



REPUBLIC OF NAMIBIA

Ministry of Finance

Re-tabling Statement

FINANCIAL INSTITUTIONS AND MARKETS (FIM) BILL

Honourable Calle Schlettwein, MP

MINISTER OF FINANCE

20 February 2020

Honourable Speaker,

1. I have the honour to re-table the Financial Institutions and Markets (FIM) Bill, consolidating and upgrading the various standalone laws under the mandate of the Namibia Financial Institutions Supervisory Authority (NAMFISA).
2. This is the *Third tabling* of this Bill since the first introduction in the House in June 2019 and the subsequent re-tabling on the 17 September 2019. On both instances, the considerations on the Bill could not be exhausted, owing to cited time limitations and the Bill had to lapse due to effluxion of time.
3. Notably, *Honourable Speaker*, this Bill is one of the three interconnected pieces of legislation, namely the Namfisa Bill 2019 and the Financial Services Adjudicator Bill 2019. Due their cross-referencing, the three Bills were tabled simultaneously for concurrent consideration and approval of the House.
4. The House has passed the Namfisa Bill and the Financial Services Adjudicator Bill, which Bills are also passed by the House of Review. The coming into force of these Bills is predicated on the favourable consideration and passing of the FIM Bill now being re-tabled before the House.
5. *Honourable Members*, in re-tabling this Bill, I seek for your favourable consideration to enable the implementation of the long-overdue reforms and modernization in the non-banking financial sector.

Background, Policy Rational and Objectives of the Bill

Honourable Speaker,

Honourable Members,

6. I had elaborated in great detail the policy rationale, objectives and the salient provisions of the FIM Bill during the maiden tabling and subsequent re-tabling of the Bill.
7. This Bill seeks to consolidate and modernize the regulatory framework of the non-banking financial sector in line with the risk-based supervision framework aspired for in the Namfisa Bill. The laws governing this interconnected sector, some of which are as old as 50 years, are not only archaic but discrete in the context of rapid developments in the industry at home, regionally and globally.
8. At present, supervision for the non-banking financial is undertaken through the various standalone laws such as the Pension Funds Act, 1956, the Usury Act, 1968; the Unit Trusts Control Act, 1981, the Stock Exchanges Control Act, 1985, the Medical Aid Funds Act, 1995 and the Short-term and the Long-term Insurance Acts.
9. The non-banking financial sector, whose asset base is about twice the size the Gross Domestic Product, plays a key role in the Namibian economy and the stability of the financial system. Hence, the regulatory framework must necessarily be up to date to ensure that market and systemic risks are effectively deterred and managed and that the industry contributes optimally to national development objectives.

10. The Bill brings forth the legislative framework which balances among the imperative of business growth, domestic economic and financial markets development as well as the risk-based supervision framework for this systematically important industry.

11. In particular, the Bill seeks to foster:

- (a) the financial soundness and stability of financial institutions and financial intermediaries;
- (b) the highest standards of conduct of business by financial institutions and financial intermediaries;
- (c) the fairness, efficiency and orderliness of the financial institutions and markets;
- (d) the protection of consumers of financial services;
- (e) the promotion of public awareness and understanding of financial institutions and financial intermediaries; and
- (f) the reduction and deterrence of financial crime.

12. Further, *Honourable Speaker*, the Bill sets out the separation of powers among the Parliament, the Minister and the Regulator. It confers benefits to the development of financial services sector, the consumer and the economy in general in the following respects:-

- an integrated approach to supervision, resulting in elimination of silos, conflicting provisions, regulatory arbitrage and safeguarding financial stability;
- greater regulatory responsiveness, through adapting standards and regulations,

- entrenching the power of Parliament to set the overriding framework ,
- enabling the Minister to issue regulations,
- enabling the Regulator to set standards in consultation with the stakeholders;
- placing greater emphasis consumer awareness and protection, and
- a shift from compliance or rule-based supervision to risk-based supervision, with resources being increasingly focused on the areas which pose the greatest risk.

MAIN PROVISIONS OF THE BILL

Honourable Speaker,

Honourable Members,

13.The main provisions of the Bill are set out in 10 distinct Chapters, corresponding to industry sub-sectors and the standardized regulatory framework which takes into account the special characteristics of each industry subsector. The separation of provisions regarding each industry sub-sector in a separate Chapter allows for ease of reference and counterbalances the perceived view that the Bill is unwieldy comprehensive.

14.As such:-

- **Chapter 2** of the Bill engenders the regulatory framework for the insurance industry sub-sector. It repeals the Long-term Insurance Act, 1998 (Act No.5 of 1998) and the Short-term Insurance Act, 1998 (Act No. 4 of 1998) and makes provisions for a modern insurance industry,
- **Chapter 3** covers aspects of Financial Markets and repeals the Stock Exchanges Control Act, 1985 (Act No.1 of 1985), while setting out the

- provisions of a modern financial market, financial market instruments such as the Central Securities Depository and investment requirements,
- Collective Investment Schemes are covered under **Chapter 4**, repealing the Unit Trusts Control Act, 1981 (Act No.54 of 1981) and reclassifying Unit Trust Schemes as Collective Investment Schemes to not only reflect the true nature of the pooling of investments, but also to widen the scope of pooling of investments,
 - Retirement Funds, Beneficiary Funds and Administrators are provided for under **Chapter 5**, which repeals the Pension Funds Act, 1956 (Act No.24 of 1956) to incorporate more recent innovations and risk-based supervision in pension and retirement funds industry,
 - The more recent innovation in friendly society funding are covered in **Chapter 6**, repealing the current Friendly Societies Act, 1956 (Act No.25 of 1956),
 - Financial aspects of Medical Aid Funds are provided for under **Chapter 7** which repeals the Medical Aid Funds Act, 1995 (Act No.23 of 1995). As a result, the health and clinical aspects will be dealt with in a separate legislation in collaboration with the Ministry of Health and Social Services and the Namibian Association of Medical Aid Funds (“NAMAF”),
 - Fund and Society Administrators under **Chapter 8**, whereby Fund and Society Administrators are now regarded as a financial intermediaryies, subject to supervision and regulation, and
 - Provisions for properties held in trusts are covered under **Chapter 9**, while Chapter 10 makes General Provisions for cross-cutting provisions and transitional arrangements across all financial institutions.

CONCLUSION

Honourable Speaker,

Honourable members,

15. As I conclude, let me also address the various concerns raised about adequacy of stakeholder consultation process in the formulation of this Bill and related regulations and standards.
16. It is to be noted that the process of the regulatory revamp for the non-banking financial sector legal framework was initiated in 2008 and underpinned by extensive and reiterative consultation process. The consolidation of the various standalone laws into a single piece of legislation, with specific Chapters focusing on each industry sub-sector and policy cohesion across the entire framework, came about as a result of wide stakeholder consultation.
17. To further address the concerns raised about the impact of the new legislation on the industry, final rounds of consultation were held last year, particularly with the Retirement Funds Industry, NAMAF and the Namibia Savings and Investment Association (NaSIA).
18. As an outcome of these consultations, the industry has come out supportive of the FIM Bill, but raised the need to be given more time to be consulted on the subsidiary legislation and to prepare for the subsequent implementation.
19. In this regard, *Honourable Speaker, Honourable Members*, Namfisa has already availed the set of regulations and critical standards for industry commentary and consultation, while the primary legislation is in the approval process.

20. Notably, leap-frogging and modernizing financial sector regulation come with associated benefits and costs. The macro benefits for the country and financial system envisaged in this reform far outweigh the costs.
21. As regards the Bill, some of the latest drafting input provided which are not inconsistent with the Draft Bill and its policy rationale will be considered for Floor Amendments during the discussion stage of the Bill.
22. I wish to thank the financial services industry for invaluable comments provided and call for partnerships in embracing and implementing the provisions of the Bill. I thank NAMFISA, the legal Drafters and all experts who contributed to the formulation of the Bill.
23. With these remarks, I re-table the Financial Institutions and Markets (FIM) Bill to the House for your support and approval.

I thank you.