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**FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021  
RETIREMENT FUNDS**

**REQUIREMENTS FOR THE VOLUNTARY TERMINATION OR DISSOLUTION OF A  
FUND PURSUANT TO SECTION 278 AND IN THE CIRCUMSTANCES SPECIFIED IN  
ITS RULES**

**Standard No. RFS.5.6**

issued by NAMFISA under sections 278 and 410(6)(p) of the Financial Institutions and Markets  
Act, 2021

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**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) as defined in section 1 of the Act –

- (i) Appeal Board;
- (ii) NAMFISA;
- (iii) NAMFISA Act;
- (iv) principal officer;
- (v) retirement fund;
- (vi) valuator;

(b) as defined in section 249 of the Act –

- (i) board;
- (ii) employer;
- (iii) fund;
- (iv) member;
- (v) rules; and
- (vi) sponsor.

## **Applicability**

2. This Standard applies to every fund registered under the Act, to the board and principal officer of such fund and to a liquidator appointed under clause 5.

## **Requirements for the voluntary dissolution of a fund**

3. The rules of a fund must provide procedures for the voluntary dissolution of the fund.

4. A fund may be terminated or dissolved, wholly or in part, in the manner directed by its rules.

5. A liquidator from the list maintained by NAMFISA pursuant to clause 7 must be appointed for the fund in the manner directed by its rules, or, if the rules do not contain directions as to such appointment, by the board of the fund, but such appointment is subject to the further approval of NAMFISA as provided for in clause 7, and the period of dissolution shall be deemed to commence as from the date of such approval.

6. The remuneration of the liquidator shall be paid from the assets of the fund, and a copy of the resolution of the board of the fund approving the dissolution of the fund and the remuneration of the liquidator must be submitted to NAMFISA and kept with the records of the fund.

7. NAMFISA may maintain a list of persons, approved by NAMFISA, as suitable to act as liquidators of funds, but notwithstanding that a person has been approved for the list, the appointment of the person as liquidator for a particular fund is subject to the further approval of NAMFISA, and NAMFISA may, in its discretion, refuse to grant that approval.

8. Until such time as the fund is finally dissolved, the provisions of the Act shall continue to apply to the fund as if the liquidator is the board of the fund.

9. The liquidator must, as soon as possible but within three months from the date of the approval of his or her appointment, deposit with NAMFISA the preliminary accounts in the form of Forms A to D of Schedule 1, attached to this Standard, signed and certified as correct by the liquidator and showing:

- (a) the assets and liabilities of the fund as at the date of commencement of the dissolution and the manner in which it is proposed to realize the assets and to discharge the liabilities of the fund, including any liabilities and contingent liabilities to or in respect of members; or
- (b) in the case of the partial dissolution of the fund, the assets and liabilities of the fund attributable to the members connected to the participating employer whose withdrawal from the fund has caused its partial dissolution.

10. In discharging the liabilities and contingent liabilities to or in respect of members referred to in clause 9(a), full recognition must be accorded to –

- (a) the rights and reasonable benefit expectations of the members and other beneficiaries; and
- (b) any additional benefits, the payment of which by the fund has become an established practice.

**11.** NAMFISA may, at its discretion, direct the liquidator to submit a report on the preliminary accounts referred to in clause 9, drawn up by an independent valuator or other competent person nominated or approved by NAMFISA.

**12.** The preliminary accounts and report (if any) referred to in clauses 9 and 11 must be open for inspection by members of the fund and the public for a period of one month at the office of NAMFISA, the office of the employer if applicable, and at the principal office the fund.

**13.** The liquidator must publish a notice, at the cost of the fund, in the Government Gazette and in a national or regional/local newspaper in the English language or, if the liquidator deems it necessary in the circumstances, in any other language, circulating in the district in which the principal office of the fund and/or the employer is situated, stating the period during which and the places at which the preliminary accounts and report (if any) shall be open for inspection by members of the fund and the public, which period shall be one month as contemplated in clause 12.

**14.** The notice referred to in clause 13 must state that any member or other person who has any objection to the preliminary accounts and report (if any) may lodge their objections in writing with NAMFISA within the period stated in the notice, which period shall be one month, calculated from the last day on which those documents are open for inspection.

**15.** If, in the case of a particular fund or a particular participating employer whose withdrawal from the fund has caused its partial dissolution, NAMFISA is satisfied on reasonable grounds that there exist special circumstances which justify an exemption from the provisions of clauses 13 and 14, NAMFISA may, having due regard to the rights of members of the fund and other interested persons, exempt the fund from all or any of the provisions of clauses 13 and 14 and any such exemption shall be subject to the conditions determined from time to time by NAMFISA.

**16.** Before granting an exemption under clause 15, NAMFISA must have regard to:

- (a) the number of members and beneficiaries in the fund;
- (b) the size of the assets of the fund;
- (c) the probable cost of publishing notices relative to the financial resources of the fund as shown in the preliminary accounts and report (if any) submitted pursuant to clauses 9 and 11; and
- (d) the steps taken by the liquidator:
  - (i) to notify members, beneficiaries and other interested parties, in so far as they can be reasonably ascertained, of the contents of the preliminary accounts; and
  - (ii) to ascertain whether there are any objections to distribution on the basis of such accounts.

**17.** If no objections are lodged with NAMFISA pursuant to clause 14, and NAMFISA is satisfied with the preliminary accounts, NAMFISA may direct the liquidator to complete the dissolution.

**18.** If objections are lodged with NAMFISA pursuant to clause 14, NAMFISA may, after considering the objections, direct the liquidator to amend the preliminary accounts or give such other directives relating to the dissolution as NAMFISA deems fit, provided such directives are not inconsistent with the rules of the fund or this Standard, and any such directive shall be binding upon the liquidator.

**19.** The liquidator must forthwith upon the receipt of any directive of NAMFISA pursuant to clause 18, send a copy of the directive to every member, beneficiary (where applicable), sponsor (where applicable) and creditor of the fund if it is practically possible, else publish a notice of the directive, at the cost of the fund, in a national or regional/local newspaper in the English language or, if the liquidator deems it necessary in the circumstances, in any other language, and the liquidator or any person aggrieved by any such directive may appeal to the Appeal Board in terms of section 45 of the NAMFISA Act.

**20.** If NAMFISA is satisfied that its directives, in so far as they have not been varied or set aside by the Appeal Board or court, have been given effect by the liquidator, NAMFISA may direct the liquidator to complete the dissolution.

**21.** Not later than one month after completion of the dissolution, the liquidator must lodge with NAMFISA the final accounts in the form of Forms A to D of Schedule 1 signed and certified as correct by the liquidator and showing:

- (a) the assets and liabilities of the fund, as at the commencement of the dissolution, or, in the case of the partial dissolution of the fund, those assets and liabilities of the fund which, at the commencement of the dissolution, were attributable to the members connected to the participating employer whose withdrawal from the fund has caused its partial dissolution; and
- (b) the manner in which the assets have been realized and the liabilities (including any liabilities and contingent liabilities to or in respect of members) have been discharged.

**22.** Before the liquidator effects payments of any amounts to members and beneficiaries of a fund, the preliminary accounts and report (if any) specified in clauses 9 and 11 or such other information as may be acceptable to NAMFISA must have been submitted to NAMFISA.

**23.** All claims against the fund must be proved to the satisfaction of the liquidator, and the liquidator may require any claim to be made on affidavit.

**24.** If satisfied that the accounts prepared by the liquidator in respect of the fund are correct and that the dissolution has been completed, NAMFISA must:

- (a) cancel the registration of the fund, in the case where the fund is wholly terminated, and thereupon the fund must be deemed to be terminated and dissolved; or
- (b) in the case of the partial dissolution of the fund, confirm the completion of the partial dissolution of the fund.

**25.** NAMFISA may exempt a fund from:

- (a) the provisions of clause 21; or
- (b) the provisions of clauses 5 to 9, 11 to 20, 22 to 24 and 33 to 43, provided the conditions of clauses 26 and 27 are respectively met.

**26.** In order to obtain an exemption under clause 25(a) from the requirements of clause 21 to submit final accounts, the liquidator must confirm to NAMFISA that the dissolution has been completed in accordance with the requirements of this Standard and that all benefits have been paid to the members and their beneficiaries.

**27.** In order to obtain an exemption under clause 25(b), on the date that the board of the fund passes a resolution to dissolve or partially dissolve the fund, the following conditions must apply:

- (a) the average benefit per member is less than N\$50 000;
- (b) the fund or the withdrawing participating employer does not have more than 50 members or employees, as applicable; and
- (c) the fund or the withdrawing participating employer has assets of less than N\$5 million,

but NAMFISA may, in its discretion, grant such exemption if either of these conditions are not met.

**28.** (1) In the event that an exemption is granted pursuant to clause 25(b), the fund must comply with the conditions of this clause and clauses 29 and 30.

(2) The board of the fund must inform NAMFISA of the name and contact details of the person who will be responsible for managing the dissolution of the fund.

(3) The person referred to in sub-clause (2) will be deemed to be the liquidator of the fund, however such person will not perform the role of the board of the fund as contemplated in clause 8.

(4) Effective on the date on which an exemption under clause 25(b) is granted, the person referred to in sub-clause (2) must at least every three months, submit a written report to NAMFISA containing the following information:

- (a) the method used to calculate benefits;
- (b) communications to members and beneficiaries;
- (c) any outstanding tax issues;
- (d) the death and any other termination of membership of any member subsequent to the date on which the exemption was granted;
- (e) the manner in which objections to the benefit calculations were resolved;
- (f) payments of benefits; and
- (g) payment/treatment of unclaimed benefits, if any.

**29.** All benefits must be paid to members and beneficiaries within six months from the date on which NAMFISA granted the exemption under clause 25(b), and any unclaimed benefits must be paid either into the Guardian's Fund (or such other fund as may be designated for this purpose by the Minister).

**30.** A declaration that the fund has no remaining members, assets or liabilities must be submitted to NAMFISA by the liquidator within one month after the final distribution of member and beneficiary benefits, including unclaimed benefits, and must be accompanied by an application for the cancellation of the registration of the fund.

**31.** NAMFISA may withdraw an exemption granted under clause 25(a) or (b) where the members and beneficiaries of the fund or the withdrawing participating employer have been prejudiced as a result of the exemption granted, and in the case of an exemption granted under clause 25(b), where the requirements outlined in clauses 28, 29 and 30 have not been met.

**32.** The provisions of this Standard shall not apply to a fund if the total or partial dissolution of the fund is a result of an amalgamation or transfer approved by NAMFISA pursuant to Part 8 of Chapter 10 of the Act.

**33.** A fund undergoing voluntary dissolution according to its rules, must prepare and submit to NAMFISA financial statements current to the day preceding the date on which the appointment of the liquidator is approved by NAMFISA under clause 5 or the date on which NAMFISA grants an exemption from the provisions of this Standard under clause 25(b).

**34.** In the event that the period following:

- (a) the date on which the most recent annual financial statements were submitted to NAMFISA by the fund up to and including the date on which the appointment of the liquidator is approved by NAMFISA under clause 5; or
- (b) the date an exemption is granted under clause 25(b),

exceeds six months, new financial statements must be prepared and submitted to NAMFISA.

**35.** Where the period referred to in clause 34 is less than six months, the financial statements may be included with those for the preceding financial year, provided that the total period covered by such financial statements does not exceed 18 months.

**36.** Notwithstanding clause 35, where the financial statements for the most recent financial year have been finalized and the period between the immediately preceding year-end and the date of appointment of the liquidator does not exceed six months, no further financial statements need be submitted.

**37.** Where the financial period of a fund has been changed as a result of the provisions of clause 35 or 36, the rules of the fund need not be amended to provide for such a change in year-end.

**38.** In exercising its powers and functions under this Standard, NAMFISA may request any additional information not provided for in this Standard that NAMFISA considers necessary or desirable.

**39.** In order to be approved by NAMFISA to act as liquidator of a fund and added to the list pursuant to clause 7, a person must submit an application to NAMFISA in the form of Form A of Schedule 2.

**40.** Upon the appointment of a liquidator by a fund and the acceptance by the liquidator of the appointment, the following documents must be submitted to NAMFISA:

- (a) an application in the form of Form B of Schedule 2 completed by the board of the fund;
- (b) an application in the form of Form C of Schedule 2 completed by the appointed liquidator; and
- (c) a copy of the board resolution approving the dissolution of the fund and the appointment of the liquidator.

**41.** Where for any reason it is necessary to replace a liquidator, the replacement liquidator appointed by the fund must submit to NAMFISA an application in the form of Form C of Schedule 2, together with the following information:

- (a) the reasons for the replacement of the liquidator;
- (b) confirmation that the members have been informed of the replacement of the liquidator; and
- (c) confirmation that all the relevant documentation relating to the dissolution has been made available to the newly appointed liquidator, where applicable.

**42.** In order for a fund to obtain an exemption under clause 15 from the requirements of clauses 13 and 14, the liquidator must submit an application to NAMFISA in the form of Form F of Schedule 2, together with written declarations, in the form set out in Form E of Schedule 2 of all members and beneficiaries of the fund to the effect that the members and beneficiaries are satisfied with the relevant dissolution and distribution accounts and have approved the accounts accordingly.

**43.** In order to obtain an exemption under clause 25(a) from the requirements of clause 21 to submit final accounts, the liquidator must submit to NAMFISA an application in the form of Form G of Schedule 2.

**44.** In order to obtain an exemption under clause 25(b), a fund must submit to NAMFISA an application in the form of Form D of Schedule 2.

**45.** Following the granting of an exemption under clause 25(b), the board of a fund must inform NAMFISA of the name and contact details of the person who will be responsible for managing the dissolution of the fund in the form set out in Form D of Schedule 2.

**46.** A declaration of the liquidator made under clause 30 must be accompanied by an application for the cancellation of the registration of the fund in the form of Form J of Schedule 2.

**47.** Before NAMFISA may cancel the registration of a fund or participating employer pursuant to clause 24, the liquidator must submit an application to NAMFISA in the form of Form I of Schedule 2.

## **SUPPORTING SCHEDULES**

**The following supporting schedules are attached to and form part of this Standard:**

### **Schedule 1:**

FORM A	PRELIMINARY/FINAL DISSOLUTION ACCOUNTS
FORM B	PRELIMINARY/FINAL DISSOLUTION ACCOUNTS
FORM C	PRELIMINARY/FINAL DISSOLUTION ACCOUNTS
FORM D	PRELIMINARY/FINAL DISSOLUTION ACCOUNTS

### **Schedule 2:**

FORM A:	APPLICATION TO BE ADDED TO THE PANEL OF LIQUIDATORS APPROVED BY NAMFISA TO ACT AS LIQUIDATORS OF A FUND PURSUANT TO CLAUSE 7
FORM B:	APPLICATION BY THE BOARD OF A FUND FOR THE APPROVAL OF THE APPOINTMENT OF A LIQUIDATOR PURSUANT TO CLAUSE 40

- FORM C: APPLICATION BY THE LIQUIDATOR TO BE APPOINTED TO A FUND OR EMPLOYER PARTICIPATING IN A FUND PURSUANT TO CLAUSE 40
- FORM D: APPLICATION FOR AN EXEMPTION PURSUANT TO CLAUSE 25(b)
- FORM E: DECLARATION BY MEMBERS AND BENEFICIARIES – APPLICATION FOR AN EXEMPTION FROM THE REQUIREMENT TO ADVERTISE AND PROVIDE FOR THE INSPECTION OF DISSOLUTION ACCOUNTS PURSUANT TO CLAUSE 15
- FORM F: APPLICATION FOR PARTIAL EXEMPTION FROM THE REQUIREMENT TO ADVERTISE AND PROVIDE FOR THE INSPECTION OF DISSOLUTION ACCOUNTS PURSUANT TO CLAUSE 15
- FORM G: DECLARATION BY THE LIQUIDATOR – APPLICATION FOR PARTIAL EXEMPTION FROM SUBMITTING FINAL ACCOUNTS PURSUANT TO CLAUSE 25(a)
- FORM I: APPLICATION FOR CANCELLATION OF REGISTRATION OR CONFIRMATION OF THE COMPLETION OF THE PARTIAL DISSOLUTION OF THE FUND PURSUANT TO CLAUSE 47

**SCHEDULE 1**  
(to Standard No. R.F.S.5.6)

<b>FORM A</b>
<b>PRELIMINARY/FINAL DISSOLUTION ACCOUNTS pursuant to clause 9 and clause 21 of Standard No. R.F.S.5.6. made under the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021)</b>

..... (name of fund)  
REGISTRATION NUMBER: 25/7/7/.....

Preliminary/Final Statement of Funds and Net Assets at the commencement of the dissolution as on  
..... (date).

**1. FUNDS**

1.1 ACCUMULATED FUNDS .....

1.1.1 Pension .....

1.1.2 Provident .....

1.1.3 Retirement Annuity .....

1.1.4 Benefit .....

1.2 RESERVE ACCOUNTS .....

1.2.1 Reserve .....

1.2.2 Pensioner reserves .....

1.2.3 Other reserves .....

TOTAL FUNDS AND RESERVES .....

**2. FIXED ASSETS AND INVESTMENTS** .....

2.1 FIXED ASSETS .....

2.2 INVESTMENTS .....

2.3 CURRENT ASSETS .....

2.3.1	Accounts receivable	.....	
2.3.2	Income accrued	.....	
2.3.3	Arrear contributions	.....	
2.3.4	Cash at bank	.....	
2.3.5	Other (specify)	.....	_____

**TOTAL ASSETS** .....

**3. LESS: LIABILITIES** .....

3.1 LONG TERM LIABILITIES .....

- 3.1.1 (Specify) .....
- 3.1.2 (Specify) .....
- 3.2. CURRENT LIABILITIES .....
- 3.2.1 Contributions in advance .....
- 3.2.2 Accounts payable .....
- 3.2.3 Benefits due .....
- 3.2.4 Bank overdraft .....
- 3.2.5 Other (specify) .....
- NET ASSETS** .....

Certified correct \_\_\_\_\_ (Liquidator)

Date \_\_\_\_\_

**FORM B**  
**PRELIMINARY/FINAL DISSOLUTION ACCOUNTS pursuant to clause 9 and clause 21 of Standard No. RFS.5.6. made under the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021)**

..... (name

of fund) REGISTRATION NUMBER: 25/7/7/.....

Preliminary/Final Realisation Account at ..... (date).

**1. RECEIPTS**

(Details of amounts realized by assets in accordance with the Preliminary/Final Statement of Funds and Net Assets as per Form A)

Description	Value as per statement	Realisable value
.....	.....	.....
.....	.....	.....
Other receipts	.....	<u>.....</u>
.....	.....	.....

**2. LESS: LIABILITIES**

(Details from the Preliminary/Final Statement of Funds and Net Assets in Form A)

Description

.....  
 .....  
 ..... .....

\_\_\_\_\_



<p><b>FORM D</b></p> <p><b>PRELIMINARY/FINAL DISSOLUTION ACCOUNTS pursuant to clause 9 and clause 21 of Standard No. RFS.5.6. made under the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021)</b></p>
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..... (name of fund) REGISTRATION NUMBER: 25/7/7/.....

- 1. Number of members
  - 1.1 Active .....
  - 1.2 Retired .....
  - 1.2.1 Current .....
  - 1.2.2 Deferred members .....
  - 1.3 Dependents and nominees in receipt of regular payments .....

**TOTAL**

- 2. The number of members (including retired members) at the date of dissolution of the fund .....
- 3. Highest number of members (including retired members) during the 12 months preceding the date of dissolution .....

4. The reason(s) for the difference in 2 and 3 above:  
 .....  
 .....  
 .....

**Note:** Submit in duplicate on a separate page only with the Final Dissolution Accounts.

Certified correct ..... (Liquidator)

Date \_\_\_\_\_

**SCHEDULE 2**  
(to Standard No. RF.S.5.6)

<b>FORM A</b>			
<b>APPLICATION TO BE ADDED TO THE LIST OF LIQUIDATORS APPROVED BY NAMFISA TO ACT AS LIQUIDATORS OF FUNDS</b>			
<b>pursuant to clause 7 of Standard No. RF.S.5.6. made under the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021)</b>			
I, hereby apply to be added to the panel of liquidators approved by NAMFISA to perform dissolutions of funds, pursuant to clause 7 of Standard No. RF.S.5.6.			
1.	Surname:		
2.	Full Names		
3.	Identity / passport Number		
4.	Postal address:		
5.	Registered address ( <i>domiculum citandi et executandi</i> ) where documents and records will be kept in safe custody or where legal documents can be served:		
6.	Telephone number:		
7.	Cell phone number:		
8.	E-mail address:		
		<b>Yes/ No</b>	<b>Comments</b>
9.	Are you fully conversant with the provisions of the Act, Regulations and Standards as well as the relevant requirements, policies and procedures in respect of the dissolution of funds?		
10.	Have you ever been convicted of an offence resulting from dishonesty, fraud or embezzlement? If so, give details:		
11.	Has your estate ever been sequestrated or a business in which you had a financial interest been dissolved? Are you a rehabilitated insolvent? If so, kindly provide details.		
12.	Have you been involved as a controlling shareholder or director of a company or close corporation at the time it was placed under judicial management or in liquidation/dissolution?		
13.	Have you been subject to disciplinary proceedings by an employer or regulatory body? If so, kindly provide details.		
14.	Have you ever been barred from entry into any profession or occupation? If so, kindly provide details.		
15.	What experience have you had in the liquidation/dissolution of a fund or other financial institution? Describe		
A copy of my Curriculum Vitae in relation to funds is attached hereto. I hereby certify that the abovementioned information is true, correct and complete and further undertake to advise NAMFISA of any important changes to the above information. I hereby agree that NAMFISA may perform reference checks and verification of qualifications, as well as require me to submit a police clearance certificate to NAMFISA.			
	SIGNATURE OF APPLICANT		DATE
	FULL NAMES IN BLOCK LETTERS		