

PFR10 - MINIMUM STANDARDS  
AND CONDUCT OF BOARD OF  
TRUSTEES  
2024

NBFIRA/RS/RF/RUL010

**NBFIRA**

Non-Bank Financial  
Institutions Regulatory  
Authority



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**1. PURPOSE**

1.1 The purpose of this document is to establish a comprehensive framework defining the minimum standards and conduct expected of all persons serving in the Board of Trustees of a licensed Retirement Fund. These Rules aim to provide clear guidelines, foster ethical behaviour, and ensure the highest level of integrity, accountability, and transparency in fund governance. These Rules are issued in terms of Section 64 of the Retirement Funds Act, 2022.

**2. SCOPE**

2.1 These Rules shall apply to the governance of Retirement Funds licensed under the Act.

2.2 These Rules are not exhaustive and should be read in conjunction with the Act, the NBFIRA Act, other relevant Acts, Regulations, and other Rules.

**3. ASSOCIATED DOCUMENTS**

Document	Reference
Retirement Funds Act and its Regulations	
Fund Rules	
Other Rules	

**4. DEFINITIONS**

Terms	Definition
Act	means the Retirement Funds Act, 2022 or as amended from time to time.
Fiduciary Duty	means the legal responsibility to act in the best interests of the members of the Retirement Fund as defined by the companies laws of Botswana.
Governing Body	means the Board of Trustees.
Management Committee	means committee members appointed or elected in respect of each Participating Employer in terms of the Fund Rules, to assist a Multi-Employer Fund Board of Trustees with the management of the Retirement Fund

NBFIRA Act	Means the NBFIRA Act, 2023 or as amended from time to time.
The Regulatory Authority	means the Non – Bank Financial Institutions Regulatory Authority or its successor in title.

## 5. **ABBREVIATIONS**

Abbreviation	Full Phrase
NBFIRA	Non – Bank Financial Institutions Regulatory Authority.

## 6. **RESPONSIBILITY**

All licensed Retirement Funds.

## 7. **PFR10 - MINIMUM STANDARDS AND CONDUCT OF BOARD OF TRUSTEES**

### 7.1 Governing Body

#### 7.1.1 Board Composition

7.1.1.1 A Retirement Fund shall be governed by a Board of Trustees who comply with the requirements of the Act and whose Trustees are suitably qualified to be appointed in terms of ***the Regulatory Authority's*** Fit and Proper Person Rules for Controllers and Key Persons and the Minimum Standards for Board Members of Retirement Funds.

7.1.1.2 Subject to the Act and its Regulations, a multi-employer Retirement Fund may have at least two third of the Members of the governing body appointed from the membership of the Retirement Fund and independent trustees.

7.1.1.3 ***The Regulatory Authority*** shall be notified in writing forthwith, of the termination or resignation of any Member of the governing body but not more than 14 days of the termination or resignation where applicable.

#### 7.1.2 Duties of the Governing Body

7.1.2.1 Subject to Section 16 of the Act, the governing body of a Retirement Fund shall among others:

7.1.2.2 be responsible for the appointment of the service providers including professional advisers;

- 7.1.2.3 establish policies and procedures for the appointment of service providers;
- 7.1.2.4 formulate the member communication policy, investment policy and risk management framework of the Retirement Fund;
- 7.1.2.5 monitor the investments of the pension assets;
- 7.1.2.6 ensure the timely payment of pension benefits to the beneficiaries of the Retirement Fund; and
- 7.1.2.7 communicate with members, beneficiaries, and **the Regulatory Authority** in a timely, accurate and transparent manner.

#### 7.1.3 Board Committees

- 7.1.3.1 The governing body shall for the purpose of performing its functions, establish such board committees from its own composition, to promote independent judgement, assist with balance of power and for the effective discharge of board duties.
- 7.1.3.2 The board committees shall be established, not limited to provide oversight on risk, finance, audit, investments, benefits, nomination and remuneration of Board of Trustees and management for the Retirement Fund and each board committee shall have a chairperson and operate within its terms of reference approved by the governing body.

#### 7.1.4 Board Meetings

- 7.1.4.1 The Board of Trustees shall conduct regular meetings which meet the provisions of Section 14 (4) of the Act and such meetings shall be properly recorded.
- 7.1.4.2 Notice of meetings to Members of a governing body shall be given in accordance with the constitutive documents of the Retirement Fund.
- 7.1.4.3 The approved minutes of the proceedings shall be kept for at least thirty (30) years, including board resolutions and action logs, in a manner and in a secure location which would be reasonably accessible to **the Regulatory Authority**.

#### 7.1.5 Accountability

- 7.1.5.1 A governing body shall establish and adhere to written policies and own procedures for:

7.1.5.1.1 regular reporting and disclosure of information to members, beneficiaries, ***the Regulatory Authority***, and the sponsoring employer, where applicable; and

7.1.5.1.2 recording and handling of complaints from members and beneficiaries.

#### 7.1.6 Suitability of Governing Body Members

7.1.6.1 The Members of a governing body shall be appointed or elected having regard to:

7.1.6.1.1 the Fit and Proper Person Rules for Controllers and Key Persons; and

7.1.6.1.2 Minimum Standards of Board Members for Retirement Funds issued under Section 14 (5) of the Act.

7.1.6.2 No person shall be appointed or elected as a Member of the governing body of a Retirement Fund where such person:

7.1.6.2.1 is below the age of eighteen (18) years or has no capacity to contract;

7.1.6.2.2 has been convicted of a financial crime or has a revoked key person or controller fit and proper status in the financial services sector;

7.1.6.2.3 is an undischarged bankrupt; and

7.1.6.2.4 is an officer of any person appointed:

(a) as professional adviser to the Retirement Fund;

(b) as fund administrator of the Retirement Fund;

(c) as custodian of the Retirement Fund;

(d) as long-term insurer to administer the Retirement Fund; and

(e) for managing or investing the assets of the Retirement Fund.

7.1.6.3 Notwithstanding paragraph 7.1.6.2, an officer of a service provider listed in under paragraph 7.1.6.2.4 may be appointed or elected as a Member of the governing body of a Retirement Fund provided that:

7.1.6.3.1 the service provider is the sponsor of the Retirement Fund; and

7.1.6.3.2 the appointment or election does not result in a situation where the service provider has the ability to materially control or materially influence the affairs of the governing body.

7.1.6.4 The Board of Trustees shall be responsible for ensuring that its Trustees are fit and proper to hold office at all times. To this end, the Board of Trustees shall immediately notify **the Regulatory Authority** when it becomes apparent to the Board of Trustees that one of the Trustees is not fit and proper to hold office, while due process is being followed by the Retirement Fund for such.

7.1.6.5 If a Trustee acts in contravention of any of the responsibilities imposed on him or her in terms of the Act, these Rules, Fund Rules and or any financial services laws, the remaining Board of Trustees may by simple majority vote, take disciplinary action and impose a sanction on such Trustee as provided in the code of conduct or Fund Rules. In the event the Act and or these Rules have been contravened, the Board of Trustees shall notify **the Regulatory Authority** immediately.

#### 7.1.7 Board of Trustees Appointments

7.1.7.1 A Trustee shall be appointed by the Retirement Fund from a pool nominated by both the sponsor or employer and the members of the Retirement Fund. The prospective nominee should be elected in by the sponsor, employer, pensioner or members they represent. The Board of Trustees shall assess the nominees for suitability, among others, relevant qualification and work experience before submitting the nominees to **the Regulatory Authority** for fit and proper assessments.

7.1.7.2 Trustees and any other key persons or controllers shall not take office until approved by **the Regulatory Authority** after the fit and proper assessment.

7.1.7.3 The Fund Rules shall state the limits of tenure of Trustees, which shall range between three (3) to five (5) years, subject to renewability once.

7.1.7.4 A Retirement Fund shall appoint independent trustees to its Board of Trustees, provided that the person appointed does not provide any other services to the Retirement Fund.

7.1.7.5 An independent trustee is allowed to be appointed in up to three (3) boards of Retirement Funds, at the same time.



7.1.7.6 Without prejudice to any other enactment, where ***the Regulatory Authority*** considers that a Member of a governing body is not fit and proper, ***the Regulatory Authority*** may direct the Retirement Fund to remove that person as a Trustee.

7.1.7.7 ***The Regulatory Authority*** shall not give directions under 7.1.7.6 without giving the Retirement Fund and the person concerned an opportunity to make representations.

7.1.7.8 The Board of Trustees shall establish a Trustee appointment plan detailing amongst others the appointment process and the skill mix required on the Board of Trustees which will inform the prospective appointments and update the plan as and when required.

## 7.2 Conduct of The Affairs of The Board of Trustees

### 7.2.1 Minimum Standards Expected of the Board of Trustees

7.2.1.1 The Board of Trustees of a Retirement Fund are expected to:

7.2.1.1.1 Understand the Fund Rules and the applicable financial services laws that may affect his or her actions as a Trustee; and

7.2.1.1.2 Understand their duties under the Rules, applicable financial services laws, and any other relevant legislation. Specifically, a Trustee shall appreciate his or her duties in relation to the annual financial statements, the statutory returns required by ***the Regulatory Authority***, and communication with members.

7.2.1.2 A Retirement Fund shall have a Code of Conduct for Board of Trustees adopted in accordance with the provisions of Section 15 (2) of the Act, a Conflict-of-Interest Policy and a Gift Policy which shall be signed by each Trustee before joining the Board of Trustees and any service provider appointed by the Retirement Fund shall sign Conflict-of-Interest and Gift Policy declaration forms. When appointing each service provider, the Board of Trustees shall ensure the contract complies with the provisions of Section 16 (2) (c) of the Act and these Rules.

7.2.1.3 The Board of Trustees shall undertake to uphold the following fundamental principles of ethical best practices:

7.2.1.3.1 To act with honesty, in good faith and with the highest standard of care, diligence and skill expected of a person dealing with the assets of another person and act

independently of the fund sponsor or participating employer of the Retirement Fund at all times;

- 7.2.1.3.2 To manage conflicts of interest, ensuring that any actual or perceived conflicts are fully disclosed, with the Board of Trustees recusing themselves from any discussion of such matters in respect of which they are, or may be perceived to be, conflicted, where "perceived" shall be interpreted with reference to the stakeholders in the Retirement Fund and shall maintain such a conflict of interest register all the times;
- 7.2.1.3.3 To act with impartiality in respect of active members, deferred members, pensioners, and their beneficiaries or transferring members when a Retirement Fund is terminated, or when members are moved from one Retirement Fund to another;
- 7.2.1.3.4 To report to **the Regulatory Authority** any activity of the Retirement Fund that he or she is aware of or is suspicious of, within five (5) days of becoming aware of, or is in suspicion that the activity is not compliant with the provisions of any financial services laws, and which the Board of Trustees has not taken sufficient steps to ensure compliance with;
- 7.2.1.3.5 To obtain expert advice when Board of Trustees lack sufficient expertise within the Board. The Board of Trustees shall not simply and unquestionably accept that advice. The Board shall apply their independent discretion and shall question and clarify expert advice until they are comfortable to take a decision on the matter;
- 7.2.1.3.6 To identify and manage risks related to the Retirement Fund, in terms of a Risk Management Policy developed in accordance with the provisions of Section 15 (2) (b) of the Act, and to review that policy annually or whenever there is a significant modification to do so;
- 7.2.1.3.7 To establish policies required by the legislation, among others, the Code of Conduct, Investment Policy, Risk Management Policy, and Communication Policy as provided in Section 15 of the Act;
- 7.2.1.3.8 To communicate with Retirement Fund members, beneficiaries, and supervisory authorities in a timely, accurate, and transparent manner;

- 7.2.1.3.9 To ensure that in the fulfilment of their fiduciary duties to the Retirement Fund members ensure that there is transparency and accountability in respect of matters relating to the Retirement Fund. This shall include regular and meaningful communication, which is relevant to Retirement Fund members, and where appropriate beneficiaries;
- 7.2.1.3.10 To ensure that an appropriate contractual agreement is in place which includes adequate recourse against a service provider in the event of failure by that service provider, standards by which service provider will be evaluated, appropriate reporting to the Board of Trustees of the activities of the service provider and diligent supervision of the activities carried out by that service provider on behalf of the Retirement Fund;
- 7.2.1.3.11 To review on a regular basis the efficiency and effectiveness of the Retirement Fund success in meeting its objectives, including assessing the performance and service level agreements in contracts of service providers, such as fund administrators, investment managers, auditors, custodians, insurers, consultants, and actuaries in accordance with the provisions of Section 16 of the Act;
- 7.2.1.3.12 Not to use information which the Board of Trustees has about the Retirement Fund or its affairs for any purpose except to further the Retirement Fund's objects and its members best interests; and
- 7.2.1.3.13 To disclose or make use of confidential information obtained by virtue of their office for the advantage of themselves or anyone else.

## 7.2.2 Expert Assistance and Advice

- 7.2.2.1 The Board of Trustees may seek expert assistance and or advice when they lack sufficient expertise within the board.
- 7.2.2.2 Where possible, the Board of Trustees shall make use of licensed, registered or accredited professional advisors where regulators or independent standard setting bodies can attest to their fitness and propriety.

### 7.2.3 Board of Trustees Training and Continuous Development

7.2.3.1 The Board of Trustees shall ensure that they receive appropriate training so that they understand their duties. In order to realize this, the Principal Officer and the Board Chairperson shall design and implement an appropriate training programme for the Board of Trustees after assessing their training needs, within three (3) months upon a new Trustee joining the Board of Trustees and when deemed necessary for continuous development of the existing Board of Trustees.

### 7.2.4 Appointment of a Service Provider

7.2.4.1 The Board of Trustees shall follow a Procurement Policy of the Retirement Fund and satisfy itself that the service provider is licensed under the Act or other laws, qualified and or competent to perform the services required by the Retirement Fund.

7.2.4.2 The Board of Trustees shall satisfy itself that the contract and service level agreement with the service provider is comprehensive, and includes:

7.2.4.2.1 the services to be provided to the Retirement Fund;

7.2.4.2.2 all information provided by members, participating employers of the Retirement Fund, all records relating to the administration of the Retirement Fund such as contribution receipts, benefit payments and expense payments remains with the Retirement Fund and the contract includes provisions for the return to the Retirement Fund of member records and financial records at the termination of the contract, within a reasonable period of that termination;

7.2.4.2.3 the fee charged for the services provided, including any fees upon termination of the contract;

7.2.4.2.4 the contract, shall among others, contain conflict of interest, termination, transitional and savings and dispute resolution clauses;

7.2.4.2.5 the contract and service level agreement shall also specify deliverables and performance measures;

7.2.4.2.6 the contents of any reports that the service provider prepares in relation to the activities of the Retirement Fund and its

performance in terms of the contract, the periods over which performance is reported, and the times within which the report is delivered after the end of the reporting period; and

7.2.4.2.7 the Board of Trustees shall satisfy itself that the service offered by the service provider and the fees charged are reasonable and competitive.

## 7.2.5 Annual Board of Trustees Performance Assessment

7.2.5.1 The Board of Trustees shall carry out an annual assessment of its performance, its committees, the individual Trustees of the board and an independent assessment once every three (3) years, in accordance with the provisions of Section 15 (3) of Act and the assessments shall be carried out within thirty (30) days after the financial year end of the Retirement Fund.

7.2.5.2 The assessment reports shall be submitted to ***the Regulatory Authority*** within thirty (30) days of its completion.

7.2.5.3 The assessment reports of the Board of Trustees performance shall cover, but not limited to the following:

- (a) the composition of the Board of Trustees in terms of its compliance with the Act, Fund Rules, the requisite skills and experience of the Trustees;
- (b) adequacy of the fund governance structures for the Retirement Fund;
- (c) effectiveness of Board of Trustees meetings in dealing with the most important issues, proper recording, action log, effective implementation of board resolutions;
- (d) ability of the Board of Trustees to interact freely, express their own opinions, and operate effectively as individuals and as a team;
- (e) Board packs provide adequate and timeous information;
- (f) Board minutes are accurate and produced on time;
- (g) the chairperson of the Board of Trustees and the chairpersons of board committees conduct his or her mandate effectively;
- (h) financial control is adequate, including budgeting and monitoring variances across the year;

- (i) Board of Trustees engage in continuing education on trusteeship and changes in the industry;
- (j) adequate and appropriate information is communicated to stakeholders;
- (k) contributions are collected timeously and contributions in arrears are reported to ***the Regulatory Authority***;
- (l) the Board of Trustees had obtained expert assistance or advice on matters where it lacks sufficient knowledge or expertise;
- (m) the Board of Trustees ensures that adequate fidelity insurance cover is maintained;
- (n) the Board of Trustees had ensured that investment is maintained in accordance with a written investment policy statement that is availed to members and other stakeholders;
- (o) the Board of Trustees had ensured that an appropriate risk management strategy is implemented; and
- (p) the Board of Trustees had ensured that effective strategic planning is carried out.

7.2.5.4 Following the review of the assessment reports by ***the Regulatory Authority***, where the Board of Trustees performance is found to be deficient in any of the above stipulated areas, the Board of Trustees shall be required to implement and monitor a remedial plan to rectify the deficiencies and the Principal Officer shall report to ***the Regulatory Authority*** on quarterly basis, per the Retirement Fund financial period.

## 7.2.6 Treatment of Members of the Retirement Fund

7.2.6.1 The Board of Trustees shall communicate with the members of the Retirement Fund, all information relevant to members. The Board of Trustees shall develop and implement a Communication Policy indicating the Board's commitment to disclosure of information the members.

7.2.6.2 The Board of Trustees shall ensure that Retirement Fund members receive appropriate member education and training so that members fully understand their membership in the Retirement Fund and their retirement needs and planning. To realize this, the Principal Officer and the Board of Trustees shall design and implement an appropriate membership education and training programme; within thirty (30) days of a new member joining the Retirement Fund and when deemed necessary for continuous member education and training of the existing Members. The Principal Officer is required to report to ***the Regulatory Authority***

**Authority** the member education, member trainings, member addresses, member annual general meeting and other member engagement forums undertaken during the year in the prescribed manner, within four (4) months of the Retirement Fund financial year end.

7.2.6.3 The Board of Trustees shall have a complaints management procedure to enable it to respond timeously and with thoroughness to the members' complaints.

7.2.6.4 Where members are offered investment choices in accordance with the investment strategy of the Retirement Fund, the Retirement Fund should provide the members with details of such investment choices to allow members to make informed investment decisions.

### 7.2.7 Communications with the Sponsor or Employer

7.2.7.1 The Board of Trustees shall establish a clear channel of communication with the sponsor or employer of a Retirement Fund, in which communication shall be through the Board Chairperson of the Retirement Fund.

7.2.7.2 In the case of a Multi-Employer Fund the Board of Trustees shall establish a clear channel of communication with the participating employer, in which communication shall be through the management committees.

## 7.3 Fund Policies

The Board of Trustees shall establish policies required by the Act, among others, the Code of Conduct, Investment Policy, Risk Management Policy, and Communication Policy as provided in Section 15 of the Act. In addition, the Board of Trustees shall establish a procurement, board and management training policies for the effective governing of a Retirement Fund.

### 7.3.1 Communication Policy

7.3.1.1 Specifically, a Retirement Fund shall have a communication policy which shall cover the following:

- (a) what information will be provided to each class of stakeholders covering all members, participating employers and beneficiaries;

- (b) such communication shall meet standards set down by ***the Regulatory Authority***
- (c) the language in which communication is provided shall ensure that the average member is able to understand the communication; and
- (d) the medium of communication and the time frame within which such communication is provided.
- (e) The policy shall ensure the confidentiality of information owned by the Retirement Fund and clarify what information may be given to members, employers, Trustees and service providers, subject to the code of conduct regulating the use and disclosure of confidential information.

### 7.3.2 Risk Management Policy

7.3.2.1 Specifically, a Retirement Fund shall have a risk management policy which shall describe how a risk of the Retirement Fund may be managed and who shall take responsibility for its management.

7.3.2.2 A Retirement Fund shall establish a risk management committee which shall have a risk matrix to:

- (a) identify the major risks to which the Retirement Fund is exposed, note the potential impact on the Retirement Fund of each risk and the likelihood of the risk occurring after such mitigating actions as the Board of Trustees deems reasonable;
- (b) rank the risks according, to priority for attention by the board, and note the mitigating actions that the Board of Trustees or service providers will take to manage the risk;
- (c) identify who takes responsibility for managing risks;
- (d) be reviewed each time the board meets with attention being given specifically to any high-risk items and to any new risks identified since the board met previously; and
- (e) the risk management policy and up to date risk registers shall be available to ***the Regulatory Authority*** on request.



#### 7.4 Non-Compliance With These Rules

(a) Non-compliance with these Rules will result in ***the Regulatory Authority*** imposing civil penalties on the non-complying persons as per Section 107 of the NBFIRA Act, 2023.

#### 8. RECORDS

Reference Number	Record (Description of records)	Location / Holder	Retention Period	Justification
	Board of Trustees Performance Assessment	Retirement Fund File/Procurement & Administration	Preserve Permanently	Effective Retirement Fund Governance
	Member Training Register	Retirement Fund File/Procurement & Administration	Preserve Permanently	Enhanced Member Education
	Onsite Report/Offsite Analysis	Retirement Fund File/Procurement & Administration	Preserve Permanently	Monitoring