

# **REGISTRATION REQUIREMENTS**

## **TRUSTEE**

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**Application for registration as a Trustee in terms of section 20 of the Unit Trusts Control Act 54 of 1981, as amended, (“the Act”), must comply with the requirements and be accompanied by the information and documentation set out herein.**

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### **A. REQUIREMENTS FOR REGISTRATION**

1. A public company or institution registered in terms of its applicable Act ;
2. Application letter for registration as trustee;
3. Proof of paid-up capital and unimpaired reserves (balance sheet etc);
4. Details relating to management company and company relations;
5. General commercial and financial information; and
6. Copy of proposed trust deed.

### **B. INFORMATION AND DOCUMENTATION**

1. Full name of applicant \_\_\_\_\_
2. Company registration number \_\_\_\_\_
3. Certificate of incorporation \_\_\_\_\_
4. Certificate to commence business \_\_\_\_\_
5. Memorandum and Articles of Association \_\_\_\_\_
6. Certificate of Change of name if applicable \_\_\_\_\_
7. Special Resolution (CM26) if applicable \_\_\_\_\_
8. Directors Certificate (CM29) \_\_\_\_\_
9. Share Certificate \_\_\_\_\_
10. Tax reference number \_\_\_\_\_
11. Date of financial year-end \_\_\_\_\_
12. Registered, postal, and business address \_\_\_\_\_
13. Telephone, fax, e-mail, website \_\_\_\_\_

14. Details of the applicant's members, directors, owners and /or employees materially involved in the management of the company: names, identity numbers, business/home telephone numbers, current employers, and qualification and experience;
15. Details of applicant's members, directors, owners and employees in management;
16. Details of applicant's owners, members, directors and shareholders of the holding company;
17. Details of the auditor: name, address, an acceptance letter from the auditor or a CM31;
18. Board resolution authorizing applicant's representative to apply for registration on behalf of the applicant; and
19. A letter from applicant authorizing a person to collect the applicant's certificate of registration from the Authority.

## ANNEXURE A

### Operational Ability

- |  | Yes                      | No                       |
|--|--------------------------|--------------------------|
| 1) Do your compliance arrangements specify how often compliance with procedures are monitored and reported?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2) Do you use a documented process to maintain the adequacy of your compliance and monitor arrangements?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3) Do you document processes to ensure records are kept for training programs attended, including continued education training, for your key individuals and/or representatives? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4) Do you have documented processes for the supervision and monitoring of your representatives to ensure they comply with the Act?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5) Do you use a documented process to ensure all representatives are trained, competent and will provide financial services on your behalf efficiently, honestly and fairly?     | <input type="checkbox"/> | <input type="checkbox"/> |
| 6) Do you have guarantees, professional indemnity or fidelity insurance cover?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 7) Have you established compliance and reporting arrangements for your entity activities?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 8) Will any substantial activities of the entity be outsourced?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 9) Do you have a process in place to ensure that providers selected for any outsourced functions are suitable?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 10) Is the outsourced entity a registered regulated entity?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 11) To whom will you be outsourcing these activities?  |                          |                          |
| Independent party  | <input type="checkbox"/> |                          |
| Related party  | <input type="checkbox"/> |                          |
| Both   | <input type="checkbox"/> |                          |
| 12) What is the name of the entity to whom you intend outsourcing?   |                          |                          |
| .....  |                          |                          |

13) What function(s) will be outsourced?

.....

.....

.....

14) Do you have **internal controls structure**, procedures and controls in place which include the following?

	<b>Yes</b>	<b>No</b>
i. segregation of duties, roles and responsibilities where such segregation is appropriate from an operational risk mitigation perspective;	<input type="checkbox"/>	<input type="checkbox"/>
ii. access rights and data security on electronic data, where applicable;	<input type="checkbox"/>	<input type="checkbox"/>
iii. physical security of the providers' assets and records, where applicable;	<input type="checkbox"/>	<input type="checkbox"/>
iv. documentation relating to business processes, policies and controls, and technical requirements;	<input type="checkbox"/>	<input type="checkbox"/>
v. system application testing, where applicable;	<input type="checkbox"/>	<input type="checkbox"/>
vi. disaster recovery and back-up procedures on electronic data, where applicable;	<input type="checkbox"/>	<input type="checkbox"/>
vii. training for all staff regarding the requirements of the act;	<input type="checkbox"/>	<input type="checkbox"/>
viii. a business continuity plan;	<input type="checkbox"/>	<input type="checkbox"/>

15) Compliance with the **Financial Intelligence Act, No.13 of 2012**, and other anti money laundering legislation.

	<b>Yes</b>	<b>No</b>
i. Do you have written internal rules in place as required by the Financial Intelligence Act (Act No. 3 of 2012)?	<input type="checkbox"/>	<input type="checkbox"/>
ii. Do you have processes in place to ensure that employees receive training in respect of and are aware of their obligation to report suspicious transactions?	<input type="checkbox"/>	<input type="checkbox"/>

- iii. Do you have anti-money laundering control policies, procedures and systems in place?
- Do you have processes to incorporate any additional requirements as may be required under the Financial Intelligence Act, 2012, and/or any other anti-money laundering legislation?
- iv. Do you have process in place to train staff in relation to anti money laundering legislation?
- v. Are your terms and conditions of business separate from your Mandate and/or application form?

## **ANNEXURE B**

**This section needs to be completed by directors, management staff members, and trustees**

### **Fit and Proper Requirements –Character qualities of honesty and integrity questions**

If the answer to any of the question is **YES**, provide full details in a separate document certified by the directors or trustees and attach to the application form

<b>Questions</b>	<b>Yes</b>	<b>No</b>
1. Has an adverse finding been made against you within the period of five years preceding the date of application in the any civil or criminal proceeding by a court of law (whether in Namibia or elsewhere) in which you were found to have acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty?	<input type="checkbox"/>	<input type="checkbox"/>
2. Have you within a period of five 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?	<input type="checkbox"/>	<input type="checkbox"/>
3. Have you within a period of five years preceding the date of application been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere), of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
4. Have you within a period of five years preceding the date of application been denied membership of anybody referred to in paragraph 2 on account of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>

5. Have you within a period of five years preceding the date of application been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere), recognized by NAMFISA, or has an authorization to carry on business has been refused, suspended or withdrawn by any such body on account of an act of dishonesty, negligence, incompetence or mismanagement?
6. 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, recognized or regulated body, irrespective whether such disqualification has been lifted or not?
7. Have you been the subject of any investigation or disciplinary proceedings by any regulatory authority (whether in the Republic or elsewhere) or exchange, professional body or government body or agency?
8. Have you ever been refused authorization to carry on business by any regulatory body (whether in Namibia or elsewhere), or has such authorization ever been suspended or revoked by any such body, because of negligence, incompetence or mismanagement?
9. Do you have any additional information, which should be brought to the Registrar's attention, which may have an impact on the evaluation, by the Registrar of your good character and integrity?

.....  
**Name and Surname**

.....  
**Date**

.....  
**Signature**

## **ANNEXURE C**

### **Indemnity for directors, management staff members, and/or trustees**

I, ..... (Full name of director, trustee)

Identity/passport number ..... hereby authorizes NAMFISA and its duly authorized verification agent, to request or confirm any personal information as well as any other information that I have provided in support of my application to any personal data holders

(including but not limited to the Namibian police, the Government, industry bodies and associations, employers and any educational, training, credit bureau and fraud prevention organizations) for the purpose of verifying my personal credentials and records.

Credential verification types include, but are not limited to, educational qualifications, professional membership, employment history, and employment reference including industry employment registers, consumer credit, criminal records, driver's license, and fraud prevention checks. I authorize the personal data holders (including but not limited to the aforesaid institutions) to furnish information regarding my credentials, whether claimed or not, to NAMFISA and its duly authorized verification agent.

I, unconditionally indemnify NAMFISA, Its verification agent and the personal data holders against any liability that may result from furnishing information in this regard.

.....  
**Signature**

.....  
**Date**



**DIRECTORS, OFFICERS AND APPLICABLE SHAREHOLDERS**

- Company Name .....
- Company Registration Number.....
- Name of Person .....
- Identity / Passport Number.....
- Nationality .....

**A. Indicate the roles of the person completing the form and provide relevant information as applicable:**

- 1. Director   
Date appointed
  
- 2. Shareholder   
Date appointed
  
- 3. Trustee   
Date appointed

**B. TYPE OF PERSON:**

- Natural Person   
*To distinguish natural persons from legal persons, humans are referred to as being natural persons*
  
- Legal Person   
*A legal person is recognised as a separate legal entity apart from its members and natural persons, which form part of it. The legal person can act through natural persons only, the result of such action being that only the legal person acquires rights and incurs duties and not such natural persons in their personal capacities e.g. company, trust, etc.*

**C. INFORMATION REQUIRED FROM A NATURAL PERSON**

- Title.....
- Initials.....
- First Name.....
- Surname.....
- Date of Birth.....

**D. INFORMATION REQUIRED FROM A LEGAL PERSON**

- Name.....
- Registration Number.....
- Contact Person.....
- Telephone Number.....
- Date of Birth.....

**E. INFORMATION REQUIRED FROM BOTH NATURAL AND LEGAL PERSONS**

- Physical Address.....
- Postal Address.....
- Telephone Number.....
- Fax Number.....
- Cell Phone Number.....
- 
- Email Address.....