Namibia Savings & Investment Association

No 8, Newton Street, NMC House, Windhoek
PO Box 253 Windhoek | Tel: +264 (0)61 250 315
admin@nasia.org.na | www.nasia.org.na
Reg. No. 21/2017/0389

16 September 2022

Enquiries: Mr. Jason Hailonga

By email

CEO: NaSIA
ceo@nasia.org.na

Mr. Kenneth Matomola
Chief Executive Officer
NAMFISA
Windhoek
Namibia

Attention:
• Mr. Johannes Smit- Deputy Chief Executive Officer: Market Conduct and Operations
• Ms. Hilka Alberto- General Manager: Market Conduct

Dear Mr. Matomola,

RE: CONFLICT OF INTEREST

The above subject matter refers.

Namibia Savings and Investment Association ("NaSIA") is incorporated as a not-for profit company and represents the interest of its members; financial institutions such as unit trusts companies, investment managers and long-term insurers. NaSIA's strategic purpose and mandate is to continue to strengthen relationships with key stakeholders and to remain a trusted partner to these stakeholders in the financial services industry. NaSIA has been tasked with ensuring that as a collective the industry remains relevant and sustainable.

As representatives of the industry, we would like to draw your attention to several important issues that our members have regarding conflicts of interest (as far as corporate gifting in the non-banking financial sector is concerned). Please find attached (annexure "A") a position paper on the subject. In addition, we sincerely request for an opportunity to meet with you to talk about the same.

We look forward to your favourable response in this regard.

Yours sincerely,

JASON HAILONGA
CEO: NaSIA

Annexure "A"

NaSIA's position paper on conflict of interest

September 2022

Introduction:

Independence and objectivity are the foundation for most professional relationships between a service provider and their client. Many factors normally compromise the independence and objectivity of this relationship, and conflict of interest is one such factor.

No matter what the value of a gift is or who the recipient is, a gift must be free from conflict of interest, favouritism, and should lack any (whether perceived or directly) future obligation to the client or advisory representative. A company must therefore establish a well-defined plan or policy that includes the definition of a gift, sets monetary limits, a clear approval process, and educates its staff and advisory representatives.

This paper explores acceptable gifts and monetary limits placed on corporate gifts both in Namibia and South Africa, to clearly highlight to NAMFISA how the practice in Namibia compares to South Africa, with the main objective of requesting NAMFISA to revisit (with the view of amending) the N$500 limit currently set by the Conflict-of-Interest Directive dated 08 December 2014, especially considering the rising inflation environment.

1. Position in Namibia:

The Law

Section 3(a) of the Namibia Financial Institutions Supervisory Authority Act, 2021 (Act No. 3 of 2021) (hereinafter referred to as the "NAMFISA Act") states that on one the primary functions of NAMFISA is to "*exercise supervision, in terms of this Act or any other law, over the business of financial institutions and over financial services*".

Moreover, section 6 of the NAMFISA Act states inter alia that *the Namfisa Board must ensure that any function or responsibility under this Act, the Financial Institutions and Markets Act, the Microlending Act or any other applicable financial services law that is entrusted to or to be performed by the Authority, the chief executive officer or an employee of the Authority* ***is discharged or performed with honesty, integrity, and fairness and within a reasonable period of time.***

Directive

On the 8th of December 2014, NAMFISA issued a directive on conflict of interest to prohibit undue behaviour and provide guidance to the providers of financial services in identifying, evaluating, and managing conflicts of interest created by the current practice regarding entertainment and other benefits offered or received by or from service providers or their representatives. The directive states, under point 7.5 that:

> *Where immaterial financial interests were offered or received, the financial service provider shall maintain a log of all interests on a yearly basis so that cumulative **interest does not exceed N$ 500 limits** (both monetary amount and a number of occasions).*

2. Position in South Africa:

The amended General Code of Conduct for Authorized Financial Services Providers and Representatives published in Board Notice No. 80 of 2003, Gazette 25299 of 8 August 2003, defines "financial interest":

As any cash, cash equivalent, voucher, gift, service, advantage, benefit, discount, domestic or foreign travel, hospitality, accommodation, sponsorship, other incentive or valuable consideration other than –

(a) An ownership interest

(b) Training, that is not exclusively available to a selected group of providers or representatives, on –

(i) Products and legal matters relating to those products;

(ii) General financial and industry information;

(iii) Specialized technological systems of a third party necessary for the rendering of a financial service; but excluding traveling a accommodation associated with that training.

It further sets out the monetary limits applicable to any financial interest with a determinable monetary value in the definition of "immaterial financial interest". This is defined as follows:
"*Immaterial financial interest" means any financial interest with a determinable monetary value, the aggregate of which does not exceed R1,000 from the same third party in that calendar year received by –*

(a) A person who is a sole proprietor; or

(b) A representative for that representatives direct benefit;

(c) A Provider, for who its benefit or that of some or all its representatives, aggregates the immaterial financial interest paid to its representatives.

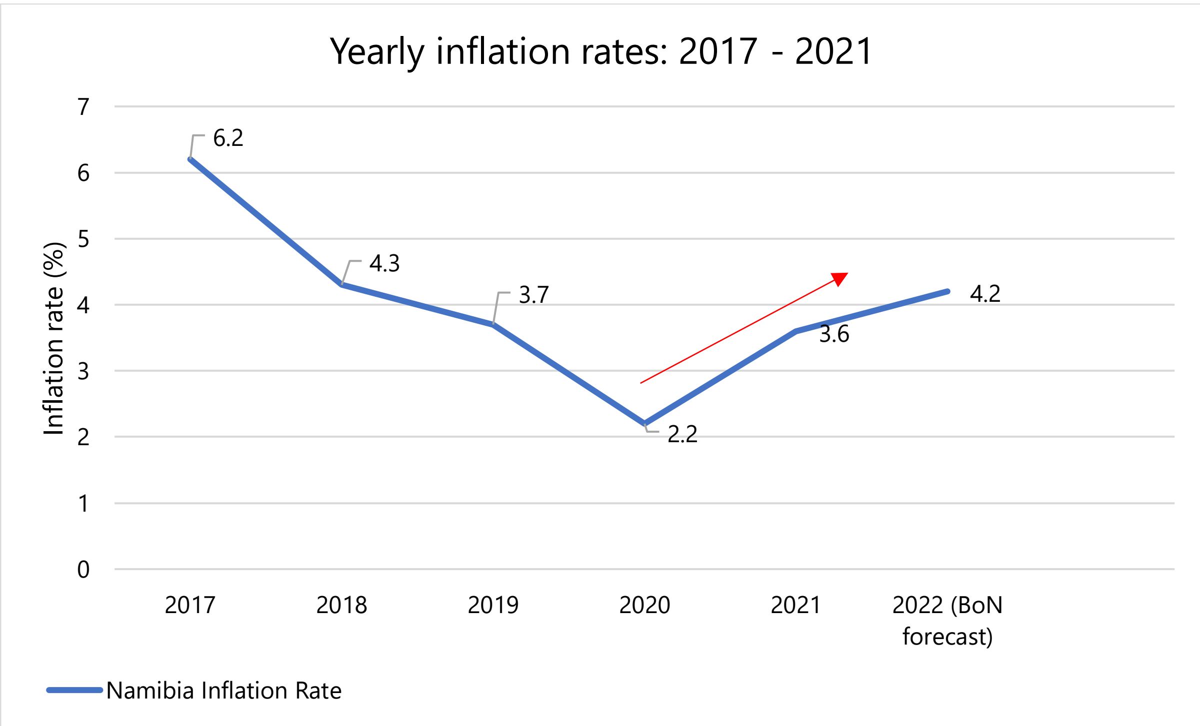
Summary:

Receiving a corporate gift is a powerful experience; it creates a sense of connection to the giver and can create positive associations with a person or a brand. The applicable legislation requires that financial institutions take steps to avoid and/or mitigate any such Conflicts of Interest, which may arise in the rendering of financial services to clients. It also requires that entities establish a well-defined plan or policy that includes the definition of a gift, sets monetary limits, a clear approval process, and educates its staff and advisory representatives.

Whilst NaSIA appreciates the regulator's need to prohibit undue behavior and provide guidance to the providers of financial services in identifying, evaluating, and managing conflicts of interest created by the current practice regarding entertainment and other benefits offered or received by or from service providers or their representatives, we are of the view that the N$500 limit set out by NAMFISA in the directive (almost 8 years ago) is on a much lower end.

This is especially true considering the rising inflation rates that we have been experiencing, which is expected to increase further in the future, as shown in figure 1 below.

Figure 1: Namibia's yearly inflation rates (2017-2021)



Source: BoN/NaSIA

We thus recommend that NAMFISA increase the current N$500 limit currently set by the Conflict-of-Interest Directive dated 08 December 2014 given the arguments contained in this document.

Recommendation: NaSIA's monetary limit preference is, therefore, N$1,500.