

**FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021****FRIENDLY SOCIETIES GOVERNANCE****Standard No. FS.S.6.20**

issued by NAMFISA under sections 301(1)(l), 410(2)(n) and 410(7)(t) 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) “chairperson” means a trustee elected or designated by trustees as the chairperson of the board of trustees in terms of the rules of the society;
  - (c) “conflict of interest” means a situation which a trustee, key person, auditor, valuator, society administrator or any other service provider encounters, while rendering a financial service to the society or its members, if that situation –
    - (i) impairs the objectivity of the trustee, key person, auditor, valuator, society administrator or any other service providers in any aspect while serving on the board or rendering a financial service to the society or the members of the society; or
    - (ii) prevents the trustee, key person, auditor, valuator, society administrator or any other service provider from serving on the board or rendering a financial service to the society or its members in an unbiased and fair manner or from acting in the best interest of the society or the members of the society; and
  - (d) “independent trustee” means a trustee that meets the requirements of standard GEN.S.10.8 - The independence of directors, members of a board, trustees, custodians, auditors and valuers and any other person required to be independent under the Act.
- (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) actuary;
    - (ii) affiliate;
    - (iii) associate;
    - (iv) auditor;
    - (v) NAMFISA;

- (vi) officer;
  - (vii) principal officer; and
  - (viii) valuator;
- (b) as defined in section 284 of the Act –
- (i) board of trustees or board;
  - (ii) friendly society or society;
  - (iii) society administrator;
  - (iv) member; and
  - (v) sponsor.

### **Applicability**

2. This Standard applies to all friendly societies registered under the Act.

3. 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.

## **PART 1: GOVERNANCE BY THE BOARD**

### **Board's ethical leadership responsibility**

4. The board must –
- (a) provide effective leadership based on an ethical foundation characterised by the ethical values of responsibility, accountability, fairness and transparency;
  - (b) ensure that the responsibilities of the board are consistent with the overriding objectives of the society in accordance with section 285 of the Act;
  - (c) retain ultimate responsibility for the performance, conduct and governance of the society, even though certain functions are delegated or outsourced to external service providers and the board may not abdicate from any of its functions and responsibilities;
  - (d) be responsible for developing the society's ethical standards and such standards must inform all society practices, procedures, policies and conduct;
  - (e) consider the effect of its decisions on all key stakeholders, the most notable being the members of the society; and
  - (f) ensure that the society's ethics performance is assessed, monitored, reported and disclosed in the society's annual financial statements.

### **Board composition**

5. Subject to the provisions of the Act, every board must consider whether its size, diversity and demographics make it effective and diverse.

6. Diversity of the board includes, but is not limited to, academic qualifications, technical expertise, relevant industry knowledge, experience, age, race and gender.

7. Notwithstanding the appointing authority or body, the board -

- (a) owes a primary duty of care to the society and is not specifically accountable to or required to disclose any information to the appointing authority or body through whom they were appointed or elected as trustees; and
- (b) must be sensitive to managing the diversity of the board effectively to ensure that any tension, fears, disagreements, influence, affiliations, special interest, or any other consideration do not hinder decision-making and ensure that these aspects are addressed in the code of conduct of the board.

8. The board of trustees must collectively have the necessary qualifications, knowledge, skills and expertise among them to oversee all the functions performed by the society, and to monitor delegates and service providers to whom such functions have been delegated, and to provide effective oversight and leadership direction of the society's business to ensure it is conducted in a sound and prudent manner and for this purpose –

- (a) the board must collectively and individually have, and continue to maintain, including through training, the necessary skills, knowledge and understanding of the society's business to be able to fulfil their roles; and
- (b) while certain areas of expertise may lie in some, but not all members, the collective board must have an adequate spread and level of relevant competencies and understanding as appropriate to the society's business and the fulfilment of the board's duties in accordance with section 301 of the Act.

9. The board of trustees must have a full reporting structure, which includes the chairperson, principal officer and such other trustees as deemed appropriate.

#### **Board chairperson**

10. The chairperson of the board must –

- (a) proactively and impartially lead the board, without bias in favour of any person, the administrator or any other service provider;
- (b) proactively raise issues of concern on behalf of the board or the society with any person, the administrator or any other service provider; and
- (c) ensure that the performance of the board as a whole, board committees and the principal officer is reviewed and evaluated on a regular basis, and must manage the performance of the board.

#### **Orientation and training of trustees**

11. New trustees must, at the expense of the society, receive training on both the legislative, regulatory and governance principles in order to equip them to effectively carry out their functions as trustees.

12. The board must seek to enhance its knowledge, where relevant, via appropriate training programmes that meet the specific needs of both the society and the individual trustees, as may be identified during the annual individual performance evaluation so as to enable the trustees to make the maximum contribution possible.

**13.** Trustees must receive regular briefings on matters relevant to the business of the society, changes in risks and laws applicable to the business of the society, including accounting standards and policies and the environment in which it operates.

### **Independence and conflicts of interest**

**14.** 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.

**15.** There must be a clear identification and separation of operational and oversight responsibilities in the governance of the society, and the segregation of duties must reflect the nature and extent of the governance risks faced by the society.

**16.** The board must –

- (a) demonstrate their independence in the way they exercise any discretion;
- (b) always consider what is in the best interest of the society;
- (c) ensure that appropriate controls exist to-
  - (i) promote the independence and impartiality of the board;
  - (ii) ensure that confidential and privileged information in the possession or under the control of the society is protected and must only disclose such information as permitted in terms of the law or with the express consent of the relevant person; and
  - (iii) prevent the improper use of privileged or confidential information; and
- (d) ensure that the administrators or any other service provider do not unduly influence the management of the society.

### **Delegation of authority**

**17.** The board must not abdicate their responsibility over, including in respect of, delegated functions.

**18.** Committees of the board may be established to exercise a specific oversight responsibility or to carry out, where the rules of the society permit it, any board-delegated responsibility.

**19.** The terms of reference of a committee of the board must, as a minimum, cover:

- (a) composition of the committee;
- (b) objectives, purpose and functions;
- (c) delegated authorities, including the extent of power to make decisions or recommendations or both;
- (d) tenure; and
- (e) reporting mechanism to the board.

20. Every member of a committee must be suitably skilled and experienced to serve on such committee.

21. Each committee must be required to advise the board on risks relating to the functions to be performed by that committee, and the processes or controls necessary to mitigate such risk.

#### **Filling of vacancies on the board**

22. The board must fill vacancies, inclusive of interim vacancies, in the manner prescribed by the rules of the society, within a reasonable time from when the vacancy arose, pursuant to section 299 of the Act.

#### **Tenure of office**

23. To ensure independence and reduce the risk of familiarity, no trustee may serve for more than three consecutive terms, and the tenure for one term may not exceed a period of three years.

24. (1) To ensure independence and reduce the risk of familiarity in respect of the auditor of the society, the auditor must be appointed for a fixed period and –

- (a) the auditor may not serve for more than six consecutive years; and
- (b) the auditor must comply with the partner rotation requirements prescribed by the Code of Ethics issued by the International Ethics Standards Board for Accountants.

(2) After serving as the auditor for the maximum period of six consecutive years, a minimum period of at least three years must lapse before the same auditor may be appointed again.

25. (1) To ensure independence and reduce the risk of familiarity in respect of the valuator of the society, the valuator must be appointed for fixed period and a valuator may not serve for more than nine consecutive years.

(2) After serving as the valuator of the society for the maximum period of nine consecutive years, a minimum period of at least three years must lapse before the same valuator may be appointed again.

#### **Rotation**

26. 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.

#### **Internal audit**

27. The board must consider whether the structure and operations of the society would benefit from the introduction of an internal audit function.

28. Where the board decides to introduce an internal audit function, the board must ensure that –

- (a) there is an effective risk based internal audit function;

- (b) in the event that the internal audit function is outsourced, the board is ultimately responsible to oversee, manage, inform and take accountability for the effective functioning of the outsourced internal audit function;
- (c) the board is ultimately responsible for the appointment and performance assessment of the head of internal audit;
- (d) internal audit must pursue a risk-based approach to planning, as opposed to a compliance based approach that is limited to evaluation of adherence to procedures; and
- (e) internal controls must be established not only over financial matters, but also operational, compliance and sustainability matters in order to manage risks facing the society.

### **Performance evaluation of board**

**29.** The board must, at least annually, review its own performance to ascertain whether board members collectively and individually remain effective in discharging the respective roles and responsibilities assigned to them and identify opportunities to improve the performance of the board as a whole.

**30.** The board must implement appropriate measures to address any identified inadequacies, including any training programs for board members.

**31.** Subject to the Act, the board must ensure that –

- (a) an evaluation of the board, its committees and individual trustees is performed annually against the board's determined role, functions, duties and performance criteria, as well as those for members of the board committees;
- (b) the past performance of a trustee must be taken into account when trustees are nominated for re-appointment or re-election;
- (c) evaluations must be conducted by the chairperson who must ensure that trustees know that they will be subject to evaluation, that they understand the criteria to be used for evaluation and that they understand the evaluation procedures that will be followed;
- (d) the evaluation of the chairperson's performance must be led by at least two trustees designated by the board, and who may not include the principal officer; and
- (e) the chairperson of the board or a committee appointed by the board, must evaluate the performance of the principal officer at least annually.

## **PART 2: GOVERNANCE OF THE OPERATIONS OF THE SOCIETY**

### **Role of the board in setting the society strategy**

**32.** The board is responsible for the determination and approval of the long-term and short-term strategies of the society and monitor implementation therewith by management or the service provider to whom services have been outsourced, if any.

**33.** Before approving the strategy, the board must ensure that the strategy is aligned with the Act and any relevant legislation, the purpose or object of the society, the value drivers of the society's business and the legitimate interests and expectations of the society's stakeholders, especially the beneficiaries of the society.

**34.** The board must identify key performance and risk areas as well as the associated performance and risk indicators and measures and this would include areas such as finance, ethics, conduct, compliance and sustainability.

### **Internal controls**

**35.** The board must ensure that there are adequate internal controls in place to ensure that all persons and entities with operational and oversight responsibilities act in accordance with the objectives set out in rules of the society, the Act and any other applicable law.

**36.** Internal controls must cover all basic organisational and administrative procedures, and depending upon the scale and complexity of the society, the internal controls must include performance assessment, compensation mechanisms, information systems and processes and risk and compliance management procedures.

**37.** Appropriate policies guiding governance and operations must be adopted and implemented by the board.

**38.** The oversight responsibility of the board requires that there must be –

- (a) regular assessments of the performance of the persons and entities involved in the operations of the society in terms of service level agreements, mandates, and performance contracts;
- (b) regular reviews of services and fees and all costs associated with the operations of the society in order to ensure that they are appropriate;
- (c) a regular review of the information processes, operational software systems, and accounting and financial reporting systems involved in the operations of the society;
- (d) the monitoring and resolution of actual, potential or perceived conflicts of interest amongst those involved in the operation of the society;
- (e) the protection of confidential information of the society; and
- (f) regular reviews of compliance with regulatory and statutory requirements of the society.

### **Expert advice**

**39.** Where a board lacks sufficient expertise to make a fully informed decision and fulfil its responsibilities, it may seek expert advice.

**40.** The board must satisfy itself that any expert advice obtained is independently given, and where any person provides expert advice in respect of any person, the administrator or any other service provider, the board must satisfy itself that such advice is not compromised by the relationship of that person or his or her firm to any person, the administrator or any other service provider as the case may be.

**41.** The board must assess and satisfy itself that any expert advice received is of quality, must verify that all its staff and service providers have adequate qualifications and experience, and the board is not obliged to accept any advice but must consider the appropriateness of such advice.

### **Risk Management**

**42.** Subject to the Act-

- (a) the board may assign oversight of the society's risk management function to an appropriate board committee;
- (b) the board must ensure that the frameworks and processes in place to assist in anticipating these risks have the following characteristics –
  - (i) insight - the ability to identify the cause of the risk, where there are multiple causes or root causes that are not immediately obvious;
  - (ii) information - comprehensive information about all aspects of risks and risk sources, especially of financial risks;
  - (iii) incentives - the ability to separate risk origination and risk ownership ensuring proper due diligence and accountability;
  - (iv) instinct - the ability to avoid 'following the herd' when there are systemic and pervasive risks;
  - (v) independence - the ability to view the society independently from its environment; and
  - (vi) interconnectivity - the ability to identify and understand how risks are related, especially when their relatedness might exacerbate the risk.

**43.** The board must have in place a risk management policy which must be reviewed regularly, but at least every two years, and must include –

- (a) the identification of risks facing the society;
- (b) the assessment of the likelihood of each such risk on the society;
- (c) the assessment of the impact of each such risk on the society;
- (d) the process or controls necessary to reduce the impact of such risks;
- (e) the monitoring of the risk process or controls to ensure that they are appropriate; and
- (f) the communication to the beneficiaries and the stakeholders of the society's risk management policy, including the identification of the key risks and the processes or controls in place to manage them.

**44.** The board must ensure that the society considers and implements appropriate risk responses.

**5.** The society must identify and consider different ways that it can respond to the risks identified during the risk assessment process and these responses must be noted in a risk register.

46. The society must be able to demonstrate that the risk management process provides for the identification and exploitation of opportunities to improve its performance.

47. The risks to be identified must not be limited to those which have a financial consequence, but must include risks which relate to the governance of the society, and which may jeopardise the governance structure.

48. The society is not expected to micro-manage the functions delegated to service providers, but those functions must, when delegated, contain sufficient detail to ensure that the service provider understands what is expected by the board and provide for reasonable right of recourse in the event that there is any breach of the delegated functions by the service provider.

49. The board must receive assurance regarding the effectiveness of the risk management process, for outsourced or delegated functions.

50. The board must ensure that there are processes in place enabling complete, timely, relevant, accurate and accessible risk disclosure to stakeholders.

### **Society expenses**

51. The board must perform regular review of services, against set performance standards and fees and all costs associated with the operation of the society in order to ensure that they are appropriate.

52. The board must ensure that the costs and expenses of the society are managed efficiently.

## **PART 3: MANAGEMENT OF STAKEHOLDER RELATIONSHIPS**

### **Society information and access to society information**

53. Subject to the Act, the board must ensure that –
- (a) trustees have unfettered access to all relevant information relating to the society to enable them to make informed decisions;
  - (b) all society information is confidential and must not be released to any person unless such person has a lawful right to such information;
  - (c) society information such as its membership and investments belong to the society and the board must ensure that where this information is held by a service provider, the service provider will preserve its confidentiality and return the information to the society when the relationship with the service provider is terminated;
  - (d) the board is the ultimate custodian of the corporate reputation and stakeholder relationships and the board must take account of and respond to the legitimate interests and expectations of stakeholders linked to the society in its decision-making;
  - (e) stakeholder interests and expectations, even if not considered warranted or legitimate, must be dealt with and not ignored; and
  - (f) all communication from members, beneficiaries and other stakeholders must be responded to promptly by or on behalf of the board and with thoroughness.

### **Information technology governance**

**54.** The society must understand the strategic importance of information technology and manage the associated risks, benefits and constraints and the responsibility for the information technology function must be assumed by the board.

**55.** Information technology must be aligned with the performance and sustainability objectives of the society.

**56.** The board must ensure that information and information technology assets are managed effectively.

**57.** Where the administrative function of information technology is outsourced to a service provider, the board must obtain assurances and satisfy itself that the information technology risks are managed effectively by the service provider in accordance with best practice principles of information technology governance and risk management.

**58.** The risk or audit function must consider information technology risk as a crucial element of the effective oversight of risk management of the society.

**59.** In understanding and measuring information technology risks, the risk or audit function must understand the society's overall exposure to information technology risk from a strategic and business perspective, including the areas of the business that are most dependent on information technology for effective and continual operation.

### **Reporting**

**60.** Reporting channels between all the persons and entities involved in the governance of the society must be established in order to ensure the effective and timely transmission of relevant and accurate information.

### **Disclosure**

**61.** The board must disclose relevant information to all relevant persons notably members and beneficiaries, sponsors, supervisory authorities, auditors and valuers in a clear, accurate and timely manner, including any ruling made against the society by the appeal body, or financial services adjudicator, court rulings against the society, regulatory issues raised by NAMFISA and all deviations from society rules.

### **Prohibition of certain transactions**

**62.** The following transactions are prohibited:

- (a) financial donations by the society administrator or sponsor of a society to the society; and
- (b) subsidisation of the expenses of the society by the society administrator or sponsor of the society, except for financial donations made or subsidisation of expenditure related to the society's incorporation or registration.

### **Non-compliance**

**63.** NAMFISA may take appropriate enforcement actions in terms of Part 6 of Chapter 10 of the Act for non-compliance with this Standard.

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