

CAYMAN ISLANDS



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**THE SECURITIES INVESTMENT BUSINESS LAW
(2003 REVISION)**

**THE SECURITIES INVESTMENT BUSINESS (FINANCIAL
REQUIREMENTS AND STANDARDS) REGULATIONS, 2003**

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THE SECURITIES INVESTMENT BUSINESS LAW, 2001

THE SECURITIES INVESTMENT BUSINESS (FINANCIAL REQUIREMENTS AND STANDARDS) REGULATIONS, 2003

The Governor in Council, in exercise of the powers conferred by section 11 of the Securities Investment Business Law (2003 Revision), makes the following regulations -

1. (1) These regulations may be cited as the Securities Investment Business (Financial Requirements and Standards) Regulations 2003.

Citation and commencement

(2) These regulations come into force on 29 July, 2003.

2. In these regulations unless the context otherwise requires—

Definitions

“broker dealer” means a person licensed to engage in one or more activities specified in Schedule 2 (1) (a) of the Law;

“counterparty risk” means the risk exposure of a licensee whose clients or counterparties do not meet their contractual obligations or complete their side of the transaction;

“financial resources requirement” means the requirement calculated in accordance with Schedule 1 and any relevant guidance issued by the Authority under section 12;

“Law” means the Securities Investment Business Law (2003 Revision);

“licensee” means a person licensed under the Law;

“OTC” means over the counter, whereby in relation to any security, the security is not subject to the rules of any exchange;

“OTC counterparty” means a counterparty to an OTC transaction;

“position risk” means the exposure of a licensee who maintains positions in securities (either long or short) to the risk that the price of such investments may move against them in the future;

“regulatory laws” means any one or more of the -

- (a) Banks and Trust Companies Law (2003 Revision);
- (b) Building Societies Law (2001 Revision),
- (c) Companies Management Law (2003 Revision);
- (d) Cooperative Societies Law (2001 Revision); and
- (e) Insurance Law (2001 Revision);
- (f) Money Services Law, (2003 Revision);
- (g) Mutual Funds Law (2003 Revision),

and any other laws that may be prescribed by the Governor by regulations made under section 45 of the Monetary Authority Law (2003 Revision);

“relevant annual expenditure” means expenditure calculated with reference to the licensee’s most recent accounts, in accordance with Schedule 2 and any relevant guidance issued by the Authority under section 12;

“section” means a section of the Law; and

“securities investment business intermediary” means an exchange, clearing house, intermediate broker, settlement agent, market counterparty, custodian or OTC counterparty.

Application of regulations

3. (1) Subject to sub-regulation (2), these regulations apply to all licensees.

(2) Where a licensee is subject to financial reporting obligations and requirements by virtue of being a licensee under other regulatory laws the Authority may waive or modify the application of these regulations in respect of that licensee to the extent that, in the opinion of the Authority, appropriate and relevant consolidated financial information is otherwise available and provided.

(3) Without prejudice to the generality of section 12(1), the Authority will issue guidance on matters covered by regulations 4, 6 and 9.

General requirements

4. A licensee shall maintain adequate financial resources to meet its securities investment business commitments and to withstand the risk to which its business is subject.

Reporting currency

5. A licensee’s reporting currency under these regulations shall be Cayman Islands dollars or United States dollars and a licensee shall not use any other reporting currency without the prior approval of the Authority.

Accounting records; internal systems and controls; risk management

6. (1) A licensee shall-

- (a) maintain adequate and current accounting records; and

- (b) maintain internal systems and controls and risk management processes that are adequate for the size, nature and complexity of its securities investment business activities.

(2) A licensee shall maintain accounting records which provide accounting information for any period during the 5 years immediately preceding the date on which a licence was first granted to the licensee by the Authority.

7. A licensee shall perform reconciliations -

Reconciliation of
licensee's balances

- (a) at least once every 5 weeks on all balances with banks or building societies and shall correct any difference forthwith, unless such difference arises solely as a result of identified differences in timing between the records of the licensee and the bank or building society;
- (b) at least once every 5 weeks, on all balances and positions with securities investment business intermediaries and shall correct any differences by agreement with the relevant intermediary on a timely basis; and
- (c) at least once every business day, on the licensee's own margin accounts with securities investment business intermediaries and shall correct any differences by agreement with the relevant intermediary on a timely basis.

8. (1) A licensee shall submit to the Authority, in addition to any other financial reporting requirement under the Law or any regulations made under the Law, the following documents and such other supplementary information as the Authority may require-

Financial Reporting

- (a) an auditor's opinion on the licensee's internal controls, at the same time as audited accounts are submitted under section 13(2);
- (b) in the case of broker-dealers, a monthly reporting statement, and in all other cases, a quarterly reporting statement, in the form of the table in Schedule 1, within 15 business days of the end of the month or quarter to which the statement relates; and
- (c) annual reconciliation between the balance sheet figures on the annual audited accounts and the monthly reporting statement (or the quarterly statement as the case may be) prepared at the same date, and an explanation of any differences, at the same time as the submission of the audited accounts under section 13(2).

(2) Unless the Authority otherwise permits, where the licensee has a subsidiary or subsidiaries, it shall submit the audited accounts of each subsidiary and consolidated audited accounts, together with the annual audited accounts of the licensee itself.

- Computation of financial resources
9. (1) A licensee shall calculate its financial resources and its financial resources requirement in accordance with Schedule 1 and any relevant guidance issued by the Authority under section 12.
- (2) A licensee's base requirement in Schedule 1 shall be the greater of one quarter of relevant annual expenditure, and –
- (a) in the case of broker-dealers, market makers and securities managers, \$100,000; and
 - (b) in the case of all other licensees, \$15,000.
- (3) The Authority may require a licensee to adjust its relevant annual expenditure where-
- (a) there has been a significant change in the licensee's circumstances or activities; or
 - (b) the licensee has a material proportion of its expenditure incurred on its behalf by third parties and such expenditure is not fully recharged to the licensee.
- (4) A licensee shall at all times maintain financial resources in excess of its financial resources requirement.

- Transactions affecting financial resources
10. A licensee shall -
- (a) obtain the written consent of the Authority before seeking to reduce or change the nature of its issued capital, or the rights and obligations of shareholders;
 - (b) report to the Authority the acquisition of 10% or more of the voting shares of another company; and
 - (c) obtain the prior written consent of the Authority regarding any agreement to sell or merge the whole or any part of the licensee to or with a third party.

SCHEDULE 1

Regulation 9

Financial resources calculation

<i>Financial resources</i>		<i>Financial resources requirement</i>	
Total Assets ("A")	X	Base Requirement ("I")	X
Less: Liquidity Adjustments ("B")	(X)	Counterparty Risk Requirement ("J")	X
A-B = Adjusted Total Assets ("C")	X	Position Risk Requirement ("K")	X
Less: Redeemable shares ("D")	(X)		X
Less: Total liabilities ("E")	(X)		
Less: Contingent liabilities ("F")	(X)		
Less: Deficiencies in subsidiaries ("G")	(X)		
Add: Eligible Capital Substitutes ("H")	X		
C-D-E-F-G+H = Financial Resources	X	I+J+K = Financial Resources Requirement	X

Regulation 2

SCHEDULE 2

Relevant Annual Expenditure Calculation

- (a) total revenue; plus
- (b) any retained losses;

less the aggregate of the following items:

- (c) profit before taxation;
- (d) guaranteed bonuses;
- (e) profit shares and other appropriations of profit;
- (f) commissions shared, other than with employees, directors, or half commission men;
- (g) fees, brokerage and other charges paid to securities investment business intermediaries for the purposes of executing, registering or clearing transactions;
- (h) interest payable to counterparties;
- (i) interest payable on borrowings; and
- (j) exceptional or extraordinary items, with the prior written approval of the Authority.

Made in Cabinet the 22nd day of July, 2003

Carmena Watler

Clerk of Cabinet