

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**INSURANCE****GOVERNANCE****Standard No. INS.S.2.19**

issued by NAMFISA under section 410(3)(dd), read with sections 10(1)(c) and 17, of the Financial Institutions and Markets Act, 2021

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) “conflict of interest” means a situation which a director or key person encounters, while rendering a financial service to a client, if that situation –
 - (i) impairs the objectivity of the director or key person in any aspect of rendering the financial service to the client; or
 - (ii) prevents a director or key person from rendering the financial service to the client in an unbiased and fair manner or from acting in the best interest of the client;
 - (c) “key person” means any person responsible for managing or overseeing, either alone or together with another responsible person, the activities of the registered insurer or reinsurer, and includes those individuals or other entities holding more than 20% of the insurer or reinsurer’s voting rights; and
 - (d) “non-executive director” means an individual not involved in the day-to-day management of the insurer or reinsurer and is not a salaried employee of an insurer and reinsurer or its subsidiaries; and
 - (e) “senior management” means a team of individuals at the highest level of a registered insurer or reinsurer’s management who are involved in the day-to-day responsibilities of managing the insurer or reinsurer, and who hold specific executive powers conferred onto them, with and by authority of the board, and may include the principal officer and line management.
- (2) A party is related to an insurer, reinsurer or person if the party is –
 - (a) an affiliate of, or an associate of, the insurer, reinsurer or person;
 - (b) in a joint venture with the insurer, reinsurer or person;
 - (c) a member of the senior management personnel of the insurer, reinsurer or person; or
 - (d) considered to be controlled by the insurer, reinsurer or person, pursuant to section 3 of the Act.

(3) 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;
- (iv) NAMFISA; and
- (v) principal officer;

(b) as defined in section 4 of the Act –

- (i) insurer;
- (ii) reinsurer;
- (iii) registered insurer; and
- (iv) registered reinsurer.

Applicability

2. This Standard applies to all registered insurers and reinsurers.

3. This Standard must be read with the provisions in the following Standards –

- (a) Standard No. GEN.S.10.2 – Fit and Proper Requirements;
- (b) Standard No. GEN.S.10.8 – The independence of directors, members of a board, trustees, custodians, auditors and valuers and of any other person required to be independent under the Act;
- (c) Standard No. GEN.S.10.9 – Code of Conduct; and
- (d) Standard No. GEN.S.10.20 – Definition of related party transactions and identifying those that are prohibited under the Act.

4. Every registered insurer or reinsurer must adhere to the following principles of corporate governance as prescribed in this Standard.

Independence

5. In addition to the meaning assigned to the term “independent” in Standard No. GEN.S.10.8 - The independence of directors, members of a board, trustees, custodians, auditors and valuers and of any other person required to be independent under the Act, for purposes of this Standard, “independent director” means a director who –

- (a) has not been employed by the insurer or reinsurer in any executive capacity or senior management within the preceding six years;

- (b) is not associated to an adviser or consultant to the insurer or reinsurer;
- (c) is not a material customer or supplier of the insurer or reinsurer, or has a personal service contract(s) with the insurer or reinsurer or a member of the insurer or reinsurer's senior management;
- (d) is not an associate of the insurer or reinsurer, or a related party;
- (e) is not an entity that receives significant contributions from the insurer or reinsurer;
- (f) has not had any business relationship with the insurer or reinsurer (other than service as a director) for which the insurer or reinsurer has been required to make disclosure within the preceding six years;
- (g) is not employed by a public listed company or an unlisted company at which an executive officer of the insurer or reinsurer serves as a director;
- (h) is not a member of the immediate family of any person described in paragraphs (a) to (g); or
- (i) has not had any of the relationships described in paragraphs (a) to (g) with any affiliate of the insurer or reinsurer.

6. An independent director must not be an employee of an insurer or reinsurer or an employee of a related party.

7. A director who is regarded as an independent director of a holding company or a related party shall not be deemed or considered independent of the subsidiary within the group.

8. (1) To ensure independence and reduce the risk of familiarity in respect of the auditor of the registered insurer or reinsurer, 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.

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

(2) After serving as the valuator of the insurer or reinsurer 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.

Board composition

10. (1) Every registered insurer and reinsurer must have full reporting structures that the board of directors must be comprised of, such as a chairperson, a principal officer, directors, etc.

- (2) The appointed chairperson must be independent within the meaning of this Standard.

11. (1) The board of a registered insurer or reinsurer must have relevant minimum qualifications and expertise among them as necessary to provide effective leadership direction and oversight of the insurer or reinsurer's business to ensure it is conducted in a sound and prudent manner.

- (2) In addition to the requirements specified under sub-clause (1) –
- (a) the board must collectively and individually have, and continue to maintain, including through training, necessary skills, knowledge and understanding of the insurer or reinsurer's business to be able to fulfil their roles;
 - (b) the board must have knowledge and understanding of areas such as the lines of insurance or reinsurance underwritten by the insurer or reinsurer, actuarial and underwriting risks, finance, accounting, the role of control functions, investment analysis and portfolio management and obligations relating to fair treatment of customers; and
 - (c) 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 insurer or reinsurer's business.

Board chairperson

- 12.** The chairperson of the board must –
- (a) proactively and impartially lead the board, without bias;
 - (b) proactively raise issues of concerns on behalf of the board; 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 members of the board.

Board Committees

13. Pursuant to section 398 of the Act, the registered insurer or reinsurer's board must set up the committees necessary for the performance of the following functions, but not limited to –

- (a) investment;
- (b) risk management;
- (c) asset liquidity management;
- (d) policyholders protection;
- (e) ethics; and
- (f) nomination and remuneration.

14. (1) The board must put in place the minimum mandatory policies, board structures and board committees that the insurer or reinsurer is required to have, so as to enforce compliance.

- (2) Pursuant to sub-clause (1), the policies must comprise of the following, but not limited to –
- (a) investment management;
 - (b) risk underwriting; and
 - (c) reinsurance.

Tenure of office and appointment

15. (1) To ensure independence and reduce the risk of familiarity, no non-executive director may serve for more than three consecutive terms, and the tenure for one term may not exceed a period of three years.

(2) After serving the maximum of three consecutive terms, a minimum period of at least three years must lapse before the same person may be appointed as a non-executive director again.

Delegation of authority

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

17. Committees of the board may be established to exercise a specific oversight responsibility or to carry out any board-delegated responsibility.

18. 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.

19. Every member of a committee must, as far as is reasonably possible, be suitably skilled and experienced to serve on such committee.

20. 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 that risk.

Performance reviews

21. 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.

22. The board must implement appropriate measures to address any identified inadequacies, including any training programs for continuous development of board members.

- 23.** Subject to the Act, the board must ensure that –
- (a) the evaluation of the board, its committees and individual directors is performed annually against the board’s determined roles, functions, duties and performance criteria, as well as those for members of board committees;
 - (b) the past performance as a board member must be taken into account when directors are nominated for re-appointment or re-election;
 - (c) evaluations must be conducted by the chairperson who must ensure that directors know that they will be subject to evaluation, that they understand the criteria 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 directors 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.

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

25. The board may consider the use of external expertise from time to time to undertake its performance assessment where appropriate in order to enhance the objectivity and integrity of that assessment process.

Rotation

26. The board must establish an arrangement for periodic, staggered rotation of directors 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.