NON-BANK FINANCIAL INSTITUTIONS REGULATORY AUTHORITY (CAPITAL MARKETS SECTOR MARKET INTERMEDIARIES' CONDUCT OF BUSINESS) RULES, 2026

NBFIRA

Non-Bank Financial Institutions Regulatory Authority

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1. PURPOSE

The purpose of the Non-Bank Financial Institutions Regulatory Authority (Capital Markets Sector Market Intermediaries' Conduct of Business) Rules is to foster the highest standards of conduct of business by NBFIs in the Capital Markets Sector.

2. SCOPE

These Rules apply to all entities specified under Rule 7.1 of these Rules.

3. ASSOCIATED DOCUMENTS

Associated documents are documents that are indispensable to the implementation of these Rules. These are:

Document	**Reference**
NBFIRA Act	No.21 of 2023
Securities (Amendment) Act	No.16 of 2023
Securities Act	No.26 of 2014
Collective Investment Undertakings Act	No.23 of 2021
Collective Investment Undertakings Regulations	Statutory Instrument No 22 of 2001
Securities (Institutions Licensing) Regulations	Statutory Instrument No.31 of 2017
Securities (Persons Operating a Securities Infrastructure Business) Regulations	Statutory Instrument No.32 2017

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4. DEFINITIONS

Term	Definition
Approved by	The person endorsing or authorising documents.
Authored by	The individual responsible for creating or writing a particular document.
Securities	Has the same meaning assigned to it under the Securities Act
Securities Broker/ Dealer	Has the same meaning assigned to it under the Securities Act
Securities Exchange	Has the same meaning assigned to it under the Securities Act
the Act	means the Non-Bank Financial Institutions Regulatory Authority Act.
the Regulatory Authority	means the Non-Bank Financial Institutions Regulatory Authority.
advertisement	means communication to the public, any section of the public, to clients, or any group of clients that provides information about products, services, investment opportunities offered by a market intermediary.
Best execution	the obligation to take all sufficient steps to obtain the best possible result for a client when executing orders, taking into account price, cost, speed, likelihood of execution and settlement, size, nature and any other consideration relevant to the execution of the order.
Board	means the Board of directors, partners or governing body of the Non-Bank Financial Institutions (NBFIs). Where the business is conducted in another legal form, the persons registered with the Regulatory Authority as having responsibility for the conduct of the business.
Client	is a person to whom a market intermediary provides services or intends to provide services in the course of its regulated activity and includes a potential client.
Client account	means a bank account controlled or maintained by a market intermediary on behalf of clients.
Client assets	means any property other than client money that a market intermediary holds but whose beneficial owner is the client, regardless of the legal title.
Client money	means money of any currency that, in the course of carrying out a securities business, a market intermediary holds or receives on behalf of a client or which it owes to a client.

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Contract note	means a statement of confirmation of trade(s) done on a particular day for and on behalf of a client.
Financial year	means the twelve-month period covered by a market intermediary's annual accounts.
Financial conglomerate	Has the same meaning assigned to it under the Act.
Functionaries of a collective investment undertaking	means the operator of a collective investment undertaking, trustee, custodian or supervisory custodian, asset manager and any other third party to the collective investment undertaking,
Professional client	means an investor who has signed a declaration, as may be prescribed, and who meets the following criteria – (a) a financial services business licensed to conduct a regulated activity; (b) a bank licensed in Botswana or equivalent outside Botswana; (c) governments, statutory bodies, central banks or other national monetary authorities, local authorities and state-owned enterprises; and (d) an institutional investor such as a pension fund, insurance fund, medical aid fund, collective investment undertaking, or any other person as the Regulatory Authority may prescribe.
Market intermediary	means any of the following: (a) an entity licensed under the Securities Act; (b) entities licensed under the Collective Investment Undertakings Act.
Operator of a collective investment undertaking	has the same meaning assigned to it under the Collective Investment Undertakings Act
Regulated activity	means any activity falling under the Securities Act, Collective Investment Undertakings Act, or Regulations or Rules made under these Acts.
Written notification	means notification in a letter or other communication submitted to the Regulatory Authority on paper or by electronic means.

5. ACRONYMS AND ABBREVIATIONS

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Abbreviation	Full Phrase
NBFI	Non-Bank Financial Institution
NBFIRA	Non-Bank Financial Institutions Regulatory Authority

6. RESPONSIBILITY

The Director of NBFIRA Capital Markets Department is responsible for ensuring the effective implementation and maintenance of these Rules.

7. RULES

7.1 APPLICATION

(a) These rules shall apply to all market intermediaries in the Capital Markets Sector as defined in these Rules.
(b) Where a market intermediary is part of a financial conglomerate, certain rules, where specified, shall also apply to the financial conglomerate as a whole.

7.2 GENERAL REQUIREMENTS FOR THE CONDUCT OF BUSINESS

(a) A market intermediary shall, when conducting regulated activity:
   i. act with integrity;
   ii. apply due skill, care and diligence in the best interests of its clients and the integrity of the market;
   iii. observe high standards of market conduct;
   iv. place its clients' interests above its own; and
   v. give similar treatment to clients.
(b) A market intermediary shall not conduct any business, other than that permitted by the licence, without the permission of the Regulatory Authority, except that an operator of a collective investment undertaking may engage in activities related or ancillary to the operation of a collective investment undertaking and in activities related to or ancillary to asset management and may engage in no other activities.
(c) A market intermediary shall at all times act in compliance with the Act, Regulations and Rules made under the Act and with any other applicable financial services law or any regulatory requirements of the Regulatory Authority.
(d) A market intermediary shall not act in a way that brings the capital markets of Botswana into disrepute.

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(e) A market intermediary shall ensure that all offshore third parties or service providers that it engages are authorised by a Regulatory Authority in their respective jurisdiction and offer an equivalent level of investor protection as provided under these rules and any other financial services laws of Botswana.

7.3 RELATIONS WITH THE REGULATORY AUTHORITY

(a) A market intermediary and any financial conglomerate of which it is a part of shall, at all times, co-operate with the Regulatory Authority and give the Regulatory Authority such reasonable assistance as the Regulatory Authority may require for the performance of its functions.
(b) A market intermediary shall make payment of fees promptly.
(c) A market intermediary and financial conglomerate shall give the Regulatory Authority reports and notifications as specified in Schedule 1 of these Rules.
(d) The Regulatory Authority may prescribe the form in which audited financial statements of market intermediaries should be published.
(e) Where the Regulatory Authority, after consultation with the market intermediary, directs the market intermediary to do or refrain from doing anything and where the Regulatory Authority affirms that it has reason to believe that the action (or the prevention of the action) which has been taken in terms of the financial services laws is necessary in the interests of the investors or the capital markets, the market intermediary shall comply.
(f) The Regulatory Authority may require the market intermediary to appoint an appropriately qualified person to undertake a study into a matter related to the performance of a market intermediary with its regulatory obligations or the performance of the business and to copy the report to the Regulatory Authority. The Regulatory Authority may specify the person to be appointed to undertake the task.

7.4. RELATIONS WITH CLIENTS

(a) A market intermediary, controller and key person of a market intermediary shall have a duty of care to its clients and shall act fairly and with due diligence in the best interests of its client when providing services to the client in accordance with the client agreement.
(b) A market intermediary may disapply sub rule (e), (g), (h), and (k) when providing services to professional clients provided that the intermediary has satisfied the Regulatory Authority that it has:

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i. documented its policy for identifying and verifying clients who may be regarded as professional clients;
ii. secured the approval of the Regulatory Authority to that policy;
iii. undertaken the appropriate due diligence for each professional client; and

(c) kept a written record of the assessment conducted for each professional client.

A market intermediary that is a securities broker or dealer, asset manager, or investment adviser shall have a written agreement with each client that is signed by the client and the market intermediary, and:

i. the client shall have a copy of the agreement;
ii. the market intermediary shall abide by the agreement;
iii. the agreement shall include all the information described in Schedule 2 of these Rules and any other relevant information; and
iv. the market intermediary shall update the agreement whenever any material information changes.

(d) A market intermediary that is a securities broker or dealer, asset manager, or investment adviser shall only charge fees in accordance with a client agreement, or as may be prescribed by the Regulatory Authority. A market intermediary shall not take fees or charges from a client account except in accordance with the client agreement or as prescribed by the Regulatory Authority.

(e) A market intermediary that is a securities broker or dealer, asset manager, operator of a collective investment undertaking or investment adviser and is providing investment advice or asset management services shall not provide such services unless and until the intermediary obtains sufficient information about the client and the client's circumstances to ensure that the services provided are consistent with those circumstances. The information shall include, inter alia, particulars of:

i. the client's investment knowledge;
ii. the client's investment experience;
iii. the client's financial position;
iv. the client's risk appetite; and
v. the client's investment objectives and time horizon.

(f) A market intermediary that is a securities broker or dealer, asset manager, or investment adviser is not required to obtain information from a client where the services provided are confined to the execution of client orders and the client agreement states that advice will not be given.

(g) A market intermediary that is a securities broker or dealer, asset manager, operator of a collective investment undertaking or investment adviser shall take all reasonable steps to enable its clients or its potential clients to take informed decisions relating to their business or potential business with the

market intermediary. These steps shall include, inter alia, the provision, in a clear and comprehensive manner, of information that is

i. clear and accurate;
ii. sufficient for the client to make the appropriate decision;
iii. not misleading; and
iv. only uses meaningful, fair and accurate comparisons.

(h) Where a market intermediary that is a securities broker or dealer, asset manager, operator of a collective investment undertaking or investment adviser is making investment recommendations to a client, the market intermediary shall take and document reasonable steps to satisfy itself that the client has been provided with sufficient information on:

i. the risks of the investment;
ii. the nature of the investment;
iii. the fees and charges associated with the investment;
iv. the factors that are likely to affect the performance of the investment;
v. the terms and conditions of the investment; and
vi. the consequences of departing from the terms and conditions (such as seeking early withdrawal of an investment that is made for a fixed term).

(i) A market intermediary shall not make any guarantees concerning the performance of an investment unless a return is contractually guaranteed, in which case, the market intermediary shall explain on what basis that guarantee is given.

(j) A market intermediary shall be liable to its clients for:

i. any unjustifiable failure to meet its commitments; or
ii. the improper performance of its obligations.

(k) A market intermediary that is a securities broker or dealer, asset manager, or investment adviser and is providing investment advice or asset management services shall:

i. provide suitable written advice, or take investment decisions, as the case may be, taking account of the client's financial position, investment objectives, attitude to risk and other relevant circumstances;
ii. ensure disclosure of any limitations that may affect its independence or impartiality if it claims to be independent or impartial;
iii. ensure best execution of transactions on the best terms available to the market intermediary, within any parameters defined in the client agreement;
iv. refrain from undertaking investment transactions that are not in the best interest of the client and
v. conduct an annual review of the client's investment portfolio and provide a written report to the client of the outcome of the review.

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(l) A market intermediary that is an operator of a collective investment undertaking, a custodian or a trustee of a collective investment undertaking shall act in accordance with the constituting documents and prospectus of the collective investment undertaking.

7.5 COMPLAINTS

(a) A market intermediary shall have a complaints procedure that is disclosed to the client at onboarding and should be prominently displayed in its business premises, website and client portal.
(b) A market intermediary shall deal with each complaint in a fair and timely manner and shall inform the client of the outcome. Depending on the nature of the complaint, the market intermediary shall;
   i. provide appropriate restitution, where the complaint is justified;
   ii. address any weaknesses in the internal systems that led to the action causing the complaint; and
   iii. document any actions taken.
(c) The complaints procedure shall include, inter alia, the following elements:
   i. the allocation of responsibility to a person other than the one whom a complaint was made or who was responsible for the actions that led to the complaint;
   ii. the target timelines for dealing with the complaint;
   iii. the deadlines for informing the complainant of progress with dealing with the complaint, which shall not leave the complainant without information for more than 30 business days; and
   iv. an appeal to the chief executive (or another appropriately senior officer nominated by the chief executive) where the complaint cannot otherwise be resolved.
(d) The client shall be informed of his right to escalate their complaint to the Regulatory Authority if the client does not consider that the complaint has been satisfactorily resolved.
(e) A market intermediary shall inform the Regulatory Authority of any complaints still unresolved more than three months after they were received.
(f) A market intermediary shall maintain and submit to the Regulatory Authority, in the manner prescribed by the Regulatory Authority, a record of complaints that identifies:
   i. the particulars of the person from whom the complaint was received;
   ii. the nature of the complaint;
   iii. the officer dealing with the complaint;
   iv. the officer about whom the complaint was made or who was responsible for the action that led to the complaint;

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v. the progress in dealing with the complaint;
vi. the way the complaint was resolved; and
vii. the time it took to resolve the complaint.

(g) A market intermediary shall also maintain a summary register of complaints.

7.6 CLIENT MONEY

[Explanatory Note: This rule does not apply to market intermediaries who do not handle client money]

(a) A market intermediary shall safeguard any client money entrusted to it.

(b) A market intermediary that is not a custodian, which receives or holds client money shall appoint a custodian, which has been licensed as such by the Regulatory Authority.

(c) A market intermediary who receives or holds client money shall open one or more client accounts in a bank approved by the Bank of Botswana or any equivalent bank outside Botswana.

(d) Client accounts may be general accounts, containing funds for a number of clients or a separate client account containing money from just one client. A client account shall have the words "client account" in the name of the account and shall be separate from any other accounts controlled by the market intermediary. A market intermediary shall immediately pay into a client account all client money coming into its hands for or from a client and shall ensure that interest and income accruing to the client is credited to the account.

(e) A market intermediary shall obtain from the bank at which a client account is held, a written statement of acknowledgement that the client money in the client account is held in trust for the client or clients and is not available to offset any obligations of the market intermediary. The written statement shall be held by the market intermediary in its records.

(f) Only client money may be paid into the client account, unless it is paid in to replace money withdrawn in error and in that case, the error shall be documented.

(g) A market intermediary who has control of client money in a client account may only:

i. pay the client money to the client or a bank account in the client's name;
ii. transfer the money to another client account; or
iii. use the client money in settlement of an obligation of the client (including an obligation to pay the fees of the market intermediary, to purchase securities or units in a collective investment undertaking) either on the instructions of the client or in accordance with a written agreement with the client.

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(h) A market intermediary shall ensure that the management of client accounts is such that:
   i. client money held for one client shall never be used to meet the obligations of another;
   ii. the total funds in a client account held for multiple clients shall never be less than the total obligations to clients; and
   iii. no client account shall ever be overdrawn and any breaches should be immediately remediated.

(i) Every business day, a market intermediary shall reconcile the records showing the money being held on behalf of each client with the client bank accounts. Where there is more than one client account, the reconciliation shall apply to each client account separately as well as to all client accounts in aggregate.

(j) The reconciliation shall be conducted by a different officer other than the officer responsible for authorising payments from the client account.

(k) Except where the client is a collective investment undertaking, a market intermediary shall send a statement to each client setting out the details of client transactions that involve the movement of client money and showing the amount owed by the market intermediary to the client (or vice versa) at the end of the period. For clients with more than ten transactions a month, the statement should be sent monthly. For all other clients, the statement should be issued every six months, unless there were no transactions in the period. All clients should receive a statement no less frequently than annually.

7.7 CLIENT ASSETS

[Explanatory Note: This rule does not apply to market intermediaries who do not have control of client assets]

(a) A market intermediary who has control over client assets shall ensure that the legal title to the assets is registered to:
   i. the client; or
   ii. a company controlled by the intermediary, which shall hold no assets other than client assets; or
   iii. a licensed market intermediary, whose licence permits it to act as a custodian.

(b) A market intermediary shall not dispose of client assets except:
   i. on the instructions of the client; or
   ii. according to the terms of a client agreement.

(c) A market intermediary who provides investment advice or asset management services shall provide the client a statement that shows, inter alia:
   i. a list of the assets held on behalf of the client;

ii. a valuation of the portfolio in aggregate;
iii. transactions undertaken since the last statement and
iv. the value and quantity of the specific assets held.

(d) For clients with more than ten transactions a month, the statement should be sent monthly. For all other clients, the statement should be issued every six months, unless there were no transactions in the period. All clients should receive a statement no less frequently than annually.

(e) A market intermediary shall ensure that evidence of title to assets is safely maintained whether such title is in certificated form or in the form of electronic book entries. The record shall show when the asset was acquired, who the beneficial owner is, how title is established and who has legal title to the assets.

(f) A market intermediary shall undertake a reconciliation no less frequently than monthly of the record of any assets held by the market intermediary on behalf of clients, both individually and in aggregate and compare that with the evidence of title of assets controlled by the market intermediary, whether in the form of immobilised securities or those held in certificated form (if any).

(g) A market intermediary shall not lend client assets or pledge them against any obligation without the written instruction of the client and the written approval of the Regulatory Authority to engage in securities lending. The written instructions of the client shall include the terms of the lending.

(h) Where a market intermediary is acquiring client assets through a process of subscription for public offers and is subscribing on behalf of more than one client, the market intermediary shall allocate any securities received fairly according to a method that is documented and disclosed to clients. Where the market intermediary itself is also engaged in the subscription on its own account, the market intermediary shall separate its own subscription from that undertaken-on behalf of clients.

7.8 EXECUTING CLIENT ORDERS

[Explanatory Note: This rule does not apply to market intermediaries who do not execute orders on behalf of clients]

(a) A market intermediary shall establish and maintain a best written execution policy or procedure manual, which shall be reviewed at least every two years. The policy or procedure manual shall be made available to clients on request.

(b) A market intermediary shall not purchase assets on behalf of a client unless the market intermediary is satisfied that the client has access to sufficient funds or securities on a timely basis.

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(c) A market intermediary may only lend funds to the client for the purpose of purchasing securities if it has satisfied the Regulatory Authority that it has adequate credit risk management arrangements in place and the Regulatory Authority considers that it is otherwise appropriate for the market intermediary to engage in such lending.

(d) A market intermediary shall not make a purchase or sale on behalf of a client unless it has an instruction to do so (or is operating in accordance with a client agreement or collective investment undertaking constituent document, as the case may be). The instruction shall be in writing unless the market intermediary has sufficient systems in place to protect itself against fraud or misunderstanding.

(e) A market intermediary shall record the time and date that a client instruction is received using a time stamping or other secure method.

(f) A market intermediary shall execute client orders promptly (except where market conditions render this impractical or unwise) and shall effect that order in the chronological sequence in which it was received. Clients should be informed promptly if market circumstances result in a delay in the execution of their orders.

(g) A market intermediary shall record the time and date of executing the order.

(h) Client orders should always be executed before those of a market intermediary itself, its shareholders, staff or agents.

(i) A market intermediary shall not aggregate a client order with an order by the market intermediary itself, its shareholders, staff or agents.

(j) A market intermediary that is a securities broker or dealer shall ensure best execution when dealing for a client, within any parameters defined in the client agreement.

(k) A market intermediary shall ensure that transactions it executes are allocated to clients who gave the orders in a timely and equitable manner.

(l) A market intermediary shall report all trades in securities otherwise than on a licensed securities exchange in any manner as may be prescribed by the Regulatory Authority.

7.9 CONTRACT NOTES

[Explanatory Note: This rule does not apply to market intermediaries who do not execute orders]

(a) A market intermediary shall, in respect of every contract for the purchase or sale of securities entered into by him (whether as principal or agent), not later than the end of the next trading day after the contract was entered into, make out a contract note which complies with sub rule (b) and:

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i. where the contract was entered into by the market intermediary as agent, deliver the original contract note to the person on whose behalf it entered into the contract; or
ii. where the contract was entered into by the market intermediary as principal, retain the contract note for himself.

(b) Where the client is a professional client, the market intermediary may agree with the client that contract notes may be made out and delivered according to a timescale that is acceptable to both parties and that individual contract notes may contain the details of multiple transactions.

(c) The contract note prepared by a market intermediary shall state whether it is in respect of a purchase or sale of securities and shall include –

i. the name of the market intermediary and the address of the principal place at which it carries on business;
ii. where the market intermediary is acting as principal, a statement that it is acting as such;
iii. where the market intermediary is acting on behalf of a client:
    a. the name and address of the person (if any) to whom the market intermediary is required to give the contract note;
    b. (where different) the name of the person for whom the transaction was undertaken; and
    c. the name of the person who gave the instruction.
iv. the date of the contract, and the date on which the contract note is made out;
v. the quantity and description of the securities that are the subject of the contract;
vi. the price per unit of the securities;
vii. the rate or amount of commission payable in respect of the contract;
viii. the amount of stamp duty (if any), payable in connection with the contract and, where applicable, in respect of the transfer;
ix. the date of settlement; and
x. such other information as may be prescribed by the Regulatory Authority to ensure that there shall be a complete audit trail in respect of the execution of client instructions and the settlement of market transactions.

7.10 MINIMUM FINANCIAL RESOURCE REQUIREMENTS

(a) A market intermediary shall ensure that the intermediary has and maintains at all times minimum financial resources as the Regulatory Authority may specify. Where the market intermediary undertakes more than one activity, the minimum financial resources requirements shall be the sum of the amounts specified for each of those activities.

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(b) The Regulatory Authority may increase the minimum financial resources requirements under sub rule (a) as it may deem necessary, depending on the risk profile of the market intermediary.
(c) Notwithstanding the minimum requirements imposed under this rule, a market intermediary shall ensure that it has such additional financial resources as are necessary, having regard to the nature, size, and complexity of its business, for the purpose of guarding against the risk of failure to fulfil liabilities as they fall due.

7.11 ACCOUNTS AND AUDIT

(a) A market intermediary shall maintain accounts according to the requirements of the relevant legislation and standards, and such other requirements as the Regulatory Authority or any other supervisory authority may determine.
(b) The accounts shall represent a true reflection of the financial position and performance of the market intermediary and any financial conglomerate, of which it is part of. If the market intermediary or financial conglomerate becomes aware of any apparent misstatement in any accounts submitted to the Regulatory Authority, it shall immediately report this fact.
(c) A market intermediary shall adopt procedures to ensure that it is, at all times in compliance with its financial resource requirements and client asset requirements. These procedures shall include, but not be limited to:
   i. daily reconciliations of the records of the money owed to, or held on behalf of clients with the funds available in the relevant segregated client accounts;
   ii. monthly calculations of the financial resource requirements; and
   iii. the maintenance of the daily calculations and reconciliations on file.
(d) A market intermediary shall appoint an independent external auditor to carry out an audit of its accounts. The market intermediary shall ensure that:
   i. the auditor is independent of the market intermediary;
   ii. the auditor has given written consent;
   iii. on reasonable enquiry, the market intermediary knows of no reason why the auditor should not serve as auditor;
   iv. the auditor is appropriately qualified and is authorised and competent to conduct an audit of the accounts;
   v. the auditor is provided by the market intermediary, with all material information that is relevant to the audit and that the market intermediary shall sign a declaration to this effect;
   vi. the auditor has the right of access to all accounting and other records of the market intermediary and the right to require such information and

explanations as the auditor considers necessary to perform its functions; and

vii. all information and explanations given to the auditor is accurate and neither false nor misleading.

(e) A market intermediary or any financial conglomerate of which it is a part of, shall not appoint an independent external auditor without the approval of the Regulatory Authority.

(f) The Regulatory Authority may make a determination that an auditor is not independent or is otherwise not suitable to carry out an audit of a market intermediary and may thereby give a direction that an auditor may not carry out the audit. The Regulatory Authority shall provide the market intermediary with an opportunity to make representations on this matter. If, having considered the representations, the Regulatory Authority considers that the auditor is not independent, it shall inform the market intermediary or financial conglomerate, as the case may be, who shall then appoint another auditor.

(g) If a partner of a firm is carrying out the internal audit function of a market intermediary or any financial conglomerate of which it is a part of, a different firm shall be appointed as external auditor.

(h) A market intermediary and any financial conglomerate of which it is a part of, shall sign an engagement letter with the auditor that:

i. defines the scope of the audit;

ii. includes a requirement that the auditor should make a report to the Regulatory Authority without delay if the auditor becomes aware of a material breach of the regulatory requirements that has not been reported to the Authority;

iii. includes an indemnity that, if the auditor chooses, in good faith, to make a report to the Regulatory Authority about any matter in connections with regulatory obligations, neither the market intermediary nor any financial conglomerate of which it is a member shall take any action against the auditor for breach of confidentiality.

(i) The audit shall be conducted according to the requirements of the Financial Reporting Act and the International Standards of Auditing as applied in Botswana according to the relevant supervisory authority.

(j) Where an auditor is removed by a market intermediary or any financial conglomerate of which it is a part of, the market intermediary or financial conglomerate, as the case may be, shall notify the Regulatory Authority and provide an explanation. The Regulatory Authority may seek further explanations from the auditor.

7.12 CONFLICTS OF INTEREST

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(a) A market intermediary shall identify the conflicts of interest that are likely to occur in the course of its business and adopt appropriate policies designed to minimise the impact of any conflict of interest.
(b) A market intermediary that is part of any financial conglomerate shall also consider the conflicts of interest that may arise as a result of its membership of that financial conglomerate.
(c) Policies designed to mitigate conflicts of interest shall include, inter alia:
   i. refusing to act in certain circumstances;
   ii. where it is appropriate to act, disclosing the conflict of interest to the client;
   iii. training staff in respect of the conflicts of interest and the procedures to avoid or manage such conflicts of interest;
   iv. obtaining undertakings from staff that they shall not seek to exploit information gained from clients for their personal benefit;
   v. arranging appropriate internal barriers of communication or records;
   vi. ensuring that the client's interests are placed above those of the market intermediary; and
   vii. for market intermediaries who are brokers, asset managers or investment advisers, reviewing the client relationship no less frequently than annually to ensure that the client's interests are not being compromised and documenting the results of the review.
   viii. maintenance of a conflicts of interest register and updating it as new conflicts are identified. The register should record the nature of the conflict, the parties involved, the steps taken to manage it, and the date of last review.
(d) A market intermediary shall not take any fee, charge, commission or other payment from a third party that may encourage the market intermediary to act in a way other than in the best interests of the client.
(e) A market intermediary shall not take advantage of information gained from services provided to one client to benefit another client, the intermediary itself, or any of its shareholders, staff or agents or any other companies in a financial conglomerate of which it may be a member.
(f) A market intermediary that issues commentaries on trading results shall ensure that the commentary is accompanied by:
   i. The name of the person who compiled it; and
   ii. Disclosure of the source from which it was obtained.
(g) Where a market intermediary or a financial conglomerate of which it is a part of has a material interest in a transaction to be entered into with or for a client, or a relationship which gives rise to a conflict of interest in relation to such a transaction, the market intermediary shall not

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knowingly either advise, or deal in the exercise of discretion, in relation to that transaction unless it has –

i. disclosed that material interest or relationship, as the case may be, to the client; or
ii. taken reasonable steps to ensure that neither the material interest nor relationship adversely affect the interests of the client.

(h) A market intermediary shall not receive any gift or benefit (and shall ensure that no staff or agent receives such a gift or benefit) that may be regarded as likely to conflict with the duties owed to the client.

(i) The Regulatory Authority may give details of circumstances where all market intermediaries shall decline to act or put special mitigating procedures in place and may direct any market intermediary to refuse to act where the Regulatory Authority determines that a conflict of interest exists that cannot be safely managed in any other way. The market intermediary shall abide by any directions of the Regulatory Authority.

7.13 CONFIDENTIALITY AND SECURITY

(a) All information in the possession of a market intermediary and financial conglomerate about a client or third parties shall be kept confidential and in accordance with Data Protection Laws. The market intermediary and financial conglomerate may only disclose confidential information as permitted by law, (which, for the avoidance of doubt, shall include disclosures to the Regulatory Authority).

(b) A market intermediary shall adopt a documented policy and procedures that are designed to ensure that information obtained from clients, about clients and their orders and confidential information obtained from or about third parties is kept confidential and secure.

(c) A market intermediary shall have a documented incident response plan for data breaches and cyber incidents. The plan should include immediate notification of data breaches and cyber incidents to the Regulatory Authority, notification to affected clients without undue delay, and a post-incident review process.

(d) The policies and procedures referred to in sub rule (b) shall include, inter alia;

i. undertakings by staff, agents and other third parties who are engaged to provide services for the market intermediary to maintain confidentiality as part of the contract of employment or other contract;
ii. policies that determine which officers may have access to which information;

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iii. procedures which effectively restrict access to confidential information to such officers through the use of locked cupboards and encryption protected information within the market intermediary's information technology system;
iv. procedures that ensure that, where information is passed to another person, that information remains subject to the same standards of security and confidentiality as are imposed by the market intermediary.

(e) A market intermediary shall also have policies and procedures that are designed to safeguard the integrity of any electronic record or transaction recording system. The policies and procedures shall include but not be limited to:

i. training the staff in the operation of the system, identifying which staff are permitted to make entries into the electronic system and restricting access to such staff;
ii. identifying the officers who have the ability to make changes to electronic records, once created, and specifying the circumstances that permit this;
iii. instituting appropriate double locking systems to prevent one person amending existing electronic records without the approval of another suitably qualified and senior officer; and
iv. ensuring that the technology always keeps an audit trail of changes to the system and that such audit trail cannot be amended or deleted.

7.14 OPERATIONAL RESILIENCE

(a) A market intermediary shall establish, operate and maintain effective operational resilience arrangements to ensure the continuity of critical business services and to mitigate the impact of operational disruptions on clients and the market.

(b) Without limiting sub-rule (a), a market intermediary shall:

i. maintain documented Business Continuity and Disaster Recovery plans, including arrangements for system redundancy and recovery;
ii. identify and manage technology and cyber risks, including through appropriate preventive, detective, and responsive controls; and
iii. identify and manage risks arising from outsourcing and reliance on third-party service providers, particularly where such providers support critical business services.

(c) A market intermediary shall establish cybersecurity and technology incident response arrangements that include:

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i. procedures for timely detection, escalation, containment, and recovery from incidents; and
ii. the requirement to notify the Regulatory Authority of any cyber incidents, data breaches, or prolonged system outages.

(d) A market intermediary shall periodically test the effectiveness of its operational resilience arrangements, including through testing of business continuity, disaster recovery, and other critical operational capabilities, and shall address any material weaknesses identified.

(e) Operational resilience arrangements shall be documented, subject to oversight by senior management or the Board, and made available to the Regulatory Authority upon request.

7.15 ADVERTISEMENTS

(a) A market intermediary is responsible for the truthfulness, clarity, fairness and reasonableness of any advertisements that it issues or that is issued on its behalf.
(b) An operator of a collective investment undertaking is also responsible for any advertisement issued on behalf of the undertaking.
(c) A market intermediary shall not publish or cause or permit to be published
i. any advertisement which does not contain clear, fair and accurate information that can be sustained by the market intermediary on the basis of objective evidence;
ii. any advertisement which hides, diminishes or obscures important statements or warnings;
iii. any advertisement which makes a prediction, forecast or guarantee which cannot be justified by reference to objective data;
iv. any advertisement that does not include a warning that past performance is not an indicator of future performance;
v. any advertisement which provides an indication of the benefits of a service or investment without also giving a clear, truthful and fair indication of the corresponding costs and risks, in a reasonably prominent manner;
i. any advertisement that is not capable of being readily understood by the group for which it is intended.
(d) If a market intermediary becomes aware that an advertisement it has issued does not or no longer complies with the rules, it shall withdraw that advertisement and immediately take reasonable steps to inform those who may still be relying on that advertisement, that it is withdrawn.

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(e) Any advertisement issued by a market intermediary or on its behalf shall include the name and address of the market intermediary.
(f) Any advertisement issued by a market intermediary or on its behalf shall include a statement that the market intermediary is regulated by the Regulatory Authority.
(g) A market intermediary shall determine and document which officers have authority to approve advertisements issued by the market intermediary.
(h) The Regulatory Authority may specify the basis on which past performance may be calculated when used in advertisements.
(i) The Regulatory Authority may require a market intermediary to submit advertisements to it for approval prior to publication of the advertisement if the Regulatory Authority has reason to believe that this is necessary to ensure that the advertisements comply with these rules.
(j) If the Regulatory Authority directs a market intermediary to withdraw an advertisement on the grounds that it does not comply with the requirements of the rules, the market intermediary shall do so.

7.16 PREVENTION OF MARKET ABUSE

(a) Where a market intermediary has a client order to execute, or where it intends to publish to clients a price-sensitive recommendation or research or analysis, neither the market intermediary nor any financial conglomerate of which it is a part of shall effect an own account transaction in the securities concerned or in any related investment until the order has been executed or until the clients for whom the publication was principally intended have had, or are likely to have had, a reasonable opportunity to react to it.
(b) A market intermediary shall not –
   i. deal or arrange a deal in the exercise of discretion for any client; or
   ii. advise a client to deal, if the dealing could in the circumstances reasonably be considered as too frequent or too large having regard to the trading activities, investment objectives, size and operations of such client.
(c) A market intermediary shall not deal in securities on its own account where it may reasonably be supposed that the price at which the securities are dealt was influenced by transactions prompted by recommendations or statements made by the market intermediary or any person associated with the market intermediary.
(d) A market intermediary shall take reasonable steps to ascertain if any of its clients are insiders and maintain records accordingly to assist in the monitoring of insider dealing.

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7.17 OFFENCES AND PENALTIES

(a) The penalties that may be imposed by the Regulatory Authority in the event of a breach, in accordance with the Act shall include:
   i. fines
   ii. a public statement of censure;
   iii. a condition on a licence;
   iv. revocation or suspension of a licence or
   v. any other penalty provided for in the relevant financial services laws.

7.18 SCHEDULE 1 REPORTING TO THE REGULATORY AUTHORITY

7.18.1 General requirement

(a) A market intermediary and a financial conglomerate shall submit such reports to the Regulatory Authority as the Regulatory Authority may prescribe.

7.18.2 Annual reporting

(a) A market intermediary shall inform the Regulatory Authority of the financial year that it adopts for its annual accounts and shall not change that financial year without the approval of the Regulatory Authority.
(b) A market intermediary shall submit in such form as the Regulatory Authority may direct its audited financial statements to the Regulatory Authority and the financial statements shall include, but not be limited to:
   i. the balance sheet as at the last day of the financial year, showing all assets and liabilities and demonstrating the market intermediary's compliance with the financial resource requirement imposed by the Regulatory Authority;
   ii. any actual, or potential off balance sheet commitments, including inter alia, guarantees, that the market intermediary or had incurred and which had not been extinguished at the end of the financial year;
   iii. the profit and loss and income and expenditure account; and
   iv. any opinion given by an auditor in relation to the accounts.

(c) A market intermediary or any financial conglomerate of which it is a part of, shall submit to the Regulatory Authority any audit observations or audit management letter, upon submission of the audited financial statements.
(d) A market intermediary shall provide the Regulatory Authority, annually, with an updated list of its key persons, shareholders and controllers, its address, a list of principal activities and any business names it uses.

(e) A market intermediary shall provide the Regulatory Authority with an update, annually, of the structure of any financial conglomerate, of which it is a part of.
(f) A market intermediary shall provide the Regulatory Authority with a list of employees with their qualifications and experience where they are occupying a position for which certain qualifications and experience are specified.
(g) A market intermediary shall provide, in a manner specified by the Regulatory Authority, a report on the key decisions made by the Board.
(h) A market intermediary forming part of a financial conglomerate shall provide separate financial statements and consolidated financial statements for the group.

7.18.3 Quarterly reporting

(a) Not later than one month after the end of each quarter of its financial year, a market intermediary shall submit to the Regulatory Authority:
   i. unaudited management accounts showing the balance sheet for the end of the quarter, off balance sheet commitments, the profit and loss and income and expenditure accounts for the quarter, and the calculation of the financial resource requirements for the end of the quarter;
   ii. the number of complaints received by the market intermediary during the specified period and the number outstanding for over three months;
   iii. any changes to the information given by the market intermediary in respect of its name, address, key personnel, nature of business; and
   iv. any change in other information that would reasonably be regarded as relevant to a determination of the market intermediary's continuing fitness and properness.
(b) A market intermediary shall report the total number of clients for which services are being provided in respect of each licensed activity that the market intermediary provides.
(c) A market intermediary that is an operator of a collective investment undertaking should also report:
   i. the number and name of undertakings that are being managed;
   ii. the assets of each undertaking as at the first and the last business day of the reporting period;
   iii. the value of each undertaking on the first and last business day of the reporting period; and
   iv. in the case of interval and open-ended undertakings, the number and value of participations in issue on the first business day of the reporting period, the number and value of participations sold in the period and the number

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and value of participations in issue on the last business day of the reporting period.

(d) A market intermediary that is an asset manager should report the amount of funds under management.

(e) A market intermediary that is a trustee or custodian shall report the names of the collective investment undertakings for which services are provided and the total value of the assets held for each collective investment undertaking.

7.18.4 Advance notification

(a) A market intermediary shall provide the Regulatory Authority with four weeks advance written notification of the following matters:

i. any change in the name, business name (if different), business address, or nature of business, including any decision to withdraw from any area of business;
ii. any new appointments to the key personnel;
iii. any change to the external auditor and reasons for the change;
iv. any decision to seek a licence from another regulatory authority in Botswana or abroad;
v. any change to its financial year and hence to its annual reporting date;
vi. any changes in shareholding or shareholding structure;
vii. a substantial acquisition;
viii. any change to its premises and any new premises it may acquire;
ix. any other material changes in the information supplied in any application for a licence or any other matter; or
x. a decision to surrender its licence.

(b) The advance notification shall be accompanied by an application for permission to make the change if required by the Regulatory Authority.

(c) A market intermediary shall notify the Regulatory Authority of controller or key persons resignations, two weeks before the effective resignation date.

(d) If a market intermediary becomes aware that it has failed to give advance notification in respect of any of the matters specified in this rule, the market intermediary shall give immediate notice of the matter to the Regulatory Authority, together with an explanation of the circumstances that resulted in a failure to provide the prescribed advance notice.

7.18.5 Immediate notification

(a) A market intermediary shall inform the Regulatory Authority immediately should any of the following events occur:

i. any event which could reasonably be expected to affect the Regulatory

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Authority's assessment of the ongoing fitness and properness of its controllers, shareholders or key personnel;

ii. a breach of the regulatory requirements applicable to the market intermediary or a change, misstatement or error in any of the information provided to support the licence application that might reasonably be expected to affect investors' interests or the Regulatory Authority's assessment of the ongoing fitness and properness of its controllers, shareholders or key personnel;

iii. All market intermediaries subject to financial resources requirement shall notify the Regulatory Authority, immediately, where they are in breach of their financial resources or liquidity requirements;

iv. any concern by the market intermediary that it may not be able to meet obligations, including obligations to clients, as they fall due and client asset loss;

v. any shortfall in the funds held in the client account as compared with the total obligations to clients;

vi. any discrepancy between the records of assets held on behalf of clients and the evidence held of legal title to those assets;

vii. any inability to comply with any instruction or direction of the Regulatory Authority;

viii. any fraud on the market intermediary (including a fraud that affects money or assets held on behalf of clients) by any person including, inter alia its employees or clients; or any other forms of significant misconduct;

ix. any disciplinary action against any of the key personnel of the market intermediary;

x. any investigation, finding or conviction relating to the market intermediary, any of its controllers, shareholders or any of its key personnel by a law enforcement authority, regulatory authority (including, inter alia, a self-regulatory organisation), or professional association;

xi. any data breaches;

xii. any systemic service failures;

xiii. any civil claim against the market intermediary or

xiv. any litigation instigated by the market intermediary.

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7.19 SCHEDULE 2 CLIENT AGREEMENT

An agreement between a market intermediary and a client shall specify which jurisdiction's laws govern such an agreement. The agreement shall include, but not limited to, the following matters:

[*Explanatory Note: This schedule does not apply to the constituent documents of collective investment undertakings that govern relations between the undertakings and its functionaries.]*

7.19.1 short form agreement

(a) Where a market intermediary engages in a single transaction with a client, the agreement shall include, but not be limited to:
   i. essential information about the market intermediary, including its name, address and contact information.
   ii. the services to be provided, including, inter alia:
      a. a statement as to whether the market intermediary is providing advice or acting solely on the instructions of the client); and
      b. if the intermediary is providing advice, the nature and scope of that advice.
   iii. the fees or other charges to be levied by the market intermediary (or the way in which the fees will be calculated), so that the client is able to understand the total cost of the services being provided.

7.19.2 Agreements for all other clients

(a) Where a market intermediary provides services to clients on a longer-term basis, or where it is envisaged that there may be two or more single transactions, the agreement shall include, inter alia:
   i. essential information about the market intermediary, including:
      a. its name and address;
      b. Its contact information;
      c. Its licence category; and
      d. scope of activity;
   ii. the services to be provided, including inter alia:
      a. a statement as to whether the market intermediary is providing advice or acting solely on the instructions of the client;
      b. if the market intermediary is providing advice, the nature and scope

of that advice;

c. If the market intermediary is providing investment advice or asset management services, the performance of the market intermediary; and
d. The status of the client – as a professional client or otherwise.

iii. If the market intermediary is an asset manager, provide:
   a. detailed description of the asset management services to be provided, and state whether the asset manager has the authority to make investment decisions on behalf of the client or needs client approval for trades.
   b. The client's specific financial objectives, such as capital appreciation, income generation, or risk tolerance; and
   c. The agreed-upon approach the manager will use to achieve these goals, including asset allocation and market exposure.

iv. the fees or other charges to be levied by the market intermediary (or the way in which the fees will be calculated), so that the client is able to understand the total cost of the services being provided;

v. the nature or basis of commissions (if any) to be received by the market intermediary from third parties where these are related to the services provided to the client;

vi. the obligations of the client, including, inter alia, the way in which instructions shall be given and the timing of payments to be made to the market intermediary in respect of fees, charges, commissions and transactions, provision of complete and appropriate information;

ii. the rights of the client, including inter alia:
   a. the right to ask for information on the experience, qualifications, and disciplinary history of the market intermediary, its key personnel and the officer providing services to the client;
   b. the rights to interest on funds held by the market intermediary (or if there is no such right, the fact that this is so); and
   c. the right to make a complaint and to have that complaint dealt with fairly and promptly;

vii. the obligations of the market intermediary in respect of the services to be provided, including, where relevant to the service, inter alia:
   a. Commitment to act in the client's best interest and manage assets prudently;
   b. Measures to identify and manage potential conflicts of interests.
   c. any limitations on the ability of the market intermediary to obtain the best terms available for any investment;
   d. any limitation on the type, geographical location of class of

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investment products about which advice shall be given;

e. any other limitation on the capacity of the market intermediary to give impartial and independent advice;
f. details of the contents of reports, including account statements, performance reviews and the frequency of reviews of the client's investment portfolio; and
g. The method of securing the client's title to assets purchased;

viii. the arrangements for securing title to and the arrangements for custody of securities bought including the use of nominee accounts, the use of a custodian (where appropriate) and other matters;

ix. any other terms and conditions of the agreement, including the notice to be given in respect of any changes to it or its termination;

x. any connections between the market intermediary and other relevant third parties that could affect the services being provided, such as a requirement on the part of the market intermediary only to deal through certain third parties or only to recommend certain investment products;

xi. information on the market intermediary's complaints procedure as established in accordance with these Rules; and

xii. the fact that the market intermediary is regulated by the Regulatory Authority.

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7.20 SCHEDULE 3 DECLARATION BY PROFESSIONAL CLIENT

I certify that I am

(1) A financial services business licensed to conduct regulated activity ☐

(2) A bank licensed in .....(please state jurisdiction) by .....(please state licensing authority) ☐

(3) An institutional investor ☐

(4) Governments, statutory bodies, central banks or other national monetary authorities, local authorities, and state-owned organisations ☐

and that I recognise that:

Some of the protections afforded to clients by the NBFIRA (Capital Markets Sector Market Intermediaries' Conduct of Business) Rules, 2026 will not apply; and

I may be advised to engage in transactions that may not be regarded as suitable for the generality of investment clients.

Name.....

Signed by: .....

Date.....

- Tick that which is applicable

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8. RECORDS

Reference Number	Record (Description of records)	Location / Holder	Retention Period	Justification
Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable

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