



NaSIA

Namibia Savings & Investment Association

Newsletter

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Editorial by

NaSIA Secretariat



SALIENT FEATURES OF THE ADJUDICATION PROCESS IN THE NON-BANKING FINANCIAL SECTOR

A well-articulated dispute resolution mechanisms in any publicly operated sphere is a good indicator of transparent and fair public governance. This editorial highlights the current legislative landscape around dispute resolution mechanisms in the local non-banking financial sector. The dispute resolution mechanisms in the non-banking financial sector have some commendable features, while others may need some more considerations. In some of the impending pieces of legislation attempts have been made to consider key features of the dispute resolution process to address key questions around perceptions of fairness and transparency. Part of this consideration includes the manner of constituting appeal structures to ensure the independence.

Consumer protection is also an important feature of a wholesome dispute resolution process, an area which has received thorough attention from the regulators and the industry. The Financial Services Adjudicator Bill, 2018 (FSAB) is direct outcome born out of the Namibia Financial Sector Strategy of 2011 to 2021 to give prominence to this area. While the FSAB was passed by both Houses of Parliament it is now on hold as confirmed by NAMFISA in the Consumer Credit Bill: Short Summary issued in March 2023.

There might have been a misconception that the FSAB provides industry players and consumers with a platform to adjudicate disputes. However, according to the Tabling Statement provided by then Minister of Finance Hon. Calle Schlettwein, the platform created in the Bill is purely for consumers to adjudicate their disputes against financial institutions. From a consumer protection perspective, it is certainly a worthwhile legislation to have in place.

For industry players the Appeal Board platforms created in the NAMFISA Act No. 3 of 2001, and similar provisions in the 2021 Act are applicable. Both of these Acts provide appeal mechanism whenever industry players are aggrieved by a decision of the CEO of NAMFISA. One of the possible flaws of the Board of Appeal in terms of the provisions of the 2001 Act is the manner of constituting the Board of Appeal. The Act provides for the Minister is to appoint three (3) persons as the Board of Appeal with one of the appointed persons being a member of the Board of NAMFISA. The constitution of the Board of Appeal in terms of the currently Act in force, does not inspire much confidence as far as the perception of independence is concerned. Based on the current provisions and governance structures, the CEO of NAMFISA is required to administer and manage NAMFISA in accordance with the policy and direction of the Board. The question arises if the Board of Appeal can objectively and fairly adjudicate on matters brought to it against the decisions of the CEO of NAMFISA, when a member of the Board is also a member of the

Board of Appeal. The questions around the independence of the Board of Appeal thus become pertinent and understandably justified. Given this setup, the current appeal mechanism may be seen as a process of merely requesting NAMFISA to review its own decisions.

The new NAMFISA Act of 2021 (not yet in force) seeks to remedy the above concern to an extent. The provisions of the new Act provides for the Minister is to appoint five (5) persons to the Appeal Board with no statutory requirement for any of those persons to be a member of the Board of NAMFISA. With no requirement for NAMFISA Board representation the constitution of an Appeal Board which may be perceived as being more independent.

Furthermore, the Act provides that an aggrieved party may only take a dispute to court after they have exhausted all available remedies in the NAMFISA Act, Financial Institutions and Markets Act (FIMA), Microlending Act or other applicable financial services law.

If the Minister makes the administration of the Appeal Board independent from NAMFISA as provided in terms section 44 of the Act, it would certainly go a long way in ensuring that the Appeal Board is perceived to be as independent to a large extent and credible dispute resolution avenue for the industry.

Of further significance, it is important to note that in terms the NAMFISA Act of 2021, an aggrieved party may not appeal (to the Appeal Board) against the decisions of NAMFISA which are taken with the approval of the Minister. Thus, when a decision of NAMFISA is taken with the approval of the Minister and it aggrieves a particular party, it appears that such party may approach the court directly without attempting to resolving the issue through the Appeal Board first.

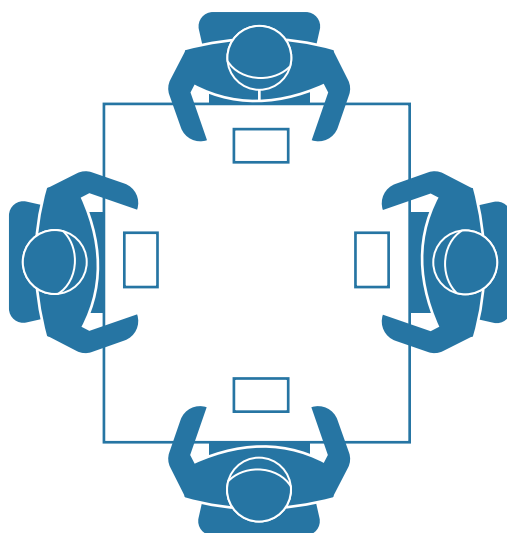
Our members, in determining their readiness for FIMA implementation should therefore thoroughly acquaint themselves with all the FIMA related laws. This includes the NAMFISA Act and the Financial Services Adjudicator Act, the latter may be on hold right now but should the hold be released, that Act creates the platform by which the clients of our members may have their disputes adjudicated thus our members need to ensure readiness to respond to such platforms or proceedings. We hope that this editorial piece helps with some information in this regard.

Other Developments

This month NaSIA welcomed a new member, Namibia Hydrogen Fund Managers. The Namibia Hydrogen Fund Managers' CEO is Ms. Mercia Geises who has also joined the Investments committee. In addition to Ms. Geises, we also have Ms. Nishaat Limbada who has joined the Market Conduct committee, the Legal and Technical committee, as well as the Research and Economic Savings Policy Developments. We trust that through NaSIA, the industry will continue to foster great collaborations and engagements internally and with all stakeholders.

Happy Reading!

1. Upcoming Committee Meetings



Please take note of the following committee meeting dates (second round):

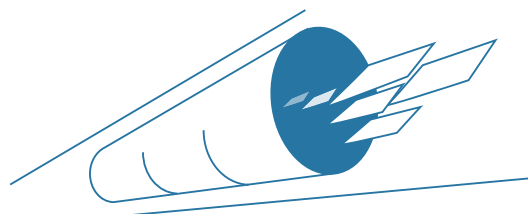
Month	Meeting Subject
8 April 2025	Market Conduct Committee
10 April 2025	Transformation, Skills Development and Education Committee
15 April 2025	Research and Economic Savings Policy Development Committee
23 April 2025	Legal and Technical Committee
29 April 2025	Insurance Committee
30 April 2025	Investments Committee



2. Submissions done:

Stakeholder	Dates of Submission	Matter	Committee
NAMFISA	27 February 2025	Fit and Proper Standard Requirements Proposed Draft Standard no GEN.S.10.2 – Clarity Sought	NaSIA Industry

3. In The Pipeline



Research on Infrastructure Investment in Namibia – This study, led by the Research and Investments Committee, focuses on infrastructure investment projects in Namibia to attract pension fund money. The study looks at where we are as an industry with regard to infrastructure investment projects, as well as how to attract pension fund money into this asset class. It involves analyzing global best practices and pinpointing deficiencies in the existing framework (including the private-public partnership act), with the goal of developing a strategy that is specifically tailored to the Namibian context.

4.Seminars



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Temosho Sekgobela

Senior Legal
Counsel at Takealot



Phil Alves

Associate Director at
BRG International



Vitalis Ndalikokule

CEO and Secretary
to the Namibian
Competition
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Prof Reena das Nair

Executive Director at
the Centre for
Competition,
Regulation and
Economic
Development
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SEE SEMINAR
PROGRAM HERE



LOCATION

Windhoek,
Arebbusch Travel Lodge



FEES

N\$ 6,500 per delegate.
Early Bird Special: N\$ 5,000 only
until 28 February.
Limited seats available.



BOOKINGS

Only online registrations
will be accepted

For Registration & Enquiries

www.cclasadvisory.com

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Pupkewitz Street

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5. Stakeholder Engagements

Stakeholder	Date of Engagement	Key Outcomes
Compliance Institute Southern Africa (CISA)	18 Feb 2025	<p>The Secretariat attended the Compliance Institute Southern Africa (CISA) Breakfast Session in Windhoek, themed “Elevate. Innovate. Collaborate: The Power of Compliance in a Changing World.”</p> <p>The event, hosted at the Hilton Hotel, brought together compliance and anti-money laundering (AML) professionals from the banking, insurance, and financial services sectors. Discussions focused on the evolving compliance landscape, regulatory innovations, and strategies for fostering a culture of compliance and ethical financial practices.</p> <p>As NaSIA continues its mission to enhance financial literacy and responsible investment in Namibia, engagements like these reinforce our commitment to aligning with best practices in governance and regulatory compliance. We also explored collaboration opportunities with CISA to further strengthen compliance awareness within the Namibian financial sector.</p>
Bank of Namibia (BoN)	24 Feb 2025	<p>Cyber Security Council Meeting</p> <p>The Cyber Security Council which is hosted by BoN, and of which NaSIA is a member, held a meeting on 24 February 2025 themed “Strengthening Collaboration and Intelligence Sharing”. The Cyber Security working group, of which NaSIA is also a member was also invited to this this meeting. At this meeting, amongst other presentations, there were presentations by:</p> <p>the South African Banking Risk Information Centre (SABRIC) on the fraud typologies in South Africa; and</p> <p>Telecom Namibia also shared insights and lessons from the recent cyber incident. They also presented on the response strategies that they implemented.</p> <p>The working group then also updated the council about a proposal to add another working group which will focus on fraud and be chaired by FNB. NaSIA will keep the membership updated about this particular proposal and assess how the platform may best serve the non-banking financial sector as well.</p>

5. Stakeholder Engagements continue..

Stakeholder	Date of Engagement	Key Outcomes
CSD Resource, Namibia Securities Exchange (NSX)	25 Feb 2025	<p>The CSD resource team hosted a CSD Market Workshop on 25 February 2025. During the session, the CSD resource team provided an update on project implementation and presented its pricing model.</p> <p>The CSD pricing model is based on the following fee schedules:</p> <ul style="list-style-type: none"> • Fee Schedule FS01: CSD Participants • Fee Schedule FS02: Issuers • Fee Schedule FS03: Safekeeping, Account Management, and Settlement (Detailed fees can be availed upon request) <p>The CSD resource team indicated that it had distributed questionnaires and received extensive feedback from exchanges and CSDs across the Southern African region regarding their pricing models. Some of the pricing structures received were highly detailed. They further indicated that the prices they have set are relatively low when juxtaposed against those of other jurisdictions.</p> <p>The CSD resource team have proposed the following dates for CSD implementation:</p> <ol style="list-style-type: none"> CSDP Confirmation to CSD – 31 March 2025 Market workshops (25 February 2025 – Apr 2025) CSD Customer agreements finalization (31 March 2025 – 30 April 2025) CSD customer take on (15 April 2025 – 15 May 2025) CSD client onboarding (15 May 2025) Market testing & training (15 May 2025) Go-live: August 2025 Market workshops – Phase 2 (September 2025)

NaSIA

Namibia Savings & Investment Association

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.

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