

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021
COLLECTIVE INVESTMENT SCHEMES
ACTIONS THAT NAMFISA MAY TAKE AGAINST MANAGERS AND
CONNECTED PERSONS OF FOREIGN COLLECTIVE INVESTMENT SCHEMES
OPERATING OR INTENDING TO OPERATE IN NAMIBIA PURSUANT TO
SECTION 220(1)

Standard No. CIS.S.4.6

issued by NAMFISA under section 410(5)(r) of the Financial Institutions and Markets Act,
2021

Definitions

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

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

- (a) “NAMFISA” as defined in section 1 of the Act;
- (b) as defined in section 168 of the Act -
 - (i) collective investment scheme;
 - (ii) investor; and
 - (iii) members of the public;
- (c) “foreign collective investment scheme” as defined in section 218 of the Act; and
- (d) “a person or manager connected with Namibia” or “a person or manager connected with a foreign country” must be read in the context of section 220(2) of the Act.

Applicability

2. This Standard applies to a manager or operator of a foreign collective investment scheme.

Action against person

3. NAMFISA may take the following action pursuant to section 220(1):
- (a) suspend;
 - (b) disqualify; or
 - (c) restrict or partially restrict the administration of the foreign collective investment scheme by the manager or operator connected with Namibia or with a foreign country.
4. Notice may not be served in terms of clause 3 unless –
- (a) it is in public interest; and

(b) NAMFISA has consulted the person concerned or, if expedient, a body representing the interest of the person to be affected.

5. A notice in terms of clause 3 must –

- (a) state the grounds on which it is given;
- (b) identify the country to which the person is connected;
- (c) specify the date on which such notice comes into force; and
- (d) provide for a reasonable period to complete performance of transactions entered into before the date on which the notice comes into force or for the termination of contracts of a continuing nature.

General

6. NAMFISA may, provided that it does not prejudice the investors or the public interest, inform the public of the action taken against the person.
