



GOVERNMENT GAZETTE

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General Notice

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. 47

2023

DRAFT PROPOSED STANDARDS UNDER THE FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021

The draft standard GEN.S.10.21 as set out in Schedule 1, is published by the Namibia Financial Institutions Supervisory Authority (NAMFISA) under section 409(3) of the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021).

The draft standards CIS.S.4.6, GEN.S.10.2 and GEN.S.10.10, as set out in Schedule 2, that were previously published, are re-published due to significant changes in content by the Namibia Financial Institutions Supervisory Authority (NAMFISA) under section 409(3) of the Financial Institutions and Markets Act, 2021.

All financial institutions, financial intermediaries, industry associations or self-regulatory organisations are invited to make representations in writing to NAMFISA with respect to the draft proposed standards, within 30 calendar days after the date of publication. Such representations will be taken into account in determining whether to issue the standards as originally published or in a modified form.

Written representations must be supplied in the template provided under Schedule 3, and must be submitted to NAMFISA at the Upper Ground floor, Gutenberg Plaza, 51 – 55 Werner List Street, Windhoek or email: acloete@namfisa.com.na and projectnewdawn@namfisa.com.na

ADV. H. GARBERS-KIRSTEN
CHAIRPERSON OF THE BOARD
NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

SCHEDULE 1

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021 **GENERAL** **TREATING CONSUMERS FAIRLY**

Standard No. GEN.S.10.21

*issued by NAMFISA under sections 395(2)(e), 408(1)(d)(i), 408(1)(e)(ii) and 410(9)
of the Financial Institutions and Markets Act, 2021*

Definitions

1. (1) In this Standard, unless the context indicates otherwise, “**Act**” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and 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, which are defined in section 1 of the Act:

- (a) board;
- (b) director;
- (c) financial institution;
- (d) financial intermediary;
- (e) NAMFISA; and
- (f) financial service.

Application of Standard

2. This Standard applies to:

- (a) all financial institutions and financial intermediaries registered under the Act;
- (b) all financial intermediaries registered and financial intermediaries under the Act; and

- (c) the board and senior management, directors, the principal officer of a financial institution or financial intermediary accountable for enforcing its policy relating to the fair treatment of consumers.

Treating Customers Fairly Principles

3. Every financial institution and financial intermediary must -

- (a) have a written policy relating to fair treatment of consumers, which must include, at a minimum, the outcomes and principles referred to in clause 5; and
- (b) take all reasonable steps to ensure all staff are aware of, understand and comply with such provisions when executing their duties.

4. The policy relating to fair treatment of consumers must be approved by the board of the financial institution and financial intermediary for adoption, or by the senior management where the board is not applicable.

Outcomes and principles

5. The policy relating to fair treatment of consumers must contain, at a minimum, the principles outlined under each of the seven outcomes:

- (a) Outcome One: Fair Treatment Culture;
- (b) Outcome Two: Appropriate Financial Services Design and Distribution;
- (c) Outcome Three: Clear and Relevant Information;
- (d) Outcome Four: Proper Advise;
- (e) Outcome Five: Financial Services Perform as Promised or Expected and at an Acceptable Standards;
- (f) Outcome Six: No unreasonable post sale barriers; and
- (g) Outcome Seven: Privacy and Data Protection.

Outcome One: Fair Treatment Culture

6. (1) This outcome is the underlying driver for all other TCF Outcomes and aims at ensuring confidence in the market place that consumers are dealing with financial institutions and financial intermediaries where fair treatment of consumers is central to the corporate culture.

(2) Financial institutions and financial intermediaries must embrace principles on treating customers fairly in their corporate values and standards and be undertaken in internal operations daily.

(3) The responsibility to promote such a culture starts with the board and senior management and ends with the lower-ranked staff of all financial institutions and intermediaries, so that -

- (a) the board and senior management is responsible for promoting and implementing culture on fair treatment of consumers:

- (i) through enforcing a culture based on values; and
 - (ii) a day-to-day conduct of activities that put fair treatment of consumers at the fore-front;
- (b) staff are appropriately skilled, trained and have required competence in providing fair treatment to consumers; and
- (c) incentivize staff to promote corporate culture on treating customer fairly in their daily work.

Outcome Two: Appropriate Financial Service Design and Distribution

7. (1) The aim of this outcome is to ensure that financial services marketed and sold are designed and distributed to meet the well-defined needs of the targeted consumer group.

(2) A financial institution or intermediary must ensure that the design and distribution of financial services meet the -

- (a) needs of identified consumer groups in terms of the costs, benefits; and
- (b) limitations of the financial services.

(3) Financial institutions and financial intermediaries must have written policies, which must prescribe on financial services design and distribution thereof at a minimum by -

- (a) identifying risks and mitigating measures in implementing the financial services;
- (b) setting out methodology on financial services design, including financial services already offered in the market from the same financial institution or financial intermediary; and
- (c) engaging in capacity development initiatives for the staff to be able to appropriately deliver the products and services.

Outcome Three: Clear and Relevant Information

8. (1) This outcome ensures that consumers are given clear and relevant information, and that they are appropriately informed about all the terms and conditions relating to a financial service before, during and after point of sale.

(2) Financial institutions and financial intermediaries must maintain accurate and retrievable records of information provided to consumers at and after the point of sale, including information used during marketing and promotion, which must be clear, appropriate and relevant to the consumer.

(3) Under this Outcome, financial institutions and financial intermediaries must, at a minimum -

- (a) provide clear and truthful information to consumers at and after the point of sale;
- (b) maintain mechanisms for confirming that the terms and conditions associated with the financial service are understood in the target market;

- (c) ensure that information provided in promoting a product is easily understandable, clearly outlining to consumers the cost, benefits and limitations of a specific product or service;
- (d) ensure that disclosure around bundled products enables consumers to understand the different components of the bundle;
- (e) provide consumers with ongoing relevant information to enable them to monitor whether the product or service continues to meet their needs and expectations;
- (f) maintain general records of information provided to consumers as long as the service remain active in the market; and
- (g) provide a platform, at all times, after sale, follow-up queries on financial services sold.

(4) Other requirements that the financial institution and intermediary must adhere to in their conduct when providing financial services include -

- (a) the issuance of periodic statements of account, transaction receipts, and if possible in a local language;
- (b) the arrangement that all the disclosed documents must be provided in a form that the consumer can readily access and keep for later reference;
- (c) that a notice of any change to the key facts statements summarizing terms and conditions pertaining to any type of premium, contribution, fee, commission, interest rate, finance charge and claim be issued to the consumer prior to the effective date of the notice; and
- (d) that consumers be issued with clear and comparable summaries of the key facts statements used within a specific sector across all financial institutions as key terms and conditions to a financial service when they are shopping around and at the contractual stage in a template used for the disclosures of such key terms and conditions.

(5) Financial institutions and financial intermediaries must ensure that in their communications, transparency and full disclosure principles are adopted on the terms and conditions about the financial services so that -

- (a) terms and conditions are in a clear, concise and in simple language as articulated under General Standard No. 10.17 outlining provisions describing plain language requirements;
- (b) as provided for under General Standard No. 10.17 on plain language descriptions, complicated legal, technical terms or abbreviations must only be used with proper explanations in short sentences and paragraphs must have clear headings;
- (c) timely, most up-to-date, accurate and relevant information is provided to the consumer during the pre-contractual stage, at the point of entering into a contract and during the term of the contract and such information is consistent for the same target group, and comparable across financial institutions and financial intermediaries offering similar financial services; and

- (d) all finance charges including commissions, fees, penalties, interest rate, etc., are displayed at the premises of the financial institutions and financial intermediaries, as well as on their respective websites, and are in a form that is comparable to other financial institutions and financial intermediaries within the same industry.
- (6) Terms and conditions not disclosed to the consumer, which unfairly causes prejudice to the consumer, shall be invalid and unenforceable against the consumer.
- (7) Financial institutions and financial intermediaries must not require consumers to waive their rights under the treatment of customers fairly principles as a condition to be met before receiving a financial service, or during the life cycle of a financial service.
- (8) Financial institutions and financial intermediaries must provide a period to consumers during which they can rescind a contract, in a relevant industry, and still have any fees and advances returned.
- (9) When a contract for a financial service is duly terminated by both parties, the financial institution and financial intermediary must -
 - (a) if appropriate, refund any money that the consumer has paid under the contract before the expiry of any applicable notice-period;
 - (b) cancel any form of automatic payment and give notice of termination, if necessary to stop the payment; and
 - (c) only require payment from the consumer to compensate the financial institution or financial intermediary for the costs incurred, relating to the contract in question.
- (10) Notice of the consumer's right of rescission must be communicated to the consumer in all contracts and disclosures regarding financial products and services.

Outcome Four: Proper advice

9. (1) The requirement under this outcome is that where advice is given, it is suitable to the consumer and takes account of the consumer's circumstances.
- (2) Where appropriate, before providing advice, a financial institution and financial intermediary is expected to have relevant and sufficient information about the consumer's needs and financial capacity.
- (3) Financial institutions and financial intermediaries must -
- (a) carry out consumer financial capability assessments to determine whether consumers have the capacity to honor financial obligations without facing undue financial difficulties; and
 - (b) offer appropriate advice to consumers when selling a financial service.
- (4) Under this Outcome, therefore, financial institutions and financial intermediaries must:
- (a) ensure that proper advice provided is based on the consumer's financial knowledge and capability to honour financial obligations;

- (b) consider factors such as the complexity of the financial service;
- (c) inform consumers of any material changes to the contract that could potentially have negative financial implications on them before such changes become effective; and
- (d) ensure that only competent staff are providing proper advice to the consumers either on demand by the consumer or when the financial institution or financial intermediary deems it necessary based on circumstances observed about the consumer.

Outcome Five: Financial Services perform as promised or expected and at an acceptable standard

10. (1) The aim under this outcome is to ensure that financial services must perform the way consumers expected and were led to expect, and that the financial services rendered must be according to an acceptable standard.

(2) Financial institutions and financial intermediaries must ensure that the consumer's expectations about the desired benefits to be derived from the financial service is according to the standards of the services as communicated at the point of sale.

(3) Financial institutions and financial intermediaries must -

- (a) keep their promises to the consumer by ensuring that they offer financial services that perform the way the consumer has been told; and
- (b) provide, where relevant, clear cautionary advice concerning possible adverse effects that could arise after the consumer acquires the financial service.

Outcome Six: No unreasonable post sale barriers

11. (1) Under this outcome, the aim is to ensure that consumers do not face unreasonable post-sale barriers that will inhibit consumers to change products, switch financial institutions and financial intermediaries, submit a claim or make a complaint.

(2) Financial institutions and financial intermediaries must not make it unnecessarily difficult for consumers to make claims or to complain when something goes wrong; thus, the principle on the implementation of a mechanism for complaints resolution is imperative.

(3) Financial institutions and financial intermediaries must provide for a timely and responsive mechanism for handling complaints as a means to resolve consumer complaints or the decision to change the financial services.

(4) A designated member of senior management must be responsible for the complaints handling oversight to ensure that complaints registered by consumers against the financial institutions and financial intermediaries are resolved effectively, promptly, and justly.

(5) At a minimum, the following principles are imperative under this outcome:

- (a) **Complaints Handling Procedure** - must be established for the purpose of receiving complaints in whatever form, and must be equipped and empowered to resolve complaints decisively.

- (b) **Accessibility and Disclosures** - all complaints handling procedures must be designed to operate in such a way that it is easily accessible to all consumers. Information explaining about how to lodge a complaint must be communicated to the consumer by the financial institutions and financial intermediaries. At a minimum, such information must be displayed clearly at the physical location or electronic website of the financial institutions and financial intermediaries. Contact information for purposes of the complaint handling procedure by the financial institutions and financial intermediaries and NAMFISA must be included in all contracts with consumers and/or on disclosures made by the financial institutions and financial intermediaries.
- (c) **Responsiveness** - a timeline for resolving complaints must be established to ensure that all complaints are addressed in a manner that is equitable, objective and on time. Complainants must receive from the financial institutions and financial intermediaries a clear explanation for complaints that are rejected and the basis of the decision taken immediately upon completion of the complaint investigation. Financial institutions and financial intermediaries must inform the consumer about the right to appeal to the NAMFISA only after the internal complaints mechanisms of the financial institutions and financial intermediaries have been exhausted.
- (d) **Records and Reporting** - records of consumer complaints must be maintained by the financial institutions and financial intermediaries for a period prescribed by law, inclusive of how each complaint has been resolved. The law may require periodic reporting of data on consumer complaints and monitoring of the complaint handling processes.

Outcome Seven – Privacy and Data protection

12. (1) Under this outcome, the aim is to ensure that consumers are informed about data collection, the use and disclosure of personal information, data ownership and information consent.

(2) Financial institutions and financial intermediaries should be allowed to collect types of consumer data:

- (a) to the extent possible, as determined by the purpose for collection; and
- (b) that can be collected within the established legal limits inclusive of the required consumer consent when data is shared with third party,
- (c) but except in certain circumstances exempted by law, consumer's consent is required when sharing with a third party.

(3) Other requirements that must be explained by the financial institutions and financial intermediaries to the consumer includes the:

- (a) minimum period for which all consumer records must be retained and the right of consumers to have easy access to such records at no cost throughout the duration of the financial service being offered to the consumer;
- (b) preservation of confidentiality of consumer information ensuring that it is not used for purposes other than what it was specifically obtained for as permitted by law, or otherwise specifically agreed with the consumer;

- (c) imperative that the collection, possession, storage and handling of consumer data is in accordance with internal policies and procedures -
 - (i) articulating that consumer's personal data is owned by the consumer;
 - (ii) clearly setting out the financial institutions and financial intermediaries' practices when collecting and processing sensitive consumer data, such as on the security measures safeguarding confidentiality of consumer data;
 - (iii) explaining the purposes for which the consumer data is collected and used for; and
 - (iv) when a consumer may voluntarily allow for the disclosure to a third party of their consumer data.

SCHEDULE 2

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021
COLLECTIVE INVESTMENT SCHEMES
ACTIONS THAT MAY BE TAKEN BY NAMFISA AGAINST A MANAGER OR PERSON
CONNECTED WITH A FOREIGN COUNTRY 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 -
- (a) “**Act**” means the Financial Institutions and Markets Act, 2021 (Act No. 2 of 2021), and includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act; and
 - (b) “**CIS**” means a collective investment scheme as defined in section 168 of 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;
 - (iii) manager; and
 - (iv) members of the public; and
 - (c) “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 person connected with a foreign country and is operating or intends to operate a collective investment scheme in Namibia where, pursuant to any law of a foreign country, or pursuant to any regulatory or supervisory action taken by any authority or body in a foreign country, a manager connected with Namibia is suspended, disqualified or restricted in administering a collective investment scheme in that foreign country.

Action against person

3. (1) If in terms of any -
- (a) law of a foreign country; or

- (b) regulatory or supervisory action taken by an authority or body in a foreign country,

a manager connected with Namibia is suspended, disqualified or restricted from administering a collective investment scheme in that country under the same requirements as persons connected with that country are able to administer such a scheme, NAMFISA may by notice served on a person connected with that country who is administering or intends to administer a collective investment scheme in Namibia, suspend, disqualify or restrict (in whole or in part) the business of such person in a similar manner.

(2) A notice in terms of sub-clause (1) to suspend, disqualify, restrict or partially restrict the administration of a collective investment scheme by a person, may provide for -

- (a) the withdrawal of the registration or approval under the Act of a manager to administer a collective investment scheme in Namibia;
- (b) the disqualification of a person from being registered or approved as a manager under the Act; or
- (c) the restriction or partial restriction of a manager registered or approved under the Act in respect to the administration of a CIS in Namibia.

(3) A partially restrictive notice may prohibit a manager from -

- (a) entering into transactions of a specified kind or entering into them in specified circumstances or to a specified extent;
- (b) soliciting investments of a specified kind or otherwise than from a specified person; or
- (c) administering a collective investment scheme in a specified manner or otherwise than in a specified manner.

4. Notice may not be served in terms of clause 3(1) 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(1) 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.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**GENERAL****FIT AND PROPER REQUIREMENTS FOR ANY PERSON REGISTERED UNDER THE ACT, AND FOR DIRECTORS, MEMBERS OF A BOARD, PRINCIPAL OFFICERS, OTHER OFFICERS, TRUSTEES, CUSTODIANS, AUDITORS AND VALUATORS OF FINANCIAL INSTITUTIONS AND FINANCIAL INTERMEDIARIES, AND FOR ANY OTHER PERSON SUBJECT TO THE ACT****Standard No. GEN.S.10.2**

issued by NAMFISA under section 410(2)(d) 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 includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
 - (b) **“authorisation for registration”** means the authorisation by a list applicant of a listed individual, listed company or listed entity for registration by NAMFISA;
 - (c) **“fiduciary”** means a financial institution or financial intermediary or a functionary of a financial institution or financial intermediary;
 - (d) **“fiduciary duty”** means a duty arising when a client or investor reposes confidence and trust in a fiduciary, to act in the interest of and for the benefit of the client or investor, with the necessary loyalty and care required of a fiduciary, before, during or after providing a financial service;
 - (e) **“financial institutions and markets sector”** means the sector comprising the financial institutions and financial intermediaries registered under the Act;
 - (f) **“Financial Intelligence Act”** means the Financial Intelligence Act, 2012 (Act No. 13 of 2012);
 - (g) **“functionary”** means a director, member of the board, principal officer, other officer and employee of a financial institution or financial intermediary;
 - (h) **“industry”** means participants in the financial institutions and markets sector, other than banking institutions;
 - (i) **“key person”** means any person responsible for managing or overseeing, either alone or together with another responsible person, the activities of a financial institution or financial intermediary relating to the rendering of the financial services, and includes those individuals or other entities holding more than 20% of the financial institution or financial intermediary’s voting rights;

- (j) “list applicant” means -
 - (i) for the purposes of Chapter 2 of the Act, a registered insurer, as defined in section 4 and referred to in section 55(1) of the Act;
 - (ii) for the purposes of Chapter 3 of the Act, the following, as defined in section 78 and referred to in sections 91(1) to (4) of the Act -
 - (aa) a registered exchange;
 - (bb) a registered investment manager;
 - (cc) a registered securities advisor that is a company; and
 - (dd) a registered securities dealer that is a company; and
 - (iii) for the purposes of Chapter 4 of the Act, a manager, as defined in section 168 and referred to in section 180(1) of the Act;
- (k) “listed company” means a company that is -
 - (i) for the purposes of Chapter 3 of the Act, an authorised user as defined in section 78 of the Act, and referred to in section 91(1) of the Act; and
 - (ii) for the purposes of Chapter 4 of the Act, an authorised representative as defined in section 168 of the Act, and referred to in section 180(1) of the Act;
- (l) “listed entity” for the purposes of Chapter 2 of the Act, a corporate insurance agent as defined in section 53 of the Act, and referred to in section 55(1) of the Act;
- (m) “listed individual” means an individual who is -
 - (i) for the purposes of Chapter 2 of the Act, an insurance agent, as defined in section 53 and referred to in section 55(2) of the Act;
 - (ii) for the purposes of Chapter 3 of the Act, the following, as defined in section 78 and referred to in sections 91(1) to (4) of the Act -
 - (aa) an authorised user;
 - (bb) a portfolio manager;
 - (cc) an authorised advisor; and
 - (dd) an authorised representative; and
 - (iii) for the purposes of Chapter 4 of the Act, an authorised representative, as defined in section 168 and referred to in section 180(1) of the Act;
- (n) “NAMFISA ERS” means the Electronic Regulatory System which facilitates communication between NAMFISA and financial institutions or financial intermediaries; and

- (o) “Trustee toolkit” means a free, online learning program developed in consultation with NAMFISA aimed at persons desirous to be appointed or elected as a trustee of a fund, friendly society or medical aid fund.

(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) affiliate;
 - (ii) associate;
 - (iii) board;
 - (iv) client;
 - (v) director;
 - (vi) entity;
 - (vii) financial crime;
 - (viii) financial institution;
 - (ix) financial intermediary;
 - (x) financial service;
 - (xi) NAMFISA;
 - (xii) officer;
 - (xiii) principal officer; and
 - (xiv) valuator; and
- (b) “control” as defined in section 3 of the Act.

Applicability

2. This Standard applies to all persons required to be fit and proper under the Act, including, without limitation:

- (a) all financial institutions and financial intermediaries registered or applying to be registered or authorised for registration, under the Act;
- (b) all listed companies, listed entities and listed individuals registered or authorised for registration or applying to be registered or authorised for registration under the Act;
- (c) directors, members of a board, principal officers, other officers, trustees, custodians, auditors, valuers and key persons of financial institutions and financial inter-mediarities referred to in paragraph (a);

- (d) members of boards of entities that control a financial institution or financial inter-mediary referred to in paragraph (a);
- (e) any other person or entity exercising oversight function or control over the management or administration of a financial institution or financial intermediary registered under the Act; and
- (f) any other person who is or may become subject to the Act.

Assessment requirements: individual or key person

3. In assessing the fitness and propriety of an individual or key person, NAMFISA must satisfy itself on reasonable grounds that the appointment of the individual or key person is not likely to have negative implications for the sound and prudent management of the financial institution or financial intermediary, and such assessments will take into account all relevant matters including, but not limited to:

- (a) competence and capability;
- (b) honesty, integrity, fairness and ethical behaviour; and
- (c) financial soundness.

4. (1) Subject to an evaluation of the particular circumstances, NAMFISA must determine whether an individual or key person meets the fit and proper criteria referred to in clause 3 with reference to the following:

- (a) Competence and capability: The competence and capability of an individual or key person must be determined by assessment of the qualifications, training and experience specified under Part A of Schedule 1 attached to this Standard;
- (b) Honesty, integrity, fairness and ethical behaviour: The honesty, integrity, fairness and ethical behaviour of an individual or key person must be determined by assessment of the requirements specified under Part B of Schedule 1 attached to this Standard; and
- (c) Financial Soundness: The financial soundness of an individual or key person must be determined by assessment of the requirements specified in Part C of Schedule 1 attached to this Standard.

(2) An individual or key person must demonstrate that he or she meets the requirements set out in sub-clause (1) upon registration or authorisation for registration, and on an on-going basis.

(3) An individual or key person must comply with any continuing education and training requirements that may, from time to time, be required by NAMFISA or any professional body that the individual or key person is a member of.

(4) Where an individual or key person is required to be fit and proper in terms of the Act, the following documents must be submitted to NAMFISA to facilitate the assessment of fitness and propriety:

- (a) completed forms contained in Schedule 2 attached to this Standard;
- (b) certified copies of qualifications, certificates of training and proof of relevant experience;

- (c) an up-to-date Curriculum Vitae;
- (d) certified copies of Certificates of Conduct issued by the relevant authorities from every country that the person have ordinarily resided in within the 10 years preceding the date of application, which certificates may not have been issued longer than 12 months prior to the date of application;
- (e) certified copy of the identity document or valid passport; and
- (f) any other relevant documents or information necessary pursuant to the completion of the questionnaires contained in Schedule 2 or that NAMFISA deems reasonably necessary and communicated to the individual or key person.

(5) In the case of a list applicant applying to NAMFISA for the registration of a listed individual, the list applicant concerned -

- (a) must assess the fitness and propriety of the listed individual against the requirements set out in sub-clause (1); and
- (b) may be required to submit the documents and other information specified under sub-clause (4), with regard to each listed individual, to NAMFISA.

Assessment requirements: Entity

5. (1) In assessing the fitness and propriety of an entity, NAMFISA must be reasonably satisfied that the entity has sound and prudent management and that it is not likely to have negative or adverse implications for the -

- (a) financial soundness and stability of the financial institutions and markets sector;
- (b) protection of consumers of financial services; and
- (c) reduction and deterrence of financial crime.

(2) The assessment referred to in sub-clause (1) must take into account all relevant matters including, but not limited to -

- (a) the fitness and propriety in accordance with the criteria set out in clause 4 in respect of -
 - (i) directors, members of a board, principal officers, other officers, trustees, custodians, trustees, custodians, auditors, valuers and key persons of the entity; and
 - (ii) members or shareholders that control the entity, and members of a board of any entity that controls the entity;
- (b) the conduct of the entity; and
- (c) the financial soundness and operational ability of the entity.

(3) As part of the recruitment or appointment process of members of the board, key persons and principal officers, the appointing financial institution or financial intermediary must assess the fitness and propriety of such persons pursuant to this Standard and must maintain documentation supporting the assessment.

(4) The conduct of the entity must be determined by assessment of the requirements specified under Part D of Schedule 1 attached to this Standard.

(5) The financial soundness and operational ability of the entity must be determined by assessment of the requirements specified under Parts E and F of Schedule 1 attached to this Standard.

(6) Where an entity is required to be registered in terms of the Act, the following documents must be submitted to NAMFISA to facilitate the assessment of fitness and propriety of the entity:

- (a) in respect of the persons referred to in sub-clause (2)(a) -
 - (i) completed forms contained in Schedule 2 attached to this Standard;
 - (ii) certified copies of qualifications, certificates of training and proof of relevant experience;
 - (iii) up-to-date Curriculum Vitae;
 - (iv) certified copies of Certificates of Conduct issued by the relevant authorities from every country that the person have ordinarily resided in within the 10 years preceding the date of application, which certificates may not have been issued longer than 12 months prior to the date of application; and
 - (v) certified copy of the identity document or valid passport;
- (b) completed forms contained in Schedule 3 attached to this Standard; and
- (c) any other relevant documents or information necessary pursuant to the completion of the questionnaires contained in Schedules 2 and 3, or that NAMFISA deems reasonably necessary and communicated to the entity.

(7) In the case of a list applicant applying to NAMFISA for the registration of a listed entity or a listed company, the list applicant concerned -

- (a) must assess the fitness and propriety of the listed entity or listed company against the requirements set out in sub-clauses (2), (3), (4) and (5); and
- (b) may be required to submit the documents and other information specified under sub-clause (6), with regard to each listed entity or listed company, to NAMFISA.

(8) Every financial institution and financial intermediary that is an entity must have a documented policy relating to fitness and propriety for the individuals or key persons referred to in sub-clause (2)(a), which must include compliance with any required criteria for continuing education or professional development issued by NAMFISA, and such policy must be approved by the board or, where applicable, by the board of the entity that controls the financial institution or financial intermediary.

(9) Every financial institution and financial intermediary that is an entity must take all reasonable steps to ensure that all individuals or key persons to whom its fit and proper policy applies are aware of, and understand, the provisions of that policy.

(10) The policy referred to in sub-clauses (8) and (9) must form part of the risk management framework of the financial institution or financial intermediary.

Disqualification criteria

6. Failure by an individual or key person to meet any one of the criteria set out in clauses 4 and 5 will not necessarily lead to a refusal of an application for registration, a revocation of registration or of an exemption or disqualification, and the significance and relevance of a individual, key person, entity, listed individual, listed entity or listed company failing to meet specific criteria will depend on -

- (a) the circumstances resulting in the failure to meet the specific criteria;
- (b) the seriousness of the failure;
- (c) the duties that are being or that will be performed by the individual or key person, the responsibilities that have been or that will be assumed by the individual or key person, and the financial services that is or that will be provided by the entity; and
- (d) the length of time during which the individual, key person or entity has failed or has repeatedly failed to meet the specific criteria.

7. If NAMFISA is on reasonable grounds satisfied that an individual, key person, entity, listed individual, listed entity or listed company fails to demonstrate fitness and propriety, such individual, key person or entity may be disqualified from controlling or participating, directly or indirectly, in the management or operations of a financial institution or financial intermediary for a maximum period of ten years.

8. Before taking action pursuant to clause 7, NAMFISA must give notice to the individual, key person or entity of its intention to take the action, together with reasons therefor, and must give the individual, key person or entity a reasonable opportunity to be heard by specifying a period of not less than 21 days during which period the individual, key person or entity may make representations to NAMFISA about the matter.

Rehabilitation criteria

9. (1) The premise of rehabilitation is that an individual, key person, entity, listed individual, listed entity or listed company is capable of being restored in terms of his, her or its fitness and propriety, thus eventually enabling such individual, key person or entity to participate in the management or operations of a financial institution or financial intermediary.

(2) An individual, key person, entity, listed individual, listed entity or listed company who/which was previously disqualified in terms of clauses 7 and 8, may be considered to be rehabilitated by NAMFISA before the expiry of the disqualification period if such individual, key person or entity can demonstrate eligibility in terms of clause 10.

10. An individual, key person, entity, listed individual, listed entity or listed company may be eligible for rehabilitation where he, she or it is able to demonstrate, to the reasonable satisfaction of NAMFISA, eligibility through one or more of the following -

- (a) having made restitution to anyone who has suffered financial loss through related acts or omissions of such individual, key person or entity;
- (b) having paid any fine or monetary penalty imposed in connection with a criminal conviction, civil or administrative decision or judgement;
- (c) discharged debts or monetary obligations for which he, she or it was liable;
- (d) absence of subsequent misconduct that would indicate an inability to conform to societal rules when considered in light of the conduct in question;
- (e) having served a custodial sentence;
- (f) correction of improper business practices which caused prejudice or injury to others, or had the potential to cause such prejudice or injury; or
- (g) any other reasonable ground that NAMFISA may deem relevant or appropriate.

11. If NAMFISA is, on reasonable grounds, satisfied that an individual, key person, entity, listed individual, listed entity or listed company fails to demonstrate eligibility for rehabilitation in terms of clause 10, such individual, key person or entity must serve out the remaining period of his/her/its disqualification imposed in terms of clause 7.

Submission

12. (1) The information required by this Standard must be submitted electronically to NAMFISA on the NAMFISA ERS.

(2) Where necessary and when so directed by NAMFISA, specified documentation or information must be submitted to NAMFISA manually.

SUPPORTING SCHEDULES

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

Schedule 1: FIT AND PROPER (FAP) REQUIREMENTS

PART A: COMPETENCE AND CAPABILITY: INDIVIDUAL OR KEY PERSON

PART B: HONESTY, INTEGRITY, FAIRNESS AND ETHICAL BEHAVIOUR:
INDIVIDUAL OR KEY PERSON

PART C: FINANCIAL SOUNDNESS: INDIVIDUAL OR KEY PERSON

PART D: CONDUCT: ENTITY

PART E: FINANCIAL SOUNDNESS: ENTITY

PART F: OPERATIONAL ABILITY

Schedule 2: INDIVIDUAL OR KEY PERSON FIT AND PROPER (FAP) REQUIREMENT
STATEMENT

Schedule 3: ENTITY FIT AND PROPER (FAP) REQUIREMENT STATEMENT

SCHEDULE 1

(to Standard No. GEN.S.10.2)

FIT AND PROPER (FAP) REQUIREMENTS**PART A****COMPETENCE AND CAPABILITY: INDIVIDUAL OR KEY PERSON**

For purposes of this Part, where reference is made to “key person”, it is not inclusive of the shareholders and members of entities if those persons hold more than 20% of the financial institution’s or financial intermediary’s voting rights, but play no further part in the management and operations of the entity.

An individual or key person meets the competence and capability requirement if the individual or key person provides appropriate proof of the qualifications, training and experience specified below:

INDIVIDUAL OR KEY PERSON OF THE ENTITY -		QUALIFICATIONS AND TRAINING	EXPERIENCE
FOR PURPOSES OF CHAPTER 2:			
INSURER OR REINSURER	Member of board	Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years’ related experience in business management, insurance or financial services and markets sector; or
		None.	Minimum of 10 years’ related experience in business management, insurance or financial services and markets sector.
	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years’ related experience in business management, insurance or financial services and markets sector; or
		None.	Minimum of 10 years’ related experience in business management, insurance or financial services and markets sector.
	Valuator	Designated Actuary and a fellow of the actuarial societies, Institutes or Faculties indicated in Standard No. PRE.S.1.1; or	Minimum of three years’ related experience in the corporate sector or financial services and markets sector.
		Member of a category of professions or persons specified in the Standards.	

	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years' related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector; or
		Grade 12 with commercial or business related subjects (mathematics, economics, accounting, computer science or any other business subject(s)).	Minimum of five years' related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector.
INSURANCE AGENT OR CORPORATE INSURANCE AGENT	Insurance agent and members of a board of a corporate insurance agent	Grade 12 with commercial or business related subjects (mathematics, economics, accounting, computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or financial services and markets sector; or
		None.	Minimum of five years' experience as an insurance intermediary or related experience in the financial services and markets sector.
	Principal Officer	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or financial services and markets sector; or
		None.	Minimum of five years' related experience in business management, insurance or in the financial services and markets sector.
	Other Key persons	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector; or
		None.	Minimum of five years' related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector.
INSURANCE BROKER OR CORPORATE INSURANCE BROKER	Insurance broker and members of the board of a corporate insurance broker	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or the financial services and markets sector; or
		None.	Minimum of five years' experience as an insurance intermediary or related experience in the financial services and markets sector.

	Principal Officer	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or the financial services and markets sector; or
		None.	Minimum of five year's related experience in business management, insurance or the financial services and markets sector.
	Other Key persons	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector; or
		None.	Minimum of five year's related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector.
MICRO-INSURER OR MICRO-REINSURER	Members of Boards	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other relevant subject(s)); or	Minimum of three years' related experience in business management, insurance or the financial services and markets sector; or
		None.	Minimum of five years' related experience in business management, insurance or the financial services and markets sector.
	Principal Officer	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or financial services and markets sector; or
		None.	Minimum of five year's related experience in business management, insurance or the financial services and markets sector.
	Other Key persons	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three year's related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector; or
		None.	Minimum of five year's related experience in business management, insurance, finance, marketing, sales or in the financial services and markets sector.

MICRO-INSURANCE AGENT OR CORPORATE MICRO-INSURANCE AGENT	Micro-insurance agent and members of the board of a corporate micro-insurance agent	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or in the financial services and markets sector; or
		None.	Minimum of five years' related experience in business management, insurance or in the financial services and markets sector.
	Principal Officer	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or the financial services and markets sector; or
		None.	Minimum of five years' related experience in business management, insurance or the financial services and markets sector.
MICRO-INSURANCE BROKER OR CORPORATE MICRO-INSURANCE BROKER	Micro-insurance broker and members of the board of a corporate micro-insurance broker	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance or the financial services and markets sector; or
		None.	Minimum of five years' related experience in business management, insurance or the financial services and markets sector.
	Principal Officer	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three year's related experience in business management, insurance or the financial services and markets sector; or
		None.	Minimum of five year's related experience in business management, insurance or the financial services and markets sector.
	Other Key persons	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' related experience in business management, insurance, marketing, sales or the financial services and markets sector; or
		None.	Minimum of five years' related experience in business management, insurance, marketing, sales or the financial services and markets sector.

FOR PURPOSES OF CHAPTER 3:			
CENTRAL SECURITIES DEPOSITORY	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' related experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
EXCHANGE	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
SECURITIES CLEARING HOUSE	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
AUTHORISED USER OF AN EXCHANGE	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.

AUTHORISED REPRESENTATIVE OF AN AUTHORISED USER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
NOMINEE OF AN AUTHORISED USER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
STOCK-BROKER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
INVESTMENT MANAGER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.

LINKED INVESTMENT SERVICE PROVIDER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
PORTFOLIO MANAGER OF AN INVESTMENT MANAGER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
PORTFOLIO MANAGER OF A LINKED INVESTMENT SERVICE PROVIDER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
SECURITIES ADVISOR	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification.	Minimum of three years' experience in business management or financial services and markets sector.

AUTHORISED ADVISOR OF A SECURITIES ADVISOR	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
SECURITIES DEALER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
AUTHORISED REPRESENTATIVE OF A SECURITIES DEALER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
PARTICIPANT	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.

NOMINEE OF A PARTICIPANT	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
SECURITIES RATING AGENCY	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
FOR PURPOSES OF CHAPTER 4:			
COLLECTIVE INVESTMENT SCHEME	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
MANAGER OF A COLLECTIVE INVESTMENT SCHEME	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.

AUTHORISED REPRESENTATIVE OF A MANAGER	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
DESIGNATED REPRESENTATIVE OF AN AUTHORISED REPRESENTATIVE	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
NOMINEE COMPANY	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.
TRUSTEE OR CUSTODIAN	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of five years' experience in business management or financial services and markets sector.
	Other Key persons	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in business management or financial services and markets sector.

FOR PURPOSES OF CHAPTER 5 AND FUND ADMINISTRATORS:			
BENEFICIARY FUND OR RETIREMENT FUND	Members of Boards	Completion of Trustee Toolkit.	None.
	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years' experience in business management or financial services and markets sector; or
		None.	Minimum of 10 years' experience in fund administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.
	Valuator	Designated Actuary and a fellow of the actuarial societies, Institutes or Faculties indicated in Standard No. PRE.S.1.1; or A member of a category of professions or persons specified in the Standards.	Minimum of three years' experience in the corporate sector or financial services and markets sector.
FUND ADMINISTRATOR	Members of Boards	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of three years' experience in the financial services and markets sector or any other relevant sector.
	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years' experience in the financial services and markets sector or any other relevant sector; or
		Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of five years' experience in fund administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.

	Other Key persons	Grade 12 with Commercial or Business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years’ experience in the financial services and markets sector or other relevant sector; or
		None.	Minimum of five years’ experience in pension fund administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.
FOR PURPOSES OF CHAPTER 6 AND SOCIETY ADMINISTRATORS:			
FRIENDLY SOCIETY	Members of Boards	Completion of Trustee Toolkit.	None.
	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years’ experience in business management or financial services and markets sector; or
		None.	Minimum of 10 years’ experience in friendly society administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.
	Valuator	Designated Actuary and a fellow of the actuarial societies, Institutes or Faculties indicated in Standard No. PRE.S.1.1; or A member of a category of professions or persons specified in the Standards.	Minimum of three years’ experience in the corporate sector or financial services and markets sector.
SOCIETY ADMINISTRATOR	Members of Boards	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of three years’ experience in the financial services and markets sector or any other relevant sector.
	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years’ experience in the financial services and markets sector or any other relevant sector; or

		Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of five years' experience in fund or society administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.
	Other Key persons	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of three years' experience in the financial services and markets sector or any other relevant sector.
		None.	Minimum of five years' experience in fund or society administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.
FOR PURPOSES OF CHAPTER 7 AND MEDICAL AID FUND ADMINISTRATORS:			
MEDICAL AID FUND	Members of Boards	Completion of Trustee Toolkit.	None.
	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years' experience in business, financial services and markets sector; or
		None.	Minimum of 10 years' experience in medical aid funds administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.
	Valuator	Designated Actuary and a fellow of the actuarial societies, Institutes or Faculties indicated in Standard No. PRE.S.1.1; or A member of a category of professions or persons specified in the Standards.	Minimum of three years' experience in the corporate sector or financial services and markets sector.

	Key persons other than the Head of Managed Care	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years' experience in the corporate sector, or financial services and markets or health sectors; or
		Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of five years' experience in the corporate sector or financial services and markets or health sectors.
	Key Person of the Head of Managed Care function	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification).	Minimum of three years' experience in the corporate sector, or financial services and markets or healthcare sectors.
MEDICAL AID FUND ADMINIST-RATOR	Members of Boards	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of three years' experience in the financial services, markets and health sector.
	Principal Officer	Relevant Namibia Qualifications Authority (NQA) accredited NQF level 7 qualification (in Finance, Commerce, Accounting, Law, Economics or other related qualification); or	Minimum of three years' experience in the financial services and markets or healthcare sector; or
		Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of five years' experience in fund administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.
	Other Key persons	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)); or	Minimum of three years' experience in the financial services and markets or healthcare sector; or
		None.	Minimum of five years' experience in fund administration, legal, financial consulting, compliance management, risk management, corporate governance, auditing, financial sector regulation or other related experience.

MEDICAL AID FUND BROKER	Members of Boards	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of three years' experience in the financial services and markets or healthcare sector.
	Principal Officer	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of three years' experience in the financial services and markets or healthcare sector.
	Other Key persons	Grade 12 with commercial or business related subjects (mathematics, economics, accounting or computer science or any other business subject(s)).	Minimum of three years' experience in the financial services and markets or healthcare sector.

PART B**HONESTY, INTEGRITY, FAIRNESS AND ETHICAL BEHAVIOUR: INDIVIDUAL OR KEY PERSON**

An individual or key person must declare under oath whether -

- (a) within a period of 10 years preceding the date of application, an adverse finding has been made against him/her in any civil or criminal proceedings by a court of law (whether in Namibia or elsewhere), in which he/she was found to have acted fraudulently, dishonestly, unprofessionally, dishonorably or in breach of a fiduciary duty;
- (b) within a period of 10 years preceding the date of application, he/she has been found guilty by any professional or financial services industry body (whether in Namibia or elsewhere), of an act of dishonesty, negligence, incompetence or mismanagement;
- (c) within a period of 10 years preceding the date of application, he/she has been denied membership of any body referred to in paragraph (b) above on account of an act of dishonesty, negligence, incompetence or mismanagement;
- (d) at any time prior to the date of application, he/she has been disqualified or prohibited by any court of law (whether in Namibia or elsewhere) from taking part in the management of any company or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not;
- (e) within a period of 10 years preceding the date of application, he/she has been the subject of any investigation or disciplinary proceedings or has administrative action been taken or administrative penalties been imposed by any regulatory authority, professional or government body or agency, an exchange, or a self-regulatory organisation, whether in Namibia, or elsewhere;
- (f) within a period of 10 years preceding the date of application, he/she has been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere) or has an authorisation to carry on business been refused, suspended or withdrawn by any such body, on account of an act of dishonesty, negligence, incompetence or mismanagement;
- (g) he/she has ever been subject to an order of a competent court holding him/her to be mentally unfit or disordered (whether in Namibia or elsewhere);
- (h) within a period of 10 years preceding the date of application, he/she has been removed from, or left, office on account of misconduct relating to fraud, theft or the misappropriation of money, whether in Namibia or elsewhere;
- (i) within a period of 10 years preceding the date of application, he/she has been a director or member of a governing body of an entity at the time that such entity has been deregistered in terms of any legislative instrument;

- (j) he/she has ever received a grant of amnesty or free pardon for any offence (whether in Namibia or elsewhere);
- (k) he/she has ever been convicted of an offence or found to be liable under the Financial Intelligence Act, 2012 (Act No. 13 of 2012), and/or the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004), and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014), and/or any other similar Acts describing similar offences and/or liability in any country;
- (l) he/she has previously been appointed as a principal officer or director in the financial services industry, and if so, must provide more information, i.e. duration, which company, etc., and if he/she is in good standing with NAMFISA;
- (m) he/she is involved in other entities as a director, shareholder, member, trustee, etc. and if so, he/she must provide more information, i.e. duration, which entity, etc.;
- (n) he/she has ever been disqualified from being appointed or acting as a director of a company in terms of section 225 and section 226 of the Companies Act, 2004 (Act No. 28 of 2004);
- (o) he/she is a director or principal officer of a financial institution which is not in compliance with any law governing financial institutions;
- (p) he/she is of bad repute in any business or financial community or any market;
- (q) within a period of 10 years preceding the date of application, he/she has been substantially involved in the management of a business or company which has failed, where that failure has been occasioned in part by deficiencies of honesty, integrity, fairness or ethical behaviour in the management of that business;
- (r) within a period of 10 years preceding the date of application, he/she has been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely (including where he/she has consented to an order or direction, or provided an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on his/her competence, diligence, judgement, honesty or integrity; or
- (s) any corporate entity in respect of which he/she is or were a member, shareholder, director, trustee or officer ever been convicted of an offence or found to be liable under the Financial Intelligence Act, 2012 (Act No. 13 of 2012), and/or the Prevention of Organised Crime Act, No. 29 of 2004, and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014), and/or any other similar Acts describing similar offences and/or liability in any country.

PART C

FINANCIAL SOUNDNESS: INDIVIDUAL OR KEY PERSON

An individual or key person is able to demonstrate financial soundness if that individual or key person declares under oath whether -

- (a) within a period of 10 years preceding the date of application, he/she has been subject to any judgment, debt or award that remains outstanding or satisfied within a reasonable period;
- (b) within a period of five years preceding the date of application, he/she has been adversely listed on a credit bureau (whether in Namibia or elsewhere);
- (c) within a period of 10 years preceding the date of application, he/she has made arrangements with creditors or had assets confiscated or repossessed or has been involved with proceedings relating to any of the aforementioned; or
- (d) his/her estate ever been sequestrated (whether in Namibia or elsewhere).

PART D**CONDUCT: ENTITY**

The principal officer or an authorised person of the entity must declare under oath whether -

- (a) within a period of 10 years preceding the date of application, any adverse finding has been made against the entity in any civil or criminal proceedings by a court of law (whether in Namibia or elsewhere), in which the entity has been found to have acted fraudulently or unprofessionally;
- (b) within a period of 10 years preceding the date of application, the entity has been found guilty by any professional, financial services industry or regulatory body (whether in Namibia or elsewhere), of an act of negligence or mismanagement;
- (c) within a period of 10 years preceding the date of application, the entity has been denied membership of any body referred to in paragraph (b) above on account of an act of negligence or mismanagement;
- (d) at any time prior to the date of application, the entity has been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere), or has an authorisation to carry on business been refused, suspended or withdrawn by any such body, on account of an act of negligence or mismanagement;
- (e) within a period of 10 years preceding the date of application, the entity has been the subject of any investigation or has administrative action been taken or administrative penalties been imposed by any regulatory authority, professional or government body or agency, and exchange or self-regulatory organisation (whether in Namibia or elsewhere);
- (f) at any time prior to the date of application, the entity has been disqualified or prohibited by any court of law (whether in Namibia or elsewhere) from taking part in the management of any other corporate entity or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not;
- (g) the entity has ever been placed under judicial management or any other processes of a similar nature (whether in Namibia or elsewhere); or
- (h) the entity has ever been convicted of an offence or found to be liable under the Financial Intelligence Act, 2012 (Act No. 13 of 2012), and/or the Prevention of Organised Crime Act, No. 29 of 2004 and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014), and/or any other similar legislation describing similar offences and/or liability in any other country.

PART E**FINANCIAL SOUNDNESS: ENTITY**

For purposes of assessing the entity's financial soundness, the principal officer or an authorised person of the entity must provide, as is relevant for any particular application and if not already provided elsewhere, the following:

- (a) if already in existence and operating for more than one year, a copy of its audited financial statements as at its most recent financial year-end;
- (b) if in existence and operating for less than one year or a start-up business, budget projections or forecast of future revenue and expenses covering a period of at least three years from the start date or the anticipated start date, indicating the assumptions used in the preparation of the budget projections;
- (c) a copy of its budgeted income and expenditure statement (income statement), balance sheet and cash flow statements for a three-year period immediately preceding the date of its most recent financial year-end, except in the case of an entity that has been in existence and operating for less than three years, in which case the period during which it has been in existence and operating supersedes that three year requirement;
- (d) where the applicant entity is a self-regulatory organisation, a schedule of financial information illustrating its funding provisions for anticipated supervisory responsibilities over the budgetary period;
- (e) a statement specifying the critical assumptions made in the preparation of the budgets as well as specifying the sources of funding;
- (f) where arrangements have been made for funding any temporary shortfall in available cash resources, a statement setting out the extent and terms of its commitment;
- (g) a projection on the capital and current expenditure of management and staff required for the period covered by the budgets;
- (h) an approved business plan that deals at least with the following matters:
 - (i) the planned development of the information technology systems and infrastructure of the applicant and arrangements for their supply, management, maintenance, upgrading and security;
 - (ii) the planned approach to qualifying, quantifying and managing risk within the applicant;
 - (iii) security procedures to ensure the integrity of the systems for recording transactions and the maintenance of records, the capacity of these systems in relation to the budgeted number of transactions and the back-up resources available in the event of a systems failure;
 - (iv) reports and publications to be made available to the investing public, with the inclusion of price sensitive information, and the manner in which such information will be disseminated;
 - (v) the effective and efficient management of risks associated with the applicant;
 - (vi) the corporate governance principles that will be implemented; and
 - (vii) details of the persons who have or will provide corporate finance advice or similar services to the applicant, if applicable;
- (i) details of its compensation plans (professional indemnity and fidelity insurance cover) sufficient to cover the risk of losses due to fraud, dishonesty, negligence or any other dishonest acts or breaches of professional duty of the directors, employees or representatives;
- (j) proof of the amount capital employed or to be employed in the business of the entity; and
- (k) information as to whether the entity has made arrangements with creditors, filed for sequestration or liquidation or had assets repossessed.

PART F**OPERATIONAL ABILITY: ENTITY**

For purposes of assessing the entity's operational ability, the principal officer or an authorised person must complete the following questionnaire and provide, as is relevant for any particular application and if not already provided elsewhere:

	DESCRIPTION OF THE REQUIREMENT	YES	NO
1.	Does the applicant's compliance arrangements specify how often compliance with procedures will be monitored and reported?		
2.	Does the applicant use a documented process to maintain the adequacy of its compliance and monitor arrangements?		
3.	Does the applicant document processes to ensure records are kept for training programs attended, including continued education training, for its key persons and/or representatives?		
4.	Does the applicant have documented processes for the supervision and monitoring of its representatives to ensure they comply with the Act?		
5.	Does the applicant use a documented process to ensure all representatives are trained, competent and will provide financial services on its behalf efficiently, honestly and fairly?		
6.	Does the applicant have professional indemnity or fidelity insurance cover?		
7.	Has the applicant established compliance and reporting arrangements for its entity activities?		
8.	Will any substantial activities of the entity be outsourced?		
9.	Does the applicant have a process in place to ensure that providers selected for any outsourced functions are suitable?		
10.	Is the outsourced entity a registered and regulated entity?		
11.	To whom is the applicant planning to outsource activities of its business? <input type="checkbox"/> Independent party; <input type="checkbox"/> Related party; or <input type="checkbox"/> Both the above.		
12.	What is the name(s) of the entity(ies) to whom the applicant intends outsourcing some of your business activities? <hr/> <hr/>		
13.	What function(s) will be outsourced? <hr/> <hr/> <hr/>		
Does the applicant have internal control structures and, procedures in place which include the following:			
14.	Segregation of duties, roles and responsibilities where such segregation is appropriate from an operational risk mitigation perspective?		

15.	Access rights and data security on electronic data, where applicable?		
16.	Physical security of the providers' assets and records, where applicable?		
17.	Documentation relating to business processes, policies and controls, and technical requirements?		
18.	Systems application testing, where applicable?		
19.	Disaster recovery and back-up procedures on electronic data where applicable?		
20.	Training for all staff regarding the requirements of the Act?		
21.	A business continuity plan?		

SCHEDULE 2

(to Standard No. GEN.S.10.2)

**INDIVIDUAL OR KEY PERSON FIT AND PROPER (FAP)
REQUIREMENTS STATEMENT****Date of submission to NAMFISA:** _____**SECTION A: PERSONAL INFORMATION****A.1** Full name(s): _____**A.2** Previous surname(s): _____**A.3** Current nationality: _____**A.4** Previous nationality: _____**A.5** Identification / Passport No.: _____**A.6** Date of birth: _____**A.7** In case of a sole trader, certificate for Registration of Defensive Name date and number:

A.8 Place of birth: _____**A.9** Residential address/Principal place of business: _____

A.10 Postal address: _____

A.11 Telephone No.: _____**A.12** Fax No.: _____**A.13** Email address: _____**A.14** Mobile No.: _____**A.15** Occupation/Source of income: _____

A.16 Nature and location of business (where applicable): _____

A.17 Relation to applicant: _____

SECTION B: HONESTY AND INTEGRITY (INDIVIDUAL/KEY PERSON)

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form (to be supported with certified copy of Certificate of Conduct issued no longer than 12 months prior to application):

	DESCRIPTION OF THE REQUIREMENT	YES	NO
1.	Has an adverse finding been made against you, within a period of ten years preceding the date of application, in any civil or criminal proceedings by a court of law (whether in Namibia or elsewhere), in which you were found to have acted fraudulently, dishonestly, unprofessionally, dishonorably or in breach of a fiduciary duty?		
2.	Have you, within a period of ten years preceding the date of application, been found guilty by any professional or financial services industry body (whether in Namibia or elsewhere), of an act of dishonesty, negligence, incompetence or mismanagement?		
3.	Have you, within a period of ten years preceding the date of application, been denied membership of any body referred to in question 2 above on account of an act of dishonesty negligence, incompetence or mismanagement?		
4.	Have you, at any time prior to the date of application, been disqualified or prohibited by any court of law (whether in Namibia or elsewhere) from taking part in the management of any company or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not?		
5.	Have you, within a period of ten years preceding the date of application, been the subject of any investigation or disciplinary proceedings or has administrative action been taken or administrative penalties been imposed by any regulatory authority, professional or government body or agency, an exchange, or a self-regulatory organisation, whether in Namibia, or elsewhere?		
6.	Have you, within a period of ten years preceding the date of application, been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere) or has an authorisation to carry on business been refused, suspended or withdrawn by any such body, on account of an act of dishonesty, negligence, incompetence or mismanagement?		
7.	Have you ever been the subject to an order of a competent court holding you to be mentally unfit or disordered (whether in Namibia or elsewhere)?		
8.	Have you, within a period of ten years preceding the date of application, been removed from, or left, office on account of misconduct relating to fraud, theft or the misappropriation of money, whether in Namibia or elsewhere?		
9.	Have you, within a period of ten years preceding the date of application, been a director or member of a governing body of an entity at the time that such entity has been deregistered in terms of any legislative instrument?		
10.	Have you ever received a grant of amnesty or free pardon for any offence (whether in Namibia or elsewhere)?		
11.	Have you ever been convicted of an offence or found to be liable under the Financial Intelligence Act, No. 13 of 2012, and/or the Prevention of Organized Crime Act, No. 29 of 2004 and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, No 4 of 2014 and/or any other similar Acts describing similar offences and/or liability in any country?		
12.	Have you, within a period of ten years preceding the date of application, been appointed as a principal officer or director in the financial services industry? If yes, provide more information, i.e. duration, which company, etc.		
13.	Are you involved in other entities as a director, shareholder, member, trustee, etc.? If yes, provide more information, i.e. duration, which entity, etc.		

14.	Have you ever been disqualified from being appointed or acting as a director of a company in terms of section 225 and section 226 of the Companies Act, 2004, No. 28 of 2004?		
15.	Are you a director or principal officer of a financial institution which is not in compliance with any law governing financial institutions?		
16.	Are you of bad repute in any business or financial community or any market?		
17.	Have you, within a period of ten years preceding the date of application, been substantially involved in the management of a business or company which has failed, where that failure has been occasioned in part by deficiencies of honesty, integrity, fairness or ethical behaviour in the management of that business?		
18.	Have you, within a period of ten years preceding the date of application, been the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely (including where you have consented to an order or direction, where you provided an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on your competence, diligence, judgement, honesty or integrity?		
19.	Has any corporate entity in respect of which you are or were a Member, Shareholder, Director, Trustee or officer ever been convicted of an offence or found to be liable under the Financial Intelligence Act, No. 13 of 2012, and/or the Prevention of Organised Crime Act, No. 29 of 2004, and/ or the Prevention and Combating of Terrorist and Proliferation Activities Act, No. 4 of 2014 and/or any other similar Acts describing similar offences and/or liability in any country?		
20.	Do you have any additional information, which should be brought to NAMFISA's attention, which may have an impact on the evaluation, by NAMFISA of your good character and integrity?		

SECTION C: COMPETENCE AND CAPABILITY (INDIVIDUAL OR KEY PERSON)

C.1 QUALIFICATIONS AND TRAINING: (complete table below)

Certified copies of the qualifications and certificates of training to be attached.

Qualification / Training	Institution	Date obtained / completed

C.2 EXPERIENCE AND EMPLOYMENT HISTORY: (complete table below)

Relevant employment history and experience in the industry: (To be supported with proof of relevant experience, including but not limited to reference letters from previous employer(s) or client(s), or certificates of service from previous employer(s). Enclose detailed Curriculum Vitae.)

Position held	Employer	Contact Details	Period

SECTION D: FINANCIAL SOUNDNESS (INDIVIDUAL OR KEY PERSON)

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form.

	DESCRIPTION OF THE REQUIREMENT	YES	NO
1.	Have you, within the period of ten years preceding the date of application, been subject to any judgment, debt or award that remains outstanding or satisfied within a reasonable period?		
2.	Have you, within the period of five years preceding the date of application, been adversely listed on a credit bureau (whether in Namibia or elsewhere)?		
3.	Have you, within the period of 10 years preceding the date of application, made arrangements with creditors or had assets confiscated or repossessed or has been involved with proceedings relating to any of the aforementioned?		
4.	Have your estate ever been sequestrated (whether in Namibia or elsewhere)?		

DECLARATION

I, _____ (full names) hereby declare the following:

This statement consists of _____ pages, **each initialed by me**. The content of this statement is true and correct to the best of my knowledge and belief.

I undertake that, as long as I continue to be a _____ of the applicant, I will notify NAMFISA of any material changes to, or affecting the completeness or accuracy of, the information supplied to NAMFISA in this statement as soon as possible, but in any event no later than 30 days from the day that the changes come to my attention.

I know and understand the content of this declaration. I do not have objections to taking the prescribed oath. I consider the prescribed oath to be binding on my conscience.

SIGNATURE OF DEPONENT

I hereby declare that the deponent has sworn to and signed this statement in my presence at _____ on the ____ day of _____ 20____ and he/she declared as follows: that the facts herein contained fall within his/her personal knowledge and that he/she understands the contents hereof; that he/she has no objection to taking the oath; that he/she regards the oath as binding on his/her conscience.

_____ (to initial on each page as well)

COMMISSIONER OF OATHS

FULL NAMES

CAPACITY

ADDRESS

SCHEDULE 3

(to Standard No. GEN.S.10.2)

ENTITY FIT AND PROPER (FAP) REQUIREMENT STATEMENT**TO BE COMPLETED BY THE ENTITY'S PRINCIPAL OFFICER OR AUTHORISED REPRESENTATIVE****Date of submission to NAMFISA:** _____**SECTION A: ENTITY INFORMATION****A.1** Full registered name: _____**A.2** Previously registered name(s): _____
_____**A.3** Trading name: _____**A.4** Entity Registration No.: _____**A.5** Country of registration: _____**A.6** If not incorporated in Namibia, provide description of the entity: _____
_____**A.7** Income Tax and VAT reference Nos.: _____
_____**A.8** Financial year-end: _____**A.9** Nature of business: _____**A.10** Registered address: _____
_____**A.11** Principal place of business: _____
_____**A.12** Contact person: _____**A.13** Postal address : _____**A.14** Telephone No.: _____**A.15** Fax No.: _____**A.16** Email address: _____**A.17** Website address: _____

A.18 Mobile No.: _____

A.19 Is the entity subject to regulation in a foreign country, or a financial services intermediary in a foreign country?: _____

A.20 If yes, which jurisdiction: _____

A.21 Name of foreign regulator(s): _____

A.22 Current NAMFISA License No. (if applicable): _____

SECTION B: CONDUCT

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form:

	DESCRIPTION OF REQUIREMENT	YES	NO
1.	Has an adverse finding been made against the entity, within a period of ten years preceding the date of application, in any civil or criminal proceedings by a court of law (whether in Namibia or elsewhere), in which the entity has been found to have acted fraudulently or unprofessionally?		
2.	Has the entity, within a period of ten years preceding the date of application, been found guilty by any professional, financial services industry or regulatory body (whether in Namibia or elsewhere), of an act of negligence or mismanagement?		
3.	Has the entity, within a period of ten years preceding the date of application, been denied membership of any body referred to in question 2 above on account of an act of negligence or mismanagement?		
4.	Has the entity, at any time preceding the date of application, been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere), or has an authorisation to carry on business been refused, suspended or withdrawn by any such body, on account of an act of negligence or mismanagement?		
5.	Has the entity, within a period of ten years preceding the date of application, been the subject of any investigation or has administrative action been taken or administrative penalties been imposed by any regulatory authority, professional or government body or agency, and exchange or self-regulatory organisation (whether in Namibia or elsewhere)?		
6.	Has the entity, at any time preceding the date of application, been disqualified or prohibited by any court of law (whether in Namibia or elsewhere) from taking part in the management of any other corporate entity or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not?		
7.	Has the entity ever been placed under judicial management, insolvency processes or any other processes of a similar nature (whether in Namibia or elsewhere)?		
8.	Has the entity ever been convicted of an offence or found to be liable under the Financial Intelligence Act, No. 13 of 2012, and/or the Prevention of Organised Crime Act, No. 29 of 2004 and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, No. 4 of 2014, and/or any other similar legislation describing similar offences and/or liability in any other country?		
9.	Does the entity have any additional information, which should be brought to NAMFISA's attention, which may have an impact on the evaluation, by NAMFISA, of the entity's conduct?		

SECTION C: DETAILS OF EVERY SHAREHOLDER, OR OTHER OWNER THAT CONTROLS THE APPLICANT (IF MORE THAN ONE, EACH PERSON TO COMPLETE SECTION C ON A SEPARATE PAGE)

C.1 Full names(s)/Full registered name: _____

C.2. Previous surname(s)/Previous registered name(s): _____

C.3 Nationality/Country of registration: _____

C.4 If not incorporated in Namibia, provide description of the entity: _____

C.5 Identification No./Entity Registration No.: _____

C.6 Date of birth/Date of incorporation or registration: _____

C.7 Occupation/Nature of business: _____

C.8 Date of ownership acquired: _____

C.9 Residential address: _____

C.10 Business address: _____

C.11 Email address: _____

C.12 Website address: _____

C.13 Telephone No.: _____

C.14 Mobile No.: _____

C.15 Fax No.: _____

C.16. Percentage shareholding or interest: _____

C.17 Is the entity subject to regulation in a foreign country, or a financial services intermediary in a foreign country?: _____

C.18 If yes, which jurisdiction: _____

C.19 Name of foreign regulator(s): _____

SECTION D: DETAILS OF EACH DIRECTOR, MEMBER OF THE BOARD, PRINCIPAL OFFICER, OTHER OFFICERS AND KEY PERSONS OF THE APPLICANT (IF MORE THAN ONE, EACH PERSON TO COMPLETE SECTION D ON A SEPARATE PAGE)

D.1 Full name(s): _____

D.2 Previous surname(s): _____

D.3 Nationality: _____

D.4 Identification No.: _____

D.5 Date of birth: _____

D.6 Occupation: _____

D.7 Date appointed: _____

D.8 Residential address: _____

D.9 Business address: _____

D.10 Email address: _____

D.11 Telephone No.: _____

D.12 Mobile No.: _____

D.13 Fax No.: _____

SECTION E: SOURCE OF FUNDS (ENTITY) AND AMOUNT OF SHARE CAPITAL:

E.1 Source of funds: _____

E.2 Amount of share capital: _____

NB: Kindly note that all source of funds must be properly and thoroughly supported with documentary evidence of how the money was earned, i.e. what activities were conducted to generate the funds.

SECTION F: FINANCIAL SOUNDESS

For purposes of assessing the entity's financial soundness, the principal officer or an authorised person of the entity must provide, as is relevant for any particular application, the following:		ATTACHED
1.	If already in existence and operating for more than one year, a copy of its audited financial statements as at its most recent financial year-end;	
2.	If in existence and operating for less than one year or a start-up business, budget projections or forecast of future revenue and expenses covering a period of at least three years from the start date or the anticipated start date, indicating the assumptions used in the preparation of the budget projections;	
3.	A copy of its budgeted income and expenditure statement (income statement), balance sheet and cash flow statements for a three-year period immediately preceding the date of its most recent financial year-end, except in the case of an entity that has been in existence and operating for less than three years, in which case the period during which it has been in existence and operating supersedes that three year requirement;	
4.	Where the applicant entity is a self-regulatory organisation, a schedule of financial information illustrating its funding provisions for anticipated supervisory responsibilities over the budgetary period;	
5.	A statement specifying the critical assumptions made in the preparation of the budgets as well as specifying the sources of funding;	
6.	Where arrangements have been made for funding any temporary shortfall in available cash resources, a statement setting out the extent and terms of its commitment;	
7.	A projection on the capital and current expenditure of management and staff required for the period covered by the budgets;	
8.	An approved business plan that deals at least with the following matters: <ul style="list-style-type: none"> (i) the planned development of the information technology systems and infrastructure of the applicant and arrangements for their supply, management, maintenance, upgrading and security; (ii) the planned approach to qualifying, quantifying and managing risk within the applicant; (iii) security procedures to ensure the integrity of the systems for recording transactions and the maintenance of records, the capacity of these systems in relation to the budgeted number of transactions and the back-up resources available in the event of a systems failure; (iv) reports and publications to be made available to the investing public, with the inclusion of price sensitive information, and the manner in which such information will be disseminated; (v) the effective and efficient management of risks associated with the applicant; (vi) the corporate governance principles that will be implemented; and (vii) details of the persons who have or will provide corporate finance advice or similar services to the applicant, if applicable; 	
9.	Details of its compensation plans (professional indemnity and fidelity insurance cover) sufficient to cover the risk of losses due to fraud, dishonesty, negligence or any other dishonest acts or breaches of professional duty of the directors, employees or representatives;	
10.	Proof of the amount capital employed or to be employed in the business of the entity; and	
11.	Information as to whether the entity has made arrangements with creditors, filed for sequestration or liquidation or had assets repossessed.	

SECTION G: OPERATIONAL ABILITY

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form:

For purposes of assessing the entity's operational ability, the principal officer or an authorised person must complete the following questionnaire and provide, as is relevant for any particular application and if not already provided elsewhere:		YES	NO
1.	Does the applicant's compliance arrangements specify how often compliance with procedures will be monitored and reported?		
2.	Does the applicant use a documented process to maintain the adequacy of its compliance and monitor arrangements?		
3.	Does the applicant document processes to ensure records are kept for training programs attended, including continued education training, for its key persons and/or representatives?		
4.	Does the applicant have documented processes for the supervision and monitoring of its representatives to ensure they comply with the Act?		
5.	Does the applicant use a documented process to ensure all representatives are trained, competent and will provide financial services on its behalf efficiently, honestly and fairly?		
6.	Does the applicant have professional indemnity or fidelity insurance cover?		
7.	Has the applicant established compliance and reporting arrangements for its entity activities?		
8.	Will any substantial activities of the entity be outsourced?		
9.	Does the applicant have a process in place to ensure that providers selected for any outsourced functions are suitable?		
10.	Is the outsourced entity a registered and regulated entity?		
11.	To whom is the applicant planning to outsource activities of its business? <input type="checkbox"/> Independent party; <input type="checkbox"/> Related party; or <input type="checkbox"/> Both the above.		
12.	What is the name(s) of the entity(ies) to whom the applicant intends outsourcing some of your business activities? <hr/> <hr/> <hr/>		
13.	What function(s) will be outsourced? <hr/> <hr/> <hr/>		

Does the applicant have internal control structures and, procedures in place which include the following:			
14.	Segregation of duties, roles and responsibilities where such segregation is appropriate from an operational risk mitigation perspective?		
15.	Access rights and data security on electronic data, where applicable?		
16.	Physical security of the providers' assets and records, where applicable?		
17.	Documentation relating to business processes, policies and controls, and technical requirements?		
18.	Systems application testing, where applicable?		
19.	Disaster recovery and back-up procedures on electronic data where applicable?		
20.	Training for all staff regarding the requirements of the Act?		
21.	A business continuity plan?		

SECTION H: COMPLIANCE WITH THE FINANCIAL INTELLIGENCE ACT, 2012 (FIA) AND OTHER ANTI MONEY LAUNDERING (AML), COMBATING THE FINANCING OF TERRORISM (CFT) AND COMBATING PROLIFERATION FINANCING (CPF) LEGISLATION (WHERE RELEVANT)

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form:

For purposes of assessing the entity's compliance with FIA/AML/CFT/CPF legislation, the principal officer or an authorised person must complete the following questionnaire and provide, as is relevant for any particular application:			
		YES	NO
1.	Are your particulars, in the prescribed form registered with the Financial Intelligence Centre (FIC) for purposes of supervising compliance with the FIA or any regulation, notice, order, circular, determination or directive issued in terms of the FIA?		
2.	Do you have a Money Laundering (ML)/ Terrorist Financing (TF)/ Proliferation Financing (PF) risk assessment approved by senior management in terms of section 39(1) of the FIA read with Regulation 24 of the regulations issued under the FIA?		
	Do you have procedures to regularly update the ML/TF/PF risk assessment?		
3.	Do you have written policies, procedures and controls designed to mitigate the ML/TF/PF risks in terms of section 39(3) read with Regulation 26 of the regulations issued under FIA ?		
4.	Customer identification and verification of information		
	Do you have customer identification and verification procedures or processes in terms section 21 – 23 of FIA read with Regulation 6 - 11 of the regulations issued under FIA, Directive 2 of 2020 & Guidance Note 1 of 2019 - Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD) (internal rules concerning ascertainment and verification of identities)?		

5.	Customer account and transaction monitoring		
	Do you have procedures to conduct customer account and transaction monitoring in line with the established client profile in terms of Section 24 read with Regulations 15 and 22 of the regulations issued under FIA?		
6.	Reporting of Suspicious Transactions and Activities		
	Do you have procedures or processes by which suspicious transactions and activities are detected, analysed and reported to the FIC in terms of section 33 of FIA read with Regulation 27 of the regulations issued under FIA (these procedures or processes must take into account issues of confidentiality, tipping off)?		
7.	Reporting of Cash Transactions		
	Do you have procedures to detect cash transactions above the prescribed threshold of N\$99,999.99 and report within five working days in terms of section 32 of the FIA read with Regulation 23 of the regulations issued under FIA and Circular 3/2015 and Guidance Note 6 of 2015 issued by FIC?		
8.	Record Keeping		
	Do you have procedures or processes by which records are kept/stored as required by sections 26 to 29 of the FIA read with Regulation 17-19 of the regulations issued under FIA?		
	Do you have procedures to ensure that your records are readily accessible to competent authorities and NAMFISA in terms of Directive 2 of 2017?		
9.	Staff Training		
	Do you have procedures or processes by which staff is trained on AML Compliance and ML/TF/PF risks in terms of section 39(3) and 39(5) read with Regulation 26(2)-(3) of the regulations issued under FIA?		
	Is the training program implemented at all branches and subsidiaries?		
10.	Independent Audit Function		
	Do you have procedures or processes by which the measures taken by the institution to comply with the FIA are evaluated and their effectiveness tested in terms of Section 39(5)(c) and Section 39(8) of FIA read with Regulation 24(5) of regulations issued under FIA?		
11.	United Nations Security Council (UNSC) Sanctions Lists		
	Do you have procedures or processes to screen customers against the UNSC Sanctions Lists at on-boarding and as and when the Sanctions Lists are updated as issued by government or competent authorities in terms of section 25 of PACOTPAA read with Regulation 15(5) of the regulations issued under FIA and Directive 01 of 2022?		
	Do you have procedures or processes to freeze the assets of any client designated on a UNSC Sanctions List and to inform the FIC within 24 hours of any freezing actions taken in terms of section 23 of PACOTPAA read with Regulation 2 of the regulations issued under PACOTPAA?		
12.	Anti-Money Laundering Compliance officer		
	Have you designated a AML Compliance Officer at management level? Or does your structure make provision for the designation of an AML Compliance Officer at management level in terms of section 39(6) of FIA?		
	Is the designated AML Compliance Officer in charge of the application of the internal programmes and procedures, including proper maintenance of records and reporting of suspicious transactions?		

DECLARATION BY APPLICANT (ENTITY)

I, _____ (full names) in my
capacity as _____ of the applicant referred
to herein¹, hereby declare under oath as follows:

This statement consists of _____ pages, **each page initialed by me**. The contents of this statement are true to the best of my knowledge and belief.

I undertake that, as long as I continue to be a _____ of the entity, I will notify NAMFISA of any material changes to, or affecting the completeness or accuracy of, the information supplied to NAMFISA as soon as possible, but in any event no later than 30 days from the day that the changes come to my attention.

I know and understand the content of this declaration. I do not have objections to taking the prescribed oath. I consider the prescribed oath to be binding on my conscience.

SIGNATURE OF DEPONENT

I hereby declare that the deponent has sworn/affirmed to and signed the declaration in my presence at _____ on the _____ day of _____ 20 _____ and that he/she declared as follows: that the facts herein contained fall within his/her personal knowledge and that he/she understands the contents hereof; that he/she has no objection to taking the oath; that he/she regards the oath as binding on his/her conscience.

COMMISSIONER OF OATH (to initial on each page as well)

FULL NAMES _____

CAPACITY _____

ADDRESS _____

¹ A formal letter or certified extract from the minutes authorising the person to complete this FAP requirement statement on behalf of the entity must be submitted.

FINANCIAL INSTITUTIONS AND MARKETS ACT, 2021**GENERAL****OUTSOURCING OF FUNCTIONS AND RESPONSIBILITIES BY
FINANCIAL INSTITUTIONS AND FINANCIAL INTERMEDIARIES****Standard No. GEN.S.10.10**

issued by NAMFISA under section 410(2)(x) 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 includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act;
 - (b) “business function” includes a business activity, a business process and a business responsibility, but does not include the principal business of a financial institution or financial intermediary;
 - (c) “key person” means any person responsible for managing or overseeing, either alone or together with another responsible person, the activities of a financial institution or financial intermediary relating to the rendering of the financial services, and includes those individuals or other entities holding more than 20% of the financial institution or financial intermediary’s voting rights;
 - (d) “material business function” means a business function of a financial institution or financial intermediary that, while not the principal business of that financial institution or financial intermediary, nevertheless has the potential, if disrupted, for a significant and negative qualitative or quantitative impact on the finances, regulatory objectives, reputation or operation of the financial institution or financial intermediary or on its ability to manage key risks effectively, or on its principal business;
 - (e) “outsourcing” means the process of entering into an outsourcing arrangement;
 - (f) “outsourcing arrangement” means an arrangement whereby a financial institution or financial intermediary uses a third party service provider to provide a business function that would have been undertaken by the financial institution or financial intermediary;
 - (g) “outsourcing agreement” means the agreement, referred to in clause 3, of this Standard documenting an outsourcing arrangement with respect to a material business function;
 - (h) “primary business activity or activities” mean the primary business activity or activities for which a financial institution or financial intermediary is registered under the Act and which are described in its certificate of registration issued under the Act;

- (i) “principal business” means the financial service or financial services for which a financial institution or financial intermediary is registered under the Act and which are described in its certificate of registration issued under the Act;
- (j) “relevant matters” means all input used in facilitating the day to day running of the material business function of a financial institution or financial intermediary;
- (k) “service provider” means a person who provides a business function to a financial institution or financial intermediary; and
- (l) “sub-outsourcing” means an arrangement whereby a service provider in an outsourcing agreement further transfers the whole or part of an outsourced task to another service provider.

(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, as defined in section 1 of the Act:

- (a) affiliate;
- (b) associate;
- (c) auditor;
- (d) board;
- (e) entity;
- (f) financial institution;
- (g) financial intermediary; and
- (h) NAMFISA.

Applicability

2. Every registered financial institution and financial intermediary must comply with this Standard regarding their outsourcing arrangements of material business functions.

3. The provisions of this Standard covers all outsourcing agreements entered into -

- (a) on or after the date on which this Standard takes effect;
- (b) prior to the date on which this Standard takes effect;
- (c) be it an agreement with or without an extension or amendment;
- (d) an agreement that is on-going in nature; or
- (e) with a service provider operating inside or outside Namibia.

Materiality Test

4. (1) Any business function directly related to the principal business of the registered financial institution or financial intermediary is a material business function.

(2) When deciding whether a business function is a material business function or not, it is important to identify whether the outsourced business function would pose a material risk to the financial institution's or financial intermediary's ongoing operations, or inhibit an obligation to deliver on regulatory objectives or both, by applying the outsourcing principles in order to determine the degree of materiality.

(3) In determining whether a business function is a material business function, factors to be considered include, but are not limited to, the potential that worsens the:

- (a) risks to the regulatory mandates and objectives of NAMFISA;
- (b) threats to the financial system's clearing and settlement infrastructure;
- (c) financial, reputational, and operational impact of the failure of a service provider to perform the business function;
- (d) adverse impact of a deterioration in the quality of services provided by a service provider to the financial institution or financial intermediary and its clients;
- (e) sensitivity of the outsourced task, such that failure to recover within a specific timeframe may pose contagion risk to the broader market;
- (f) adverse impact of outsourcing on the security and integrity of the data for the outsourcing financial institution or financial intermediary and its clients;
- (g) degree of difficulty and time required to select an alternative service provider or to bring the task in-house;
- (h) cost of the outsourcing arrangement, in relation to what is available locally and whether the arrangement is at arm's length;
- (i) affiliation or association between the financial institution or financial intermediary and the service provider;
- (j) conflicts of interest that may result through outsourcing to a particular service provider; and
- (k) regulatory status of the financial institution or financial intermediary and, if applicable, of the service provider.

Principal Business Function

5. (1) A financial institution or financial intermediary must not enter into an outsourcing arrangement with a service provider with respect to its principal business function such as, but not limited to, the following:

- (a) risk underwriting;

- (b) payment of claims;
- (c) receipt of contributions for payment of healthcare expenses and retirement benefits; and
- (d) governance functions, e.g., regulatory responsibilities of the board and senior management.

(2) Notwithstanding the requirements under clause 4(3), any material business function that inhibits the ability of a financial institution or financial intermediary to perform its duties and obligations under the Act must not be outsourced to a service provider without entering into an outsourcing agreement as outline under this clause.

Requirements for outsourcing a material business function

6. In assessing any potential outsourcing arrangements, a financial institution or financial intermediary must take into account all relevant matters including, but not limited to, those referred to from clauses 7 to 15.

Outsourcing Principles

7. The seven Principles on the outsourcing of the material business functions must be applied according to the degree of materiality and the associated negative impact of the outsourced function to the ongoing business of the financial institution or financial intermediary and to its regulatory objectives.

8. In understanding and applying the seven Principles on outsourcing, the financial institution or financial intermediary must develop a process and procedure outlined in the outsourcing policy for determining the materiality of the function sought to be outsourced.

Principle 1: Due Diligence on Selection and Performance Monitoring

9. (1) A financial institution or financial intermediary must conduct suitable due diligence when selecting a service provider, including that on monitoring the performance, and at all times, be satisfied that the service provider has the ability and capacity to effectively undertake the provision of the outsourced material business function.

(2) In determining the due diligence on the selection, a financial institution or financial intermediary must have in place -

- (a) documented processes and procedures with appropriate steps to enable an informed assessment prior to the selection, and on an ongoing basis, determine whether the service provider has the ability and capacity to perform the outsourced material business functions effectively, reliably, continuously and to a high standard;
- (b) competent persons conversant enough to evaluate the ability of the service provider to perform the outsourced functions;
- (c) appropriate steps is taken to identify any potential or actual conflicts of interest between the financial institution or financial intermediary and the service provider and also to take appropriate steps to ensure policies and procedures are in place to mitigate and manage any potential conflicts of interest that have been identified or could arise;

- (d) procedures to assess, prior to selection, the impact of a sudden interruption of service and the availability on a timely basis of an alternative service provider capable of meeting the expected standards; and
- (e) mechanism to determine a possibility of concentrated risk arising from over-reliance on a single service provider's technological or operational configuration together with options to consider choosing different service providers for different functions.

(3) In determining the appropriate level of monitoring, the financial institution or financial intermediary must consider the materiality of the outsourced material business function to the ongoing business of the financial institution or financial intermediary and to its regulatory obligations as outlined under clause 4(3).

(4) When implementing processes and procedures to monitor the service provider's performance, factors to consider could include, but not be limited to:

- (a) establishing and documenting clearly defined metrics, which will be used by the financial institution or financial intermediary to measure the service level, and specify what service levels are required including with respect to emergency procedures and disaster recovery and contingency plans, as addressed under Principle 3 regarding business resilience, continuity and disaster recovery;
- (b) an agreement with the service provider on the type and frequency of service delivery reports to monitor the performance of the outsourced material business functions;
- (c) measures for the service provider to identify, record, and remediate instances of failure to meet contractual obligations or unsatisfactory performance and to report such instances to the financial institution or financial intermediary on a timely basis;
- (d) use of internal or external auditors to monitor, assess, and report financial and service quality audits to the financial institution or financial intermediary on performance;
- (e) use of written service level agreements or the inclusion of such provisions in a contract to achieve clarity on performance targets and measurements for service providers;
- (f) implementing processes and procedures intended to ensure:
 - (i) applicable laws and regulatory requirements are met;
 - (ii) in case the service provider fails to perform material business functions as required by law, the financial institution or financial intermediary is able to, where required by law, to report the failure as soon as possible to NAMFISA;
 - (iii) corrective actions are immediately taken by the outsourcing financial institution or financial intermediary on the detection of a failure by a service provider in order to perform its obligations required by law are met; and

- (iv) in case of an outsourcing outside Namibia, that an enhanced due diligence is considered focusing on particular risks, including but not limited to the ability to -
 - (aa) effectively monitor the foreign service provider;
 - (bb) maintain confidentiality of information of the clients; and
 - (cc) to carry out contingency exit plans with limited minimal impact on the operations of the outsourced function.

Principle 2: The Contract with a Service Provider

10. (1) A financial institution or financial intermediary must enter into a legally binding written or electronically concluded contract permitted by law with each service provider, outlining the nature of materiality in the outsourced material business function to the business of the financial institution or financial intermediary.

(2) A legally binding written or electronically concluded contract permitted by law between a financial institution or financial intermediary and a service provider must underpin the relationship between the financial institution or financial intermediary and the service provider by outlining the scope, nature, and quality of the service to be provided, and therefore how the monitoring of the outsourced material business functions by the financial institution or financial intermediary must be conducted.

(3) The level of detail of the written contract must provide a reflection on the degree of monitoring, assessment, regulatory inspections and financial and service quality auditing required, as well as the risks, size and complexity of the outsourced services involved.

(4) In determining the nature and detail of the written contract, the financial institution or financial intermediary must consider the materiality of the outsourced material business function to the ongoing business of the financial institution or financial intermediary and associated regulatory obligations.

(5) Where different regulatory requirements may apply for the financial institution or financial intermediary and the service provider due to the cross-border nature of the service, the service provider must recognise and accommodate the requirements of each jurisdiction in which it operates, as appropriate, and ensure it acts in a manner that is consistent with the financial institution or financial intermediary's regulatory obligations.

(6) In addition, the contract must also reflect the following provisions, but not only limited to:

- (a) price determination, amounts and payment arrangements; and
- (b) when outsourcing on a cross-border basis, choice of law and choice of court provisions.

Principle 3: Information security, business resilience, continuity and disaster recovery

11. (1) A financial institution or financial intermediary must take appropriate steps ensuring that the outsourcing agreement establishes and maintains appropriate IT security, cyber-resilience, and disaster recovery capabilities and business continuity plans by adopting procedures and controls protecting the financial institution or financial intermediary's proprietary and client-related information, software and continuity of service delivered by ensuring there is a plan in place for disaster recovery with periodic testing of backup facilities.

(2) A financial institution or financial intermediary must take appropriate steps to ensure that service providers have in place a comprehensive IT security, cyber-resilience, disaster recovery and business continuity program, by ensuring that the outsourcing agreement includes, but not only limited to security requirements specifying:

- (a) security of automated systems to be used by the service provider, including the technical and non-technical organization-wide measures protecting both the entity and client-related data, and market sensitive data, appropriate even when outsourcing to cloud service providers;
- (b) effective comprehensive measures promoting cyber security and must cover all software used by, or made available to the financial institution or financial intermediary, including any software developed by the financial institution or financial intermediary for the use of the financial institution or financial intermediary;
- (c) rights of each party to change or require changes to security procedures and requirements and of the circumstances under which such changes might occur;
- (d) terms and conditions relevant to the use of sub-contractors with respect to IT security must also apply to open-source resources, and appropriate steps to minimize the risks arising out of such sub-outsourcing and the use of open-source resources;
- (e) disclosure by the service provider of breaches in security that may affect the financial institution or financial intermediary or its clients, including a report of corrective action taken, which could include, but not limited to the following matters:
 - (i) an explanation of the kind of breach experienced;
 - (ii) a statement of when the breach was discovered, how it was discovered and how long it had existed before being discovered and reported;
 - (iii) the time to correct the issue;
 - (iv) a clear statement of the data content that has been exposed, and whether any part of the data relates to clients of the financial institution or financial intermediary;
 - (v) an explanation of how the security breach was resolved, and the controls that were implemented to achieve this; and
 - (vi) an explanation of the measures that will be undertaken by the service provider to prevent recurrence of the security breach or the data loss; and
- (f) provisions ensuring continuity and quality of outsourced material business functions or services in the event of termination of the outsourcing, either by transferring the outsourced material business functions or services to another service provider or by the financial institution or financial intermediary performing them itself.

(3) A financial institution or financial intermediary must take appropriate steps to ensure it has in place a contingency plan that addresses circumstances in which one or more of its service providers fail to adequately perform its contractual obligations or where the provision of the service is disrupted or the service cannot be continued due to changes in the technological or regulatory environment.

Principle 4: Confidentiality Issues

12. (1) A financial institution or financial intermediary must take appropriate steps to ensure that service providers protect confidential information and data related to the financial institution or financial intermediary and its clients from intentional or inadvertent unauthorised disclosure to third parties.

(2) A financial institution or financial intermediary that engage in outsourcing must take appropriate steps to confirm that their confidential information and client information is not misused, misappropriated, or unlawfully or inadvertently disclosed to others, and such steps may require provisions in the contract with the service provider that:

- (a) prohibit the service provider and its agents or sub-contractors from using or disclosing the financial institution's or financial intermediary's proprietary information or that of the financial institution's or financial intermediary's clients or members, except as necessary to provide the contracted services;
- (b) consider both physical and electronic information;
- (c) where appropriate, govern the use of sub-contractors and their obligations with respect to entity, member and client confidentiality; and
- (d) mandates the service provider and its agents to safely dispose of any confidential data and information relating to the entity and its clients when the relationship ends: Provided such requirements must be consistent with any record keeping requirements that apply to the financial institution or financial intermediary.

(3) A financial institution or financial intermediary must also consider whether it is appropriate to notify clients that client data may be transmitted to a service provider, considering any regulatory or statutory provisions that may be applicable, including in a cross-border context.

(4) Where confidential information or client data is permitted to be outsourced and is subject to outsourcing, the regulatory environment for data security and data protection must be assessed and, if necessary, additional precautionary measures such as enhanced encryption must be considered.

Principle 5: Concentration of outsourcing arrangements

13. (1) A financial institution or financial intermediary must be aware of the concentration risks posed, and must effectively, manage such operational risks by appropriately, carrying out thoroughly -

- (a) a due diligence assessment before entering into contractual relations with such service providers; and
- (b) where suitable competition exists, a choice can be made for a different service provider either for a different material business function or parts of the material business functions that are outsourced or designate a primary and secondary provider.

(2) A financial institution or financial intermediary must identify and monitor sub-outsourcing, intra-group concentration and group dependency in their outsourcing assessments.

Principle 6: Access to data, premises, personnel and associated rights of inspection

14. (1) A financial institution or financial intermediary must take appropriate steps ensuring that NAMFISA, auditors and the outsourcing entity itself can promptly obtain, upon request, information concerning the outsourced material business functions that is relevant to undertake regulatory oversight function, and where necessary, there must be prompt access to the data, IT systems, premises and personnel of service providers relating to the outsourced material business functions.

(2) To ensure NAMFISA has prompt and comprehensive access to information, including through virtual means, concerning outsourced material business functions, to enable NAMFISA to carry out its inspection, investigation and monitoring powers over the activities that it regulates, the financial institution or financial intermediary must –

- (a) retain full responsibility, legal liability and accountability to NAMFISA for all material business functions that the financial institution or financial intermediary may outsource to a service provider to the same extent as if the service were provided in-house;
- (b) ensure that comprehensive set of information is maintained in Namibia; and
- (c) ensure access to the information must be in a form that is acceptable to NAMFISA, in terms of the format in which information is made available (e.g., electronic versus paper) and the language in which the material is provided, particularly where the outsourced material business function is performed in a jurisdiction other than that of the financial institution or financial intermediary.

(3) A financial institution or financial intermediary must take appropriate steps ensuring in the case of outsourcing to a regulated service provider, that cooperation and information sharing arrangement with the regulator of the regulated service provider is established.

Principle 7: Termination of Outsourcing Arrangements

15. (1) A financial institution or financial intermediary must include written provisions relating to the termination of outsourced material business functions in its contract with service providers and ensure that it maintains appropriate exit strategies.

(2) There should be clarity on who owns the relevant data, and whether the service provider has any retention rights.

(3) The written contract and exit strategies must be viewed as separate concepts, though there may be aspects of an exit strategy included in a written contract e.g., an undertaking that the service provider cooperates with the firm to manage the exit when the firm decides to leave the service provider.

(4) A financial institution or financial intermediary must take appropriate steps to manage termination of outsourcing arrangements, and steps may include, but not only limited to provisions in contracts with service providers on:

- (a) termination rights, in case of insolvency, liquidation, change in ownership, failure to comply with regulatory requirements, poor performance, breach of confidentiality, and in other circumstances;

- (b) minimum periods before a termination can take effect, allowing for an orderly transition either to another provider or to the entity itself, and to provide for the return of all client-related data, the entity-related data of the financial institution or financial intermediary, and any other resources;
- (c) clear delineation of ownership of information and specifications relating to the transfer of information back to the financial institution or financial intermediary, including confirmation of deletion of records, and confirmation of effective transfer of information; and
- (d) obligation of the service provider to assist and provide full support for a successful and complete transition.

The role of the board and senior management

16. (1) The board and senior management of a financial institution or financial intermediary must, before concluding a potential outsourcing arrangement:

- (a) identify, assess, and find potential solutions to manage and mitigate risks associated with the outsourcing arrangement; and
- (b) ensure that the financial institution or financial intermediary's outsourcing risks and controls are considered as part of its overall risk management systems to ensure that the financial institution or financial intermediary continues to meet its financial and other obligations to its clients and other stakeholders.

(2) The board and senior management of a financial institution or financial intermediary must approve the financial institution's or financial intermediary's outsourcing policy, which must set out the -

- (a) processes and procedures addressing the outsourcing principles to establish criteria for appointing a new, an on-going and amended outsourcing agreements;
- (b) processes and procedures for identifying, assessing and mitigating risks associated with outsourcing material business activities or functions, such as, but not limited to -
 - (i) control;
 - (ii) operational;
 - (iii) concentration; and
 - (iv) supervisory;
- (c) requirements ensuring that all relevant business units are fully aware of, and comply with, the outsourcing policy;
- (d) specific requirements in relation to outsourcing material business functions -
 - (i) locally to subsidiaries, affiliates, associates or other service providers; and

- (ii) outside Namibia to subsidiaries, affiliates, associates or other service providers; and
- (e) specific contractual requirements on sub-outsourcing, such as, but not limited to -
 - (i) type, frequency and duration of the sub-sourcing;
 - (ii) remuneration and basis of cost calculations; and
 - (iii) periodic type of performance indicators and frequency.

(3) The board and senior management of a financial institution or financial intermediary are ultimately responsible for the outsourcing of a material business function by a financial institution or financial intermediary, and although the outsourcing arrangement may result in the service provider having a day-to-day managerial responsibility for a business function, the outsourcing a financial institution or financial intermediary remains responsible for complying with the Act, and therefore for all the outsourcing arrangement.

Assessment of outsourcing options

17. (1) A financial institution or financial intermediary must be able to demonstrate to NAMFISA, as required, that in assessing the options for outsourcing a material business function, it has:

- (a) prepared a business plan in accordance with the entity's own outsourcing policy;
- (b) considered all the outsourcing principles, and ensured that -
 - (i) the internal auditing function arrangement has a dedicated team to review any proposed outsourcing arrangement, and on a regular basis review and report to the board and senior management; and
 - (ii) in situations where the audit team or committee does not exist, has an alternative arrangement, and in the event that NAMFISA considers the arrangement to be inadequate, NAMFISA may require the financial institution or financial intermediary to adopt some other arrangement; and
- (c) it involved the board, a committee of the board or senior manager and provided delegated authority from the board, in approving the outsourcing agreement.

(2) The outsourcing agreement must make provision for NAMFISA's right to access the service provider for -

- (a) documentation, and information held related to the outsourcing arrangement;
- (b) conducting on-site inspections when considered necessary by NAMFISA; and
- (c) any other request NAMFISA may make for information and assistance.

(3) NAMFISA may, pursuant to section 420 of the Act, carry out an investigation to assess and provide a report on the risk management processes and procedures in place, such as on information technology systems, data security, internal controls and business operations continuity plans.

(4) The costs of the investigation may be recovered from the financial institution or financial intermediary in terms of section 428 of the Act.

(5) In addition to the factors listed under sub-clauses (1) and (2), a financial institution or financial intermediary must be able to demonstrate to NAMFISA, as required, that in assessing the options for outsourcing to subsidiaries, affiliates or associates of the a financial institution or financial intermediary or a key person, it has taken into account:

- (a) the changes to the risk profile of the material business function that arise from outsourcing it to a subsidiary, affiliate or associate of the a financial institution or financial intermediary or of a key person, and the manner in which this changed risk profile is to be addressed in risk management framework of the a financial institution or financial intermediary;
- (b) the cost of the services being provided and that the financial institution or financial intermediary has taken steps to ensure that the cost is commensurate to the fair value of like services that could be provided by an arm's-length service provider;
- (c) the ability of the subsidiary, affiliate or associate in question to conduct the business activity; and
- (d) the monitoring procedures necessary to ensure that the subsidiary, affiliate or associate is performing effectively, and the manner in which any potential inadequate performance will be addressed.

Off-shoring arrangements

18. (1) An off-shoring arrangement means the outsourcing of a material business function by a financial institution or financial intermediary to a service provider located outside Namibia or to a service provider located in Namibia but who conducts the material business function outside Namibia.

(2) A financial institution or financial intermediary must, prior to entering into an outsourcing agreement with any service provider referred to in sub-clause (1), assess and ensure that the risks of the off-shoring arrangement are adequately addressed by a financial institution or financial intermediary's risk management framework.

(3) If, in NAMFISA's view, an off-shoring arrangement involves risks that the financial institution or financial intermediary is not managing or will not be able to manage appropriately, NAMFISA may require the financial institution or financial intermediary to make other outsourcing arrangements for the material business function as soon as practicable if the financial institution or financial intermediary cannot satisfy such concerns of NAMFISA within the period specified by NAMFISA.

Adjustments and exclusions

19. NAMFISA may, by notice in writing to a financial institution or financial intermediary, adjust or exclude a specific requirement of this Standard in relation to the -

- (a) nature of operation of that particular a financial institution or financial intermediary's business model; or
- (b) outsourcing of a particular material business function by that a financial institution or financial intermediary.

Notification requirement**20.**

(1) A financial institution or financial intermediary must notify NAMFISA, in writing, not later than 30 business after entering into an outsourcing agreement, of such outsourcing agreement.

(2) A financial institution or financial intermediary must notify NAMFISA, in writing, not later than 30 business days after an extension, renewal or amendment of an outsourcing agreement, of such extension, renewal or amendment.

(3) When a financial institution or financial intermediary notifies NAMFISA of a new or amended outsourcing agreement, it must also provide NAMFISA with a summary of the key risks involved in the outsourcing arrangement and the risk mitigation strategies put in place to address these risks, as well as ability to meet regulatory obligations, and if NAMFISA considers it necessary, it may request additional information and material in order to assess the impact of the outsourcing arrangement on the financial institution or financial intermediary's risk profile or regulatory obligations.

(4) A financial institution or financial intermediary must notify NAMFISA, in writing, of any material developments not only with respect to the performance under outsourcing agreement, which may give rise to the termination of the outsourcing agreement, other than termination due to the outsourcing agreement reaching its termination date naturally.

TEMPLATE FOR WRITTEN REPRESENTATIONS: DRAFT PROPOSED STANDARDS

[illegible]
