

Breakdown - Industry Comments

Chapter.4 – Collective Investments Schemes

Company Name:	STD/REG No. & Section:	Comment/Description of issue:	Proposed Amendment/Solution:	Accepted (Comments):	Rejected (Comments):
<p>FM STANDARD CIS.S.4.6</p> <p>ACTIONS THAT MAY BE TAKEN BY NAMFISA AGAINST A MANAGER OR PERSON CONNECTED WITH A FOREIGN COUNTRY PURSUANT TO SECTION 221(1)</p>					
NASIA	General Comment: Urgent clarification is sought.	Part 10 of the FIM Act deals with Foreign Collective Investment Schemes. Section 219 states that NAMFISA may approve, subject to terms and conditions set out in the standards, an application by the manager or operator of a foreign collective scheme to solicit investments in such scheme from members of the public in Namibia if i) the applicant complies with the requirements set out in the standards, (ii) the scheme has been approved by the	We query when the standards addressing the above will be released. NAMFISA’S COMMENTARY STATED: <i>“This standard applies to a foreign collective investment scheme operating or intending to operate in Namibia”</i> FIMA section 220 (1) <i>“....NAMFISA may, by notice served on a person connected with that country who is operating or intends to operate a collective investment scheme in Namibia, take such action as may be set out in the standards”</i> . The Notice is not on the FCIS, but rather the Namibian entity (albeit foreign owned or controlled), or the person		The Standard is yet to be drafted. Standard dealing with terms and conditions for approval of a Foreign Collective Investment Scheme.

		<p>relevant foreign authority and (ii) the application is accompanied by the prescribed fee set out in the standards.</p>	<p>who intends to operate a foreign scheme in Namibia. NB: The Standard has been Redrafted and will be re-published for consultation</p> <p>The standard still does not make any sense even though it has been redrafted. This Standard 4.6 is issued pursuant to section 220(1).</p> <p>If this is indeed the case, we would argue that this should be built into the fit and proper standard as it potentially speaks to integrity, capacity, diligence and skill.</p>		
NASIA	2	<p>Unfortunately, this does not make sense.</p>	<p>Suggestion (if the below is indeed Namfisa's intended meaning):</p> <p>"This Standard applies to a foreign manager, of a collective investment scheme, where such manager has been the subject of regulatory sanction in the home jurisdiction, and who intends to register the foreign collective investment scheme in Namibia for marketing and distribution or has already registered a foreign collective investment scheme in Namibia for marketing and distribution."</p>	<p>Wording changed to:</p> <p>"This Standard applies to a manager or operator of a foreign collective investment scheme".</p>	

NASIA	3(b)	<p>3. (1) If a manager of a foreign collective investment scheme which scheme is registered for marketing and distribution in Namibia, is subject to any regulatory or supervisory action in (a) law of a foreign country; or (b) regulatory or supervisory action taken by an authority or bod their home jurisdiction of the foreign collective investment scheme y 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</p>	<p>3. (1) If a manager of a foreign collective investment scheme which scheme is registered for marketing and distribution in Namibia, is subject to any regulatory or supervisory action in (a) law of a foreign country; or (b) regulatory or supervisory action taken by an authority or bod their home jurisdiction of the foreign collective investment scheme y 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 manager in Namibia in a similar manner.</p>		<p>Declined.</p> <p>The original wording is wide as it not only applicable to foreign managers but anyone related to a foreign country operating or intending to operate a collective investment scheme in Namibia and covers a broader spectrum of potential sanctions.</p> <p>Further, this also involve individuals or entities linked to Namibia who face sanctions abroad.</p>
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