

*Statutory Instrument No. 87 of 2022*

**NON-BANK FINANCIAL INSTITUTIONS REGULATORY AUTHORITY ACT**  
(Cap. 46:08)

**NON-BANK FINANCIAL INSTITUTIONS REGULATORY AUTHORITY  
(TRIBUNAL) (AMENDMENT) REGULATIONS, 2022**  
(Published on 22nd July, 2022)

**ARRANGEMENT OF REGULATIONS**

**REGULATION**

1. Citation
2. Amendment of regulation 2 of Cap. 46:08 (Sub. Leg.)
3. Amendment of regulation 3 of the Regulations
4. Amendment of regulation 4 of the Regulations
5. Amendment of regulation 5 of the Regulations
6. Amendment of regulation 7 of the Regulations
7. Amendment of regulation 8 of the Regulations
8. Amendment of regulation 9 of the Regulations
9. Amendment of regulation 10 of the Regulations
10. Amendment of regulation 14 of the Regulations
11. Amendment of regulation 15 of the Regulations
12. Amendment of regulation 17 of the Regulations
13. Amendment of regulation 18 of the Regulations
14. Amendment of regulation 19 of the Regulations
15. Amendment of regulation 20 of the Regulations
16. Amendment of regulation 27 of the Regulations
17. Amendment of regulation 30 of the Regulations
18. Amendment of regulation 35 of the Regulations
19. Amendment of regulation 38 of the Regulations
20. Amendment of the Schedule to the Regulations

IN EXERCISE of the powers conferred on the Minister of Finance by section 50 (2) as read with section 61 of the Non-Bank Financial Institutions Regulatory Authority Act, the following Regulations are hereby made —

Citation

1. These Regulations may be cited as the Non-Bank Financial Institutions Regulatory Authority (Tribunal) (Amendment) Regulations, 2022.

Amendment of  
regulation 2 of  
Cap. 46:08  
(Sub. Leg.)

2. Regulation 2 of the Non-Bank Financial Institutions Regulatory Authority (Tribunal) Regulations (hereinafter referred to as the Regulations) is amended by substituting for the definition of the word “review notice” appearing therein the following new definition —

““review notice” means an application for review of a decision by the Regulatory Authority or the Self-Regulatory Organisation or a notice given by the Tribunal to prepare for a hearing.”.

Amendment of  
regulation 3 of  
the Regulations

3. The Regulations are amended by substituting for regulation 3, the following new regulation —

“Establishment and function of Tribunal  
3. (1) Subject to section 50 of the Act, there is hereby established a Tribunal to be known as the Non-Bank Financial Institutions Tribunal.

- (2) The Tribunal shall at such times as shall be determined by the Chairperson, upon the giving of not less than 30 days' notice, review decisions made under the Act by the Regulatory Authority or a self-regulatory organisation, which decisions shall be subject to an application under regulation 12.
- (3) The Chairperson may call for a sitting of the Tribunal by giving notice of less than 30 days where the urgency of a particular matter does not permit the giving of notice in accordance with subregulation (2)."

4. Regulation 4 is amended by substituting for —

(a) subregulation (1), the following new subregulation —

"(1) The Tribunal shall be composed of the following members appointed by the Minister —

- (a) a chairperson, who shall be qualified to be appointed as a judge or a person holding similar legal credentials;
- (b) a deputy chairperson, who shall be qualified to be appointed as a judge or a person holding similar legal credentials;
- (c) three other persons with experience and qualifications in —
  - (i) law,
  - (ii) finance,
  - (iii) economics,
  - (iv) accounting,
  - (v) commerce, or
  - (vi) equivalent qualification in any area of the non-bank financial sector."; and

(b) subregulation (2), the following new subregulation —

"(2) The chairperson and deputy chairperson shall serve the Tribunal for a period not exceeding five years, on such terms and conditions as the Minister may determine and shall be eligible for re-appointment."

5. Regulation 5 is amended by substituting for —

(a) subregulation (2), the following new subregulation —

"(2) The Secretary shall be appointed for a term not exceeding five years and shall be eligible for re-appointment on such terms and conditions as the Tribunal may determine, with the approval of the Minister."; and

(b) subregulation (3), the following new subregulation —

"(3) Subject to subregulation (1), the Secretary shall —

- (a) attend meetings of the Tribunal but shall have no voting rights;
- (b) plan, coordinate and manage the administrative functions of the Tribunal;
- (c) issue summons, warrants and writs of execution on behalf of the Tribunal;
- (d) register all orders and judgments;
- (e) keep records of all proceedings of the Tribunal;
- (f) keep an account of all fees and fines paid in or out of the Tribunal; and
- (g) assess costs awarded in accordance with the prescribed tariffs."

6. Regulation 7 is amended by substituting for subregulation (1), the following new subregulation —

"(1) The Minister shall, on being notified by the Tribunal in writing of the death of, or vacation of office by, a member, within 60 days of receiving notification, appoint a member to hold office in accordance with regulation 4."

Amendment of regulation 4 of the Regulations

Amendment of regulation 5 of the Regulations

Amendment of regulation 7 of the Regulations

Amendment of regulation 8 of the Regulations

**7.** The Regulations are amended by substituting for regulation 8, the following new regulation —

**“Meetings of Tribunal** 8. Subject to the provisions of these Regulations, the Tribunal shall regulate its own proceedings.”.

Amendment of regulation 9 of the Regulations

**8.** Regulation 9 is amended —

(a) by substituting for subregulation (1), the following new subregulation —

“(1) Each member shall disclose in writing to the Tribunal and to the Minister in the case of the Chairperson, all interests that the member has, that could conflict with the proper performance of the functions of the member’s office, whether the interests were acquired before or after appointment.”;

(b) in subregulation 4 by substituting for paragraph (b), the following new paragraph —

“(b) each of the other members have consented to the member performing those functions in relation to the matter despite the potential conflict of interest.”;

(c) in subregulation (7) —

(i) paragraph (b) by substituting for the word “those” appearing therein the word “whose”,

(ii) paragraph (e) by inserting the word “family” immediately after the word “immediate” appearing therein, and

(iii) paragraph (h) (ii) by inserting the word “with” immediately after the word “concert” appearing therein; and

(d) by deleting subregulation (9).

Amendment of regulation 10 of the Regulations

**9.** Regulation 10 is amended by deleting subregulation (3).

Amendment of regulation 14 of the Regulations

**10.** Regulation 14 (1) is amended by inserting the words “in Form 3 as set out in the Schedule” immediately after the words “Tribunal”.

Amendment of regulation 15 of the Regulations

**11.** Regulation 15 is amended by substituting for subregulation (2), the following new subregulation —

“(2) The Regulatory Authority or self-regulatory organisation may state that it does not oppose the review or it may withdraw its decision to oppose the review —

(a) at any time before the hearing of the review, without permission, by filing a notice to that effect; or

(b) at the hearing of the review, with the Tribunal’s permission.”.

Amendment of regulation 17 of the Regulations

**12.** Regulation 17 (1) is amended by substituting for the words “Form 3” appearing therein the words “Form 4”.

Amendment of regulation 18 of the Regulations

**13.** The Regulations are amended by substituting for regulation 18, the following new regulation —

**“Hearings by Tribunal** 18. (1) The Tribunal may hold hearings in public, unless otherwise determined by the Tribunal.

(2) The Tribunal shall set the hearing dates and determine its own procedure for the hearing, and the location of hearing.”.

- 14.** Regulation 19 (1) is amended by substituting the words “Forms 4 (a) and 4 (b)” appearing therein the words “Forms 5 (a) and 5 (b)”. Amendment of regulation 19 of the Regulations
- 15.** Regulation 20 (1) (b) is amended by substituting for the words “vhas” appearing therein the word “has”. Amendment of regulation 20 of the Regulations
- 16.** Regulation 27 (b) is amended by deleting the words “or recommendations” appearing therein. Amendment of regulation 27 of the Regulations
- 17.** Regulation 30 (2) (a) is amended by substituting for the words “the regulation” appearing therein the words “these Regulations”. Amendment of regulation 30 of the Regulations
- 18.** Regulation 35 (1) is amended by inserting the words “within six months of the end of the financial year” immediately after the word “report” appearing therein. Amendment of regulation 35 of the Regulations
- 19.** Regulation 38 is amended by deleting paragraph (d) appearing therein. Amendment of regulation 38 of the Regulations
- 20.** The Regulations are amended by substituting for the Schedule appearing therein, the following new Schedule — Amendment of the Schedule to the Regulations

**“SCHEDULE**

**FORM 1**

**NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFFT)  
REVIEW NOTICE (reg. 12)**

**TO APPEAL A DECISION OR ORDER OF THE NON-BANK FINANCIAL INSTITUTIONS REGULATORY AUTHORITY OR SELF-REGULATORY ORGANIZATION, A PERSON MUST COMPLETE AND FILE THIS FORM WITH THE SECRETARY, NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFFT), PRIVATE BAG RWK 11, GABORONE, PLOT 50365, MVA FUND HOUSE, FAIRFROUNDS OFFICE PARK.**

**APPLICANT’S NAME & ADDRESS**

MR.  MRS.  MS.

LAST NAME.....  
FIRST NAME.....  
NAME OF COMPANY/ORGANIZATION.....  
.....  
STREET ADDRESS.....  
CITY.....  
PHONE NO.....  
FAX NO.....  
EMAIL.....

**APPLICANT’S REPRESENTATIVE (IF ANY)**

MR.  MRS.  MS.

LAST NAME.....  
FIRST NAME.....  
NAME OF COMPANY/ORGANIZATION.....  
.....  
STREET ADDRESS.....  
CITY.....  
PHONE NO.....  
FAX NO.....  
EMAIL.....

**SECTION AND STATUTE**

**SECTION AND STATUTE UNDER WHICH THE HEARING IS BROUGHT**

.....



**FORM 2**

**NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFIT)  
STATEMENT OF CASE (reg. 13)**

**THE NON-BANK FINANCIAL INSTITUTIONS REGULATORY AUTHORITY OR SELF-REGULATORY ORGANIZATION, SEEKING TO RESPOND TO A REVIEW NOTICE LODGED SHALL COMPLETE AND FILE THIS FORM WITH THE SECRETARY, NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFIT), PRIVATE BAG RWK 11, GABORONE, PLOT 50365, MVA FUND HOUSE, FAIRFROUNDS OFFICE PARK.**

**APPLICANT'S NAME & ADDRESS**

MR.  MRS.  MS.   
LAST NAME.....  
FIRST NAME.....  
NAME OF COMPANY/ORGANIZATION.....  
.....  
STREET ADDRESS & CITY.....  
.....  
APPLICANT'S REPRESENTATIVES  
.....

**RESPONDENT (TICK THE APPROPRIATE BOX)**

- 
- 
- NON-BANK FINANCIAL INSTITUTIONS REGULATORY AUTHORITY
- SELF-REGULATORY ORGANIZATION

**NAME OF SELF-REGULATORY ORGANIZATION (IF APPLICABLE)**

.....  
.....

**RESPONDENT'S REPRESENTATIVE (IF ANY)**

MR.  MRS.  MS.   
LAST NAME.....  
FIRST NAME.....  
NAME OF COMPANY/ORGANIZATION.....  
.....  
STREET ADDRESS.....  
CITY.....  
PHONE NO.....  
FAX NO.....  
EMAIL.....



**DOCUMENTS**

**THE FOLLOWING DOCUMENTS ARE ATTACHED FOR REFERENCE PURPOSES**

**DATED AT GABORONE ON THIS.....DAY OF ..... 20**

**SIGNATURE.....**

**FORM 3**

**NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFIT)  
APPLICANT'S REPLY (reg. 14)**

**AN APPLICANT SHALL FILE A WRITTEN REPLY TO THE TRIBUNAL BY COMPLETING AND FILING THIS FORM WITH THE SECRETARY, NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFIT), PRIVATE BAG RWK 11, GABORONE, PLOT 50365, MVA FUND HOUSE, FAIRFROUNDS OFFICE PARK.**

**APPLICANT'S NAME & ADDRESS**

MR.  MRS.  MS.

LAST NAME.....  
FIRST NAME.....  
NAME OF  
COMPANY/ORGANIZATION.....  
STREET ADDRESS & CITY.....

**APPLICANT'S REPRESENTATIVES**

**APPLICANT'S REPRESENTATIVE (IF ANY)**

MR.  MRS.  MS.

LAST NAME.....  
FIRST NAME.....  
NAME OF COMPANY/ORGANIZATION.....  
STREET ADDRESS.....  
CITY.....  
PHONE NO.....  
FAX NO.....  
EMAIL.....

**OTHER PERSONS WHO MAY HAVE INTEREST IN THE MATTER**

**BRIEFLY STATE THE GROUNDS ON WHICH THE APPLICATION FOR REVIEW  
RELIED ON AND ATTACH THE NECESSARY DOCUMENTATION:**

.....  
.....  
.....

**SET OUT ALL MATTERS CONTAINED IN THE STATEMENT OF CASE WHICH ARE  
DISPUTED:**

.....  
.....

**STATE THE REASONS FOR DISPUTING THE DECISION:**

.....  
.....

**RELIEF SOUGHT**

**ORDER OF RELIEF SOUGHT**

.....  
.....

**DATED AT GABORONE ON THIS..... DAY OF .....20.....**

**SIGNATURE.....**

**FORM 4**

**NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFTT)  
NOTICE OF HEARING (reg. 17)**

**PARTICULARS OF PARTIES**

**APPLICANT(S)**.....

**RESPONDENT(S)**.....

**PLEASE NOTE THAT A HEARING IN TERMS OF SECTION/REGULATION.....  
OF THE.....ACT/REGULATIONS SHALL BE  
HELD BEFORE THE NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL ON  
THE.....DAY OF.....20.....AT.....HOURS OR  
SOON THEREAFTER AS MAY BE HEARD FOR THE PURPOSES OF.....**

**DOCUMENTS**

**THE FOLLOWING DOCUMENTS ARE ATTACHED FOR REFERENCE PURPOSES**

**WHERE A RELEVANT CITED PARTY DOES NOT ATTEND OR PARTICIPATE AT THE  
HEARING, THE TRIBUNAL MAY PROCEED IN THE PARTY'S ABSENCE AND THE  
PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.**

**DATED AT GABORONE ON THIS..... DAY OF .....20.....**

**SIGNATURE.....**

**FORM 5 (a)**

**NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFIT)  
SUMMONS TO A WITNESS (reg. 19)**

REGARDING

AND

SUMMONS TO A WITNESS BEFORE THE NON-BANK FINANCIAL INSTITUTIONS  
TRIBUNAL (NBFIT)

TO:

(NAME).....

(ADDRESS).....

YOU ARE REQUIRED TO ATTEND AND TO GIVE EVIDENCE AT THE HEARING OF

THIS PROCEEDING ON.....

AT.....HOURS AT.....

AND TO REMAIN UNTIL YOUR ATTENDANCE IS NO LONGER REQUIRED.

YOU ARE REQUIRED TO ATTEND AND TO BRING WITH YOU AND PRODUCE  
AT THE HEARING THE FOLLOWING DOCUMENTS AND THINGS: ALL BOOKS,  
PAPERS, LETTERS, NOTES OR COPIES THEREOF AND ANY OTHER WRITINGS AND  
DOCUMENTS IN YOUR POSSESSION OR POWER CONTAINING ANY ENTRY,  
MEMORANDUM OR MINUTES RELATING TO THIS MATTER (WHETHER THEY ARE  
ELECTRONIC FORMAT OR HARD COPY).

.....  
.....  
IF YOU FAIL TO ATTEND OR TO REMAIN IN ATTENDANCE AS THIS SUMMONS  
REQUIRES, YOU SHALL HAVE COMMITTED AN OFFENCE UNDER THE NON-BANK  
FINANCIAL INSTITUTIONS REGULATORY AUTHORITY (TRIBUNAL) REGULATIONS  
AND SHALL BE CHARGED WITH AN OFFENCE UNDER THE REGULATIONS.

DATED AT GABORONE ON THIS..... DAY OF .....20.....

SIGNATURE.....

ON BEHALF OF THE NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL

**FORM 5 (b)**

**NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL (NBFIT)  
SUMMONS TO A WITNESS (reg. 19)**

**REGARDING**

**AND**

**SUMMONS TO A WITNESS BEFORE THE NON-BANK FINANCIAL INSTITUTIONS  
TRIBUNAL (NBFIT)**

**TO:**

**(NAME).....**

**(ADDRESS).....**

**YOU ARE REQUIRED TO PARTICIPATE IN A HEARING**

**ON.....AT.....HOURS**

**AT.....**

**IF YOU FAIL TO PARTICIPATE IN THE HEARING IN ACCORDANCE WITH THE  
SUMMONS, YOU SHALL HAVE COMMITTED AN OFFENCE UNDER THE NON-BANK  
FINANCIAL INSTITUTIONS REGULATORY AUTHORITY (TRIBUNAL) REGULATIONS  
AND SHALL BE CHARGED WITH AN OFFENCE UNDER THE REGULATIONS.**

**DATED AT GABORONE ON THIS..... DAY OF .....20.....**

**SIGNATURE ON BEHALF OF THE NON-BANK FINANCIAL INSTITUTIONS TRIBUNAL  
....."**

**MADE this 7th day of July, 2022.**

**PEGGY O. SERAME,  
Minister of Finance.**