts advise.
Clause 10	Requires reporting structures to be in place for the funds with specific reference to the Chairperson.	The purpose of this clause is unknown and hence it would seem NAMFISA is proposing that Funds make use of hierarchical structure for the management of the Fund. The industry therefore requires clarity on what type of organogram NAMFISA requires to be in place for the funds in order to comply with this provision.		The clause states that funds must have a reporting structure, and reference is made to the chairperson which should be the head of the institution (fund). The clause is in line with good governance practices.
Clause 11	Requires Namibian citizenship, permanent residence for foreigners or people ordinarily resident in Namibia to make up the board of trustees.	<p>The industry would like to know why only Namibian citizens and permanent residents for Trustees?</p> <p>What would constitute someone being ordinarily resident in Namibia? Board of Directors are allowed to have non-Namibian serve as Directors, why then place the limitation on the Trustees?</p> <p>The industry is of the view that the provision should have been contained in the Act as a main legislative provision and not as part of the subordinate legislation as it does not give effect to any provision within the FIMA.</p> <p>There is uncertainty relating to the citizenship and residential status of all Trustees hence the questions whether Trustees should comply with these requirements and why the difference from the Board of Director provisions.</p>		<p>This is for founding jurisdiction over trustees. A foreigner in a foreign country is almost impossible to take civil action against which makes enforcement powers mute. The Companies Act, 2004 is a separate legislation with its own objectives.</p> <p>FIMA empowers the Minister to issue regulations on any matter the Minister deems appropriate for the achievement of its FIMA's objectives, and similarly empowers NAMFISA to issue standards for the same reason.</p>
	<p>This Clause requires only Namibia citizens, permanent residents or foreign persons who are ordinarily resident in Namibia may serve on the Board of the fund.</p> <p>Disallowing foreign persons from serving on the Board may disadvantage the funds and its members where these persons could their knowledge and expertise especially where local knowledge and expertise is limited</p>	<p>Rephrase clause 11 by inserting the underlined phrase to be included in the clause: "The Board must be comprised of <u>a majority of</u> persons that are Namibians citizens, permanent residents or foreign persons who are ordinarily reside in Namibia.</p>		<p>This is for founding jurisdiction over trustees. A foreigner in a foreign country is almost impossible to take civil action against which makes enforcement powers mute. The provision allows for foreigners living in Namibia to participate, thus does not exclude foreigners completely.</p>
Clause 13	This clause requires for comprehensive training, but comprehensive training is not defined in the Standard	<p>What would comprehensive training entails? NAMFISA therefore needs to provide clarity on the requirements set.</p> <p>How does the requirements here toe in to the requirements laid out in clause 7 and clause 9 above? Are these difference references?</p> <p>What would happen to funds if they do not provide comprehensive training as deemed to be by NAMFISA? This</p>	Amended by deleting the word "comprehensive".	<p>The discretion on adequacy or comprehensiveness is left to the discretion of Funds.</p> <p>Clauses 7 and 9 relates to qualification, skills, etc., yet this clause requires that trustees must receive training.</p>

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
		<p>requirement cannot be left open to interpretation, but should rather be clarified in full with exact course names and qualifications to be stipulated.</p> <p>The Standard relating to fit and proper requirements is also application to Trustees, how would this differ from the comprehensive training to be provided?</p> <p>If this requirement relates to induction of Trustees, then surely an induction programme would suffice for this requirement? NAMFISA to confirm.</p> <p>Delete the word "comprehensive training" since clause 14 deals with more details in respect of training.</p>		
Clause 15	Requires Trustees to received <u>regular</u> briefings on the business of the fund	The industry proposes the deletion of the word regular because it is not defined how often regular actually means and the reference is too wide and open to interpretation which might have the effect of wrongful interpretations from NAMFISA would expect it to be.		The word 'regular' should be given its dictionary meaning. The frequency of such briefings is let to the discretion of the fund.
Clause 16	A member of the board, principal officer, employee or any other officers, auditor, valuator. Administrator and any other service providers must report to the board any conflict of interest encountered during the performance of their duties.	<p>The industry proposes the addition of the word Trustee to the lists of officers and for the term Trustee to be defined in the definitions under clause 1 of the Standard.</p> <p>In addition to the above, the Principal Officer is already an ex officio member of the Board of Trustees, hence the reference to Principal Officer in addition to the remainder of the fund officers seems superfluous and should be deleted.</p>		A trustee is a member of the board thus its not necessary to add the word 'trustee' to the list of officers.
Clause 18(a)	Refers to discretion not influenced by inappropriate considerations.	Reference to the wording of inappropriate considerations should be deleted as this reference is vague and not defined as to what an appropriate consideration would be.	Amended by deleting the words "and are not influenced by inappropriate considerations".	
Clause 18(b)	Refers to considerations to the fund and its beneficiaries.	<p>The word "and beneficiaries" should be removed as the board is under a common law fiduciary duty to ensure that the best interests of the fund are looked after and where there might be conflict between the beneficiary needs and the fund needs the board would have no choice than to cater for the needs of the fund at large. As it reads, the Trustees can bi liable for making the correct decisions in terms of the fiduciary duties bestowed on them.</p> <p>Alternatively, the clause should state what should happen in the event of conflicting interests on which the trustees are required to make a decision.</p>	Agreed. Amended by deletion of "and beneficiaries".	
Clause 18 (d)	Refers to administrators and other service providers not to interfere with the operations of the fund.	Reference in the clause should rather be to undue influence being exercised on the funds instead of singling out the service providers and especially the administrators	Amended clause as follows: "ensure that the administrators or any other service provider do not unduly influence the management of the fund".	
Clause 20	Reference in the clause is made to subcommittees	Reference should rather be made to the committees of the board and not subcommittees between the types of forums of the board		A subcommittee is a smaller part of a larger committee unless the board is not a committee.
Clause 21	Reference is made to the terms of the subcommittees with minimum covers being provided	The industry is of the opinion that the full set of skills of the Committee should be considered taking into account the fact that member elected Trustees might not possess the		The clause sets the minimum that must be included in the terms of reference; and is not exhaustive. Trustees will be subject to fit and

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
		necessary skills and education required when they are so elected.		proper requirements; which requirements include the necessary skills and education.
Clause 24	Reference is made to the filling of vacancies subject to section 253 of the FIMA which in turn direct the reader to section 261(1) and 261(2) of the FIMA	The Standard should have reference to the Rules of the fund as far as the filling of board vacancies are concerned. The sections referred to in the FIMA also does prescribe a timeline for the fillings of these vacancies and hence the reference is superfluous and unnecessary where it can only refer to fund rules. What would a reasonable time entail in terms of the context of the Standard taking into account the level of skills in the public domain for the filling of the vacancies with the requirements f being fit and proper and the educational and experience background required.		The clause does not prescribe the timelines for refilling a vacancy on the board as the circumstances of each fund may differ hence reference to reasonable time. The clause refer to section 263 as the latter provides for the refilling of vacant position on the board; it does not in any way indicate that the replacement should be done within the time prescribed by latter section.
Clause 25	<p>Tenure of office of Trustees is 2 consecutive terms. This poses a risk to the continuity of the fund, especially for complex funds where institutional knowledge is of high value. There is a lot of merit in terms of costs, continuity, experience for Trustees to remain on the fund for a longer period. In addition, there is lack of skills in Namibia especially when it comes to Trustees, so it would be great interest to the fund to retain skills and experience where possible.</p> <p>FIMA and the Standard have sufficient checks in place to ensure independence and reduce the familiarity risk for example:</p> <ul style="list-style-type: none"> - Clause 16 – 18 of this Standard deals with the independence and conflict of interest - Clause 31 – 33 of this standard deals with the performance and board evaluations - Duties of Trustees are set out in FIMA and the Standards - GEN.S.10.2 and GEN.S.10.8 	Delete clause 25	Amended by limiting number of terms for board members to 3, and tenure for one term to 3 years	No. Trustees cannot perpetually serve on the board of trustees this is contrary to good corporate governance principles. The funds are not prohibited from managing institutional knowledge and ensure continuity of the board of trustees.
Clause 26	<p>This clause distinguishes between an auditor that is an audit firm and an auditor which is not and audit firm</p> <p>The wording of the clause should make it clear what the distinction actually refers to and how an auditor does not need to be an audit firm</p>	<p>Rephrase clause 26 by deleting the struck through wording below and replacing it with the underlined wording:</p> <p>To ensure independence and reduce the risk of familiarity in respect of the auditor of the fund, the auditor must be appointed for a fixed period and the auditor may not serve for more than (2) two consecutive terms; and <u>or</u>, in the auditor is a firm of auditors and audit partner may not be engaged for more than (2) two consecutive terms.</p>	Amended by limiting the term to 6 years for auditor.	
Clause 27	Tenure of office of the valuator of the fund is restricted to 2 consecutive terms. This poses a risk to the continuity of the fund, especially in the case of complex funds. There is merit in terms of costing, continuity and experience for valuers to remain on the fund for longer periods at a time. In addition, there is a lack of adequate skills in Namibia, so it would be of great interest to the	Delete clause 27	Terms for valuers amended by limiting tenure for DB fund to 6 years (annual valuations), and for DC fund to 9 years (triennial valuations).	The funds are not prohibited from managing institutional knowledge and ensure continuity in respect of a valuation. Suffice to add that its against good governance to have a service provider appointed for an indefinite period.

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	fund to retain skills and experience where possible in terms of the valuator.			
Clause 28	The heading of clause 28 reads: "Rotation"	It is proposed that the rotation should be limited to committees and the members of the committees only and the heading should read as follows: "Rotation of Committee members."	Agreed. Amended.	
	The language used in the standard in general is not plain and simple as required by the FIMA.	The Standard should therefore be written in a language and with the use of ordinary words that would enable the general public to understand and make sense of the provisions contained in the standard when reading the standard.		Clause 2 of the Description of Plain Language provides for Funds to whom it is applicable, same is not applicable to legislation.
	Reference is made to the occasional rotation of members but the term members and what occasional means is not explained or defined in the standard.	The standard should set out how often rotation needs to take place for the rotation to be deemed as occasional and also who is referred to when speaking about members, are these members of the Board of Trustees, the Committee or the Members of the funds respectively. Clarity is to be carried throughout the provisions of the Standard and consistency in language use to be applied as is expected from the industry to comply with.	Clause amended as follows: "The board must establish an arrangement for periodic, staggered rotation of trustees and chairs of committees or tenure limits to serve on a committee by introducing members with new expertise and perspectives while retaining valuable knowledge, skills and experience and maintaining continuity in order to avoid undue concentration of power and promote fresh perspectives."	
Clause 31	The clause requires annual performance evaluations of the board, to avoid this being a paper and rubber stamp exercise only due to constraints this should rather take place every (2) two years.	Replace Annual in the clause with once every (2) two years.		The point of departure is why board evaluation is important. Annual board evaluation will ensure that the board is able to address its shortcoming so as to ensure that it delivers on the mandate.
Clause 32	The clause refers to appropriate measures to address identify inadequacies	The industry needs clarity on what appropriate measures would entail because as the clause reads it is vague and could lead to misinterpretation on the part of the funds which may attract penalties if the interpretation differs from what NAMFISA expects. Clarity and plain language should therefore be introduced to ensure that nothing is left to interpretation.		The words used should be understood in context and given their dictionary meaning. The appropriateness of the measures are left at the discretion of the board, else the clause would be too prescriptive.
Clause 34	The clause requires for the board to be involved in the determination and approval of the long-term and short-term strategies of the fund and to monitor the implementation	The cause as it reads raises the questions as to who would then be responsible for setting strategy if the board is only required to be involved in the crafting of the strategy? The industry proposes that the board should be responsible for determining and approving the long term and short-term strategies of the fund. The language used in the clause contradicts the governance codes which requires the board to set the strategy. It is therefore recommended that NAMFISA aligns the wording and the requirements of the Standard with the NAMCODE and the King reports to allow to board to own the strategy and not have mere insight.	Agreed, the clause to be revised. Amended by deleting the words "involved in" and replacing same with "responsible for".	
Clause 35	The clause makes reference to the following specific terms: "legitimate interest", "expectations" and fund's "stakeholders" which	The concepts highlighted should therefore be defined in plain and simple language for any reader of the standards to be able to understand whether they would fall in any categories highlighted therein.		The words used should be understood in context and given their dictionary meaning. Words with special connotation are the ones defined.

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
	are not defined in the definitions clause of the standards.			
Clause 44(b)(iv)	The clause refers to instinct, but it is unsure how this would be measured when regulating the choice of committee members.	The industry would need to understand how the characteristics would be measured to comply with and compare to the requirements of the standard. Full and descriptive context and explanation would therefore be required for the avoidance of any form of ambiguity.		The clause asks the board to ensure that the framework and processes in place to anticipate risks have the specified characteristics such as 'instinct'. The wording instinct is elaborated. Measuring of compliance is not the concern of this clause. Every situation and action would differ across events.
Clause 45	The clause requires annual review of the risk management policy. To avoid this being a paper exercise only due to time constraints, this should rather take place every (2) two years.	Replace Annual with once every (2) two years.	Amended to at least once every two years.	
Clause 51	The following requirements are considered excessive for a retirement fund, which will result in additional costs to the fund without the corresponding benefit: The board must receive assurance regarding the effectiveness of risk management processes, for outsourced or delegated function.	Delete clause 51		But its important that the board does receive the assurance regarding the effectiveness of the risk management process for outsourced or delegated functions.
Clause 52	The following requirements are considered excessive for a retirement fund, which will result in additional costs to the fund without the corresponding benefit: The board must ensure that there are processes in place enabling complete, timely, relevant, accurate and accessible risk disclosure to stakeholders.	Delete clause 52		It is critical that there be timely risk disclosures to the relevant stakeholders The nature of disclosure is left to the discretion of the Fund. Risk disclosure is considered important in a Risk based supervisory framework, where greater emphasis is placed on the fund's risk management practices.
Clauses 55 and 56	The requirements laid out in these clauses are already covered in the Fund's Investment Policy Statements	Delete clauses 55 and 56.		The requirements are not all covered by Standard RF.S.5.18. For instance, enhanced member communication with regards to the regular review of investment choices by members, the fact that members bear the investment risk of their investments, and additional disclosure requirements for member choice are not covered by standard RF.S.5.18.
Clause 55(g)(iv)	The clause requires members to be offered guidance relevant projections on expected benefits.	The industry need guidance on how these members are to be informed of the matters mentioned and what would be deemed as satisfaction for these requirements. Should the requirement in this instance not be for the member to obtain suitable advice from a registered intermediary based on their personal portfolio. This provision might also create conflict with the other standards, and if such conflict exists how will this be treated, and which standard would essentially prevail.		Where a fund offers the choice it must ensure that those it expects to exercise the choice and take the associated risk are well informed and have a comprehensive understanding of what they are doing. Such guidance is left to the discretion of the fund, and projections may be based on certain (disclosed) assumptions, depending on the investment portfolios chosen by members.
Clause 57	The clause relates to insurance business of the insurer of insured funds	The question that emanates from the standard is whether the funds would be allowed access to the business of the insurer to establish their level of compliance		The clause is relevant only to those funds that involve insurers; and is intended to protect the members' benefits.

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
		This requirement would probably be better suited under the Insurances standards. Are these requirements synchronised with the Insurance standards and if so can we have confirmation thereof from NAMFISA. In essence these provisions need to tie up with each other as the fund cannot have the requirement to ensure compliance on the part of an insurer where the fund would not have access or influence into the business of the Insurer.		If a fund chooses to invest its assets in an insurer they should ensure that the policy they get is aligned to the needs and obligations of the fund.
Part 3	The part of the standard deals with stakeholder engagement and management of these relationship	Many of the items covered under this part are already covered in the standard and therefore amount to a duplication. NAMFISA therefore needs to clean up the double references and only leave the portions that expand on the previous clauses mentioned in the standard.		The general comment is noted
Clause 58(g)	The clause refers to communication with stakeholders	The industry recommends that this portion be deleted in its entirety and be combined with clause 67	Amended by merging clauses as suggested.	
Clause 59	The clause relates to the governance of the information technology	The entire clause needs to be revised with clear distinction between self-administered and outsourced administered funds to avoid any forms of misinterpretation and ambiguity.		As provided by clause 2, this Standard applies to registered retirement funds indiscriminately.
Clause 60	The clause refers to the information technology that should be aligned to the performance and sustainability objectives of the board.	The industry is of the view that many of the IT services resides with another entity or person depending on the fund and the performance of the service provider should thus be overseen in terms of the outsourcing standard and be removed from this standard.		Though Information technology is outsourced to service provider, the fund must ensure that its aligned to the performance and sustainability objectives of the fund.
Clause 61	The clause refers to effective management but does not define what this means and how effective management would look like for the fund.	The industry therefore needs further clarity from NAMFISA on the requirements for effective management and for the clause to be enhanced to provide the needed clarity. In essence information assets and information technology are not the same thing.	Clause amended as follows: "The board must ensure that information and information technology assets are managed effectively."	
Clause 62	Refers to the board obtaining provision of assurances from the service provider.	What forms of assurance will be required from the service providers to the board to satisfy the requirements of this clause? Proposal for the amendment of the clause to only refer to self-administered funds in order to keep the board responsible.		A function can be outsourced but accountability cannot. Therefore, the board must ensure that the information technology risks are managed effectively.
Clause 63	Refers to the audit function of a board of Trustees	Board cannot have an audit function, unless these boards are board of self-administered funds		The clause does not speak about audit function of the board of trustees, but to the board ensuring that the risk or audit function must consider information technology risk as a crucial element
Clause 59 to 64	All these clauses barring clauses 62 and 63 refer to self-administered funds based on the wording of the clauses	NAMFISA to clearly specify which clauses relates to outsourced administration funds and which clauses relate to self-administered funds for full clarity on the provisions		The Standard applies to all registered funds.
Clause 65	Refers to employers and sponsors only.	References in the clause should refer to employees and members as well as allow for complete independence of the fund at the end of the day.		The absence of express prohibition does not amount to being sanctioned.
Clause 67	Refers to disclosures to be made by the board.	The industry recommends that the clause 67 be deleted and the provisions to be included under 58(g) as duplicating reporting will drive up costs for the member to bear at the end of the day.	Amended accordingly.	As mentioned in respect to subclause 58(g), subclause 58(g) will be merged with clause 67.
Clause 26: "To ensure independence and	Auditor rotation as a form of safeguard against independence risks has been extensively	Clause 26: To ensure independence and reduce the risk of familiarity in respect of the auditor of the fund, the auditor shall	The current wording does not set a prescribed tenure period for engaging an	

STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
<p>reduce the risk of familiarity in respect of the auditor of the fund, the auditor must be appointed for a fixed period and the auditor may not serve for more than two (2) consecutive terms; and in the case the auditor is a firm of auditors, an audit partner may not be engaged for more than two (2) consecutive terms.”</p>	<p>researched and debated globally as it is a very complex issue. Two factors are key to the discussion: 1. Whether to require rotation of the audit firm, or the assigned audit engagement partner, and 2. The duration that would be considered to create an independence risk.</p> <p>In Namibia, the PAAB, and ICAN each endorse and are bound by the IESBA International Code of Ethics for Professional Accountants (previously known as the IFAC Code of Ethics) (the “Code”) and therefore all accountants and auditors registered with the PAAB are required to comply with the Code, including provisions related to audit partner rotation.</p> <p>The Code deals with the question of audit rotation and long association as part of its consideration of auditor independence and requires that for the audits of Public Interest Entities (PIEs) the audit partner, the engagement quality control reviewer (EQCR) and any other key audit partner may not serve for longer than 7 cumulative years and must serve a “cooling off” period during which that person does not act in that capacity for the audit client. (5 consecutive years for the audit partner, 3 consecutive years for the EQCR, and 2 consecutive years for any other key audit partner in which they may not be involved in any aspect of the client previously served).</p> <p>The Code does not mandate audit firm rotation, but only audit partner rotation. This approach or variations thereof is followed in various jurisdictions and we note that, although the Public Company Accounting Oversight Board (PCAOB) of the USA does not formally subscribe to the Code, practitioners regulated by the PCAOB are subject to mandatory partner (but not firm) rotation.</p> <p>We recommend that the standards be aligned to international standards in terms of duration and to whom the rotation applies. For further information, please find attached a position paper issued by ICAN in January 2020.</p>	<p>comply with the partner rotation requirements prescribed by the Code of Ethics issued by the International Ethics Standards Board for Accountants. must be appointed for a fixed period and the auditor may not serve for more than two (2) consecutive terms; and in the case the auditor is a firm of auditors, an audit partner may not be engaged for more than two (2) consecutive terms.</p> <p>Or, to align to the insurance standard recommendation:</p> <p>An independent Auditor shall comply with the partner rotation requirements prescribed by the Code of Ethics issued by the International Ethics Standards Board for Accountants. shall be engaged for a maximum duration of six (6) years beyond which he/ they are no longer considered independent.</p>	<p>auditor however, the wording will be amended so as to limit the engagement or appointment period of auditor to 6 years.</p>	
<p>STD/REG No. & Section:</p>	<p>Comment/Description of issue:</p>	<p>Proposed Amendment/Solution:</p>	<p>Accepted (Comments):</p>	<p>Rejected (Comments):</p>
<p align="center">Standard RF.S.5.27 Manner and form of application, by registered fund, for cancellation of registration or variation of the conditions subject to which registration was granted</p>				

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Clause 1(1)(b)	“NAMFISA ERS” is defined as system which facilitates communication between NAMFISA and financial institutions. Communication is currently through letter and emails, this provision is not clear on whether it is the intention that going forward, communication will only be through ERS.	NAMFISA to provide clarity on whether communication will only be done through ERS going forward.		NAMFISA wide comment ERS is not the only platform for communication between NAMFISA and entities.
Clause 4(f)	The clause states that an applicant must provide any other information and documents that NAMFISA may from time to time reasonably require. This clause opens up the opportunity for requirements to keep changing and this may result in delays.	Having regard to the ease of amending Standards, NAMFISA must include an exhaustive list of all required information and documents in the clause.		The clause allows NAMFISA to request information deemed relevant to a particular matter. It is also worth mentioning that circumstances and situations change, which may require additional information from the entities, thus cannot be exhaustive.
Clause 11	The clause provides that where an application is deemed incomplete, NAMFISA must give the applicant the opportunity to provide the required information and complete the application within 7 working days, failing which the application shall be rejected. The clause does not include an option or the application to request for a longer period to provide the requested information	The clause must include an option for the applicant to request for a longer period to provide the information. The 7 working days must be increased to 10 working days to provide applicants with the ample time to collect and submit the requested information.	Clause amended as follows: “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.”	
Clause 13	The clause is on submission of applications for cancellation of registration or variation of conditions and states that applications may be submitted manually and electronically to NAMFISA. The clause does not make reference to the ERS. The clause also does not speak to the acknowledgement of the submission from NAMFISA	The clause should read “...electronically on ERS to NAMFISA...” The acknowledgement of the submission from NAMFISA must be incorporated into the clause as well as the timelines for such acknowledgement.	Clause amended to indicate electronic submission, and to refer to the NAMFISA ERS which is defined in the standard.	
Schedule 1, Form A Clause 1	The clause requires the person making the application to either be a principal officer or duly authorised person. The clause does not factor in that with regards to terminated Funds where there are no boards of trustees, it is the administrator who makes the application cancellation and the clause demands for an authorised person which excludes such administrator	NAMFISA must provide guidelines on the authorization of administrators to submit applications for cancellation in the case of terminated funds.		The clause provides for principal officer or duly authorized person to lodge the application for cancellation or variation of conditions of registration. Thus, any person duly authorized can apply.
Schedule 2, Form B Clauses 5 and 6	These clauses ask for the name of the “statutory valuator” and “statutory auditor” but the Standards do not refer to statutory valuers and statutory auditors.	Remove “statutory” in both clauses and in the rest of the form	Agreed, though the proposed deletion is more cosmetic. Amended accordingly.	
Clause 11	Requires a certificate by the auditor stating that the fund has no liabilities to be attached to the application. This will require the auditor to sign off on zero liabilities which will necessitate the auditor to do additional work at additional fees – in the past, these were not expenses that any fund was required to incur. Also, normally when there are no liabilities remaining, there are also no more assets remaining to pay additional fees.	NAMFISA to provide clarity.		The cost of auditor certificate must be factored in prior to arriving at a nil asset and none liability

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Clause 12	The declaration by the applicant is not written in plain language	The declaration must be rephrased in simple language that laymen can understand.		in terms of clause 2(b) of the Description of Plain Language Standard, the Standard applies financial institution or intermediary, their board, directors, trustees, principal officers etc. and in respect of all documents presented to clients of financial institutions and intermediaries. and clients.
STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
Standard RF.S.5.9 Beneficiary nomination forms				
	<p>Every retirement fund must, for completion by members, send to all its members at least once every year, a beneficiary nomination form in the prescribed form.</p> <p>The beneficiary nomination form must be returned to the fund by members on or before 30 January each year.</p> <p>Members are entitled to replace their beneficiary nomination forms at any time.</p>	<p>It will be challenging to enforce this provision as the fund has no control over the administration of the employers.</p> <p>The remoteness of employers' administrative setup poses more challenges.</p> <p>There is a likelihood of a high increase in the admin costs.</p> <p>Widespread geographic spread of member will make compliance difficult</p>		<p>The obligation on the fund is to send the beneficiary nomination; and the obligation to submit is on the member.</p> <p>Funds should be able to communicate to its members with ease given that it has all the details of the member to enable ease communication</p>