# EXPLANATORY MEMORANDUM

**TO : PUBLIC**

**DATE : 16 FEBRUARY 2024**

**SUBJECT : PROPOSED AMENDMENTS TO THE SHORT-TERM INSURANCE REGULATIONS**

## 1. INTRODUCTION

1.1 This Explanatory Memorandum pertains to the proposed amendments to the regulations under the Short-term Insurance Act, 1998 (Act No. 4 of 1998) ("the Act") and is issued by virtue of the functions and powers of the Namibia Financial Institutions Supervisory Authority ("NAMFISA") and those of its Chief Executive Officer, in his capacity as the Registrar of Short-term Insurance ("the Registrar") in terms of the Act, read with the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001).

1.2 The purpose of this Explanatory Memorandum is to serve as an explanatory note to the proposed draft amendments to the regulations under the Act as well as to solicit comments on the proposed amendments.

1.3 Should you have any queries pertaining to this Explanatory Memorandum, kindly contact Mr. Floris Fleermuys at ffleermuys@namfisa.com.na or via Tel: 061-290 5110 or Ms. Irene Shebo at ishebo@namfisa.com.na or via Tel: 061-290 5119.

## 2. EXPLANATION OF MAIN AMENDMENTS

### 2.1. BACKGROUND TO REGULATION 8 AND ANNEXURE B

2.1.1 Section 71(1)(j) of the Act empowers the Minister of Finance to make regulations relating to minimum or maximum or both minimum and maximum amounts which a registered short-term insurer or reinsurer may invest in particular assets or in particular kinds or categories of assets whether in Namibia or elsewhere, and prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies.

2.1.2 The aim of Regulation 8 is to ensure that assets backing policyholders liabilities are invested in a prudent manner that not only protects the policyholders' interest, by offering protection from the effects of poorly diversified investment portfolios, but is channelled in ways that achieve economic development and growth. To achieve this, the regulation limits the extent to which registered short-term insurers and reinsurers may invest in particular assets or asset classes.

2.1.3 Since its introduction, the regulation and the annexure thereto, have been amended several times after Namibia gained independence from South Africa on 21 March 1990. The investment universe has drastically changed over the last 3 decades, while permissible asset classes and prudential limits for institutional investors, specifically insurers, have largely remained somewhat stagnant, not considering the evolution of risks and new, more innovative, products in the financial markets. As a result, insurers and reinsurers find it more difficult to comply with Regulation 8, because of its archaic nature.

2.1.4 The various amendments to the regulation and the annexure thereto over the last 30 years have failed to cater for new and innovative instruments in the investment landscape, both locally and internationally. In this regard, these proposed amendments aim to review the regulation and the different asset classes it prescribes, considering investor needs as well as government objectives.

2.1.5 NAMFISA carried out a study to establish the adequacy of the current investment asset classes for the pension funds industry. The said study resulted in a finding that additional asset classes must be introduced to broaden the current investment framework. In light of the fact that the long-term insurance industry is exposed to similar risks as pension funds, it was deemed appropriate to propose the same amendments in regard to additional asset classes for long-term insurers as for pension funds, however only some aspects of the propose amendments are extended to the short-term insurers. Therefore, the references made to the pension funds and long-term insurance industry in this Circular is on the basis of the aforesaid.

## 2.2 PROPOSED AMENDENTS TO REGULATION 1 - DEFINITIONS

Regulation 1 is amended by the insertion of and/or amendment of the following definitions (amendments illustrated by underlined italics and strike outs):

2.2.1 Insertion of the following definition of "Multilateral development bank"

*"Multilateral development bank" means the World Bank Group, the International Monetary Fund and the African Development Bank".*

2.2.2 Insertion of the following definition of "Policyholder assets":

> *""policyholder assets" means the assets held by a registered insurer or reinsurer in terms of sections 26 and 27 of the Act in order to meet its liabilities to policyholders".*

2.2.3 Substitution for the following definition of the definition of "domestic asset":

> *""domestic asset" means assets of the kind referred to in the following kinds or categories of assets of Annexure B -*

*(a) item 1 (credit balances) where such balances are held in Namibia and denominated in Namibian currency;*

*(b) item 2 (Namibian Government and Bank of Namibia Bonds) where such bonds are denominated in any currency, and wherever issued and purchased;*

*(c) item 3 (Multilateral development bank Bonds) where such bonds are denominated in Namibian currency, and issued and purchased in Namibia;*

*(d) item 4 (statutory body, public enterprise, local authority and regional council bonds) where such bonds are denominated in Namibian currency, and issued and purchased in Namibia;*

*(e) item 5 (corporate bonds), where such bonds are denominated in Namibian currency and issued and purchased in Namibia to finance activities within Namibia;*

*(f) item 7 (property) where such property is located in Namibia;*

*(g) items 8 (ordinary shares) and 9 (preference shares) includes assets in a company incorporated outside Namibia if such assets have been acquired on a stock exchange licensed under the Stock Exchanges Control Act and unlisted shares in Namibian companies;*

*(h) item 10 (Loans), where such associates and associated companies are incorporated in Namibia;*

(i) *item 11 (other claims) where such claims are against companies incorporated in Namibia;*

(j) *item 12 (other assets) where such other assets are held in Namibia; and*

(k) *any other asset designated as a domestic asset by the Minister by notice in the Gazette.".*

## 2.3 PROPOSED AMENDMENTS TO REGULATION 8

2.3.1 Referencing correction of the item numbers referred to in subregulations (1)(a) and (b).

2.3.2 Referencing correction of the item numbers referred to in subregulation (2)(b).

2.3.3 Insertion after subregulation (6) of the following subregulation:

"(7) For purposes of subregulation (1), the limits of investments referred to therein only apply to policyholder assets."

## 2.4 PROPOSED AMENDMENTS TO ANNEXURE B TO THE REGULATIONS

### 2.4.1 Amendment of Item 4 (Statutory body, public enterprise, local authority and regional council Bonds)

Current provision

The current Annexure B to the regulations does not specifically provide for Bank of Namibia bonds.

Proposed amendment

Item 4 is amended by including 'Bank of Namibia' as an issuer of bonds under column 1.

2.4.2 Due to the insertion of additional provisions in Regulation 8 and the introduction of additional asset classes to Annexure B to the regulations, the numbering and referencing of certain provisions have been amended accordingly.

### 2.4.3 Amendment of Item 8 (Ordinary Shares)

Paragraph (b)(i) of item 8: Current provision

The current limit under column 2 reads “with a market capitalization of N$2 000 million or less is limited to”

Proposed amendment

It is proposed that the wording be amended to read: “with a market capitalization of N$2 billion or less is limited to”

Paragraph (b)(ii) of item 8: Current provision

The current limit under column 2 is reads “with a market capitalization of more than N$2 000 million or less is limited to”

Proposed amendment

It is proposed that the wording be amended to read: “with a market capitalization of more than N$2 billion or less is limited to”

**2.4.4 Proposed Deletion**

It is proposed that Item 11 be deleted to be consistent with the treatment of certain assets required to be held for purposes of meeting policyholder liabilities. Further item 12 other assets will adequately provide for inclusion of such assets.

2.5 **Insertion of Item 3 (Multilateral development bank Bonds)**

Current provision

The current Annexure B to the regulations does not specifically provide for multilateral development bank bonds.

Proposed amendment

‘Multilateral development bank Bonds’ are added to the Annexure to the same degree and treatment as that afforded to Namibian Government security issuances, with a similar maximum limit of 95%.

Rationale for including ‘Multilateral development bank bonds’ as an asset class

An international financial institution (IFI) is a financial institution that has been established (or chartered) by more than one country, and hence is subject to international law. Its owners or shareholders are generally national governments, although other international institutions and other organizations

occasionally figure as shareholders. The most prominent IFIs are creations of multiple nations, although some bilateral financial institutions (created by two countries) exist and are technically IFIs. The best known IFIs were established after World War II to assist in the reconstruction of Europe and provide mechanisms for international cooperation in managing the global financial system.

The IFIs include Multilateral Development Banks (MDBs) which are institutions created by a group of countries that provides financing and professional advice to enhance development, and the Bretton Woods Institutions, the World Bank Group and the International Monetary Fund (IMF). IFIs have played a role in supporting domestic capital markets by issuing local currency bonds and setting up guarantee facilities.

According to the IMF (2021), local currency marketable debt as a share of total government debt has increased in emerging market and developing economies over the past decade. Better macroeconomic conditions and increased perception about the importance of developing domestic debt markets have created the conditions for this increase. However, despite considerable growth of local currency bond markets (LCBMs) in recent years, LCBMs in emerging market and developing economies continue to remain relatively underdeveloped compared with advanced economies, in which the local currency share of total government debt is about 95 percent.

Alongside growth in LCBMs, issuance policies have improved. Emerging market and developing economies have adopted new issuance policies and procedures as their government debt portfolios have grown, advisory efforts among international financial institutions (IFIs) and global and regional actors have increased, and knowledge sharing on debt management and debt management best practices have improved within the international community. In addition, progress has been observed in developing economies as primary market practices have become more transparent and more countries have started to issue benchmark securities.

Despite the observed progress, there is still significant scope for countries to further develop their LCBMs. Although many emerging market and developing economies have regularly promoted and adopted policies to develop their domestic markets for several years, different crises—for example, banking sector and macroeconomic dysfunctions in some countries have deterred LCBM improvements. In other cases, the lack of underlying enabling conditions or appropriate policies related to LCBM development has prevented further progress. Thus, it is important to understand the factors that are hindering the government LCBM development process so that appropriate measures and steps, targeted to the specific country, can be developed.

LCBM development can help to diversify government funding sources, safeguard sovereign portfolios from currency and maturity mismatches, and prevent financial crises in emerging markets (IMF 2002). In particular, the IMF says that Silva, and Velandia-Rubiano (2010) find that some emerging markets that shifted the composition of their public debt portfolios toward local currency debt issuance and improved their macroeconomic fundamentals avoided being buffeted by the global financial crisis.

The Group of Twenty (G20) has also recognized the importance of LCBMs in improving the resilience of the domestic economy and financial systems. In November 2011, the G20 endorsed an action plan to support LCBM development. As part of this commitment, several multilateral institutions developed a diagnostic framework to identify general enabling conditions, key components, and constraints for successful LCBM development in emerging market and developing economies (IMF, World Bank, EBRD, and Organisation for Economic Co-operation and Development 2013).

Considering LCBMs' integral role in sovereign debt portfolio management, the IMF affirms Jonasson and Papaioannou (2018) maintaining that LCBM development can be viewed in terms of three main stages with different priorities. In the initial stage, the focus should be on establishing a functioning primary market and creating the enabling conditions for secondary market development. In the deepening stage, where basic elements of the primary market and secondary market are established and functioning, the focus should be on improving liquidity on the secondary market. Finally, in the maturing stage, where elements of the market are, in general, well-functioning, the focus of policy makers should be on the development of sophisticated instruments and segments such as derivatives and making the market internationally competitive.

The International Finance Corporation (IFC), a sister organization of the World Bank and member of the World Bank Group is the largest global development institution focused exclusively on the private sector in developing countries. The IFC issued a bond in Namibia, the IFC21 that matured on 5 April 2021. The bond was approved and listed on the Namibian Stock Exchange. The bond was afforded the same degree of treatment as a Namibian Government issuance.

Due to the importance and critical roles that IFIs play in global development, it is recommended that these institutions be granted the same preferential status as that of the Namibian Government in relation to their issuances of

securities to support Namibia’s developmental agenda. By granting these institutions the same status as the Namibian Government in relation to security issuances should encourage them to issue more securities in Namibia. This would as a consequence enhance the Namibian financial market development and skills transfer.

2.6 **Amendment of Item 5 (Corporate Bonds)**

Proposed amendment

Item 5 is amended by the deletion of the reference to “loans” in the second column of Item 5. The rationale for this deletion is that these loans are typically unsecured and secured loans are provided for in Item 14 (Other claims).