

**FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021****COLLECTIVE INVESTMENT SCHEMES****RULES FOR ADMINISTRATION OF COLLECTIVE INVESTMENT SCHEMES  
UNDER ONE OR MORE OF PARTS 3 TO 8 OF CHAPTER 4 AND SOLICITATION  
OF INVESTMENTS IN A FOREIGN COLLECTIVE INVESTMENT SCHEME UNDER  
PART 9 OF CHAPTER 4****Standard No. CIS.S.4.3**

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

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**Definitions**

1. (1) In this Standard –
  - (a) “Act” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and it must be read with the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
  - (b) “CIS” means a collective investment scheme as defined in section 168 of the Act;
  - (c) “fiduciary duty” has the same meaning as per Standard No. GEN.S.10.2 – Fit and Proper Requirements;
  - (d) “material information” means information that would enable a client or investor to make an informed decision or information that, if not provided, would result in the client or investor not making an informed decision; and
  - (e) “operator” means the operator of a foreign CIS.
- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including without limitation, the following -
  - (a) as defined in section 1 of the Act –
    - (i) auditor;
    - (ii) board;
    - (iii) director; and
    - (iv) NAMFISA;
  - (b) “investment manager” as defined in 78 of the Act –
  - (c) as defined in section 168 of the Act –
    - (i) assets;
    - (ii) authorised representative;
    - (iii) collective investment scheme;

- (iv) custodian;
  - (v) designated representative;
  - (vi) investor;
  - (vii) manager;
  - (viii) portfolio; and
  - (ix) trustee;
- (c) “collective investment scheme in participation bonds” as defined in section 201 of the Act;
- (d) “collective investment scheme in unlisted securities” as defined in section 210 of the Act;
- (e) “collective investment scheme in money market instruments” as defined in section 213 of the Act; and
- (f) “foreign collective investment scheme” as defined in section 218 of the Act.

### **Applicability**

2. This Standard applies to a manager in respect of the operation and administration of a CIS in securities, property, participation bonds, unlisted securities and money market instruments and a declared CIS, and to an operator in respect of solicitation of investments in a foreign CIS.

### **Operation and administration of CIS**

3. (1) A manager of a CIS must ensure that the governance arrangements will enable the manager to satisfy the duties set out in section 170 of the Act, including:

- (a) the composition of the board, consisting of an independent chairman and directors;
- (b) the responsibility for risk management and internal controls;
- (c) the employment of fit and proper functionaries with the required skills and experience for the effective and prudent operation of a CIS;
- (d) audit arrangements that are able to provide an objective review of the effectiveness of the financial reporting and risk management, including an independent auditor and audit committee; and
- (e) disclosure to investors of any interests of its directors and management in the CIS.

(2) To ensure that the CIS is administered prudently and for the benefit of investors, a manager of a CIS must adopt and implement policies, procedures and controls that deal with:

- (a) the rights of investors, including accurate records and valuation of assets;
- (b) conflicts of interests, including the avoidance or management of conflicts or potential conflicts;

- (c) transparency and disclosure of material information to investors, timeously;
- (d) the protection of investor assets, including segregation;
- (e) investment of CIS assets by an investment manager or safekeeping or custody of assets by a trustee or custodian;
- (f) execution of investment policies and mandates;
- (g) remedial action where lapses occur; and
- (h) the compliance function in respect of compliance with the Act and other applicable laws.

#### **Solicitation of investments by foreign CIS**

4. In the solicitation of investments from investors in Namibia, an operator of a foreign CIS must ensure that the -

- (a) solicitation of investments from potential investors is in accordance with the Act;
- (b) operator complies with the Act and other applicable laws;
- (c) interests of investors are protected;
- (d) operator is transparent and discloses material information to investors timeously;
- (e) governance and audit arrangements are suited to the interests of investors; and
- (f) administration of the CIS is in the best interests of investors.

#### **General**

5. A manager and an operator of a CIS owe a fiduciary duty to investors and must ensure that authorised representatives and their designated representatives comply with the requirements of the Act in dealing with investors.

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