

FINANCIAL RESOURCES REQUIREMENTS RULES FOR SECURITIES BROKERS OR DEALERS 2023

NBFIRA/RS/CM/RUL03

NBFIRA

Non-Bank Financial
Institutions Regulatory
Authority



CONTROL TABLE

		Document Name: FINANCIAL RESOURCES REQUIREMENTS RULES FOR SECURITIES BROKERS OR DEALERS		Unique Identification Number: NBFIRA/RS/CM/RUL03
Process Owner	Juliana White	Signature Signed by: Juliana Cynthia White Signed at: 2024-08-16 10:55:43 +02:00 Reason: Witnessing Juliana Cynthia White  	Version:	0
	Director –		Review Frequency:	5 Years
	Capital Markets		Creation Date:	03/23
Approved By	Board	Signature Signed by: Oduetse Andrew Motshidisi Signed at: 2024-08-26 14:44:57 +02:00 Reason: Witnessing Oduetse Andrew Mots  	Commencement Date:	04/23
Signed on behalf of the Board By	Oduetse A. Motshidisi CEO		Approval Date:	08/24

TABLE OF CONTENTS

CONTROL TABLE	2
1. PURPOSE	4
2. SCOPE	4
3. ASSOCIATED DOCUMENTS	4
4. DEFINITIONS	4
5. ACRONYMS AND ABBREVIATIONS.....	5
6. RESPONSIBILITY	5
7. RULES	5
7.1 APPLICATION	5
7.2 FINANCIAL RESOURCES REQUIREMENTS	5
7.3 INSURANCE ARRANGEMENTS	6
7.3.1 Scope of Cover	7
7.4 NOTIFICATIONS	8
7.4.1 Immediate Notification	8
7.5 GENERAL PROVISIONS	8
7.6 TRANSITIONAL ARRANGEMENTS, REVOCATIONS, CITATIONS AND COMMENCEMENT	9
7.7 MISCELLANEOUS.....	9
7.8 CALCULATIONS OF FINANCIAL RESOURCES REQUIREMENTS	10
7.8.1 PROPRIETARY POSITIONS OF SECURITIES BROKERS OR DEALERS.....	10
7.8.2 AMOUNTS RECEIVABLE FROM CLEARING HOUSES, ETC.....	10
7.8.3 AMOUNTS RECEIVABLE UNDER REPURCHASE TRANSACTIONS	11
7.8.4 MISCELLANEOUS ASSETS.....	11
8. RECORDS	12

1. PURPOSE

The purpose of the Financial Resources Requirements Rules for Securities Brokers or Dealers is to foster financial soundness and stability of Securities Brokers or Dealers by prescribing financial parameters/limits to be maintained in order to ensure operational viability.

2. SCOPE

These Rules apply to all Securities Brokers or Dealers licensed and regulated by Non-Bank Financial Institutions Regulatory Authority in the Republic of Botswana.

3. ASSOCIATED DOCUMENTS

Associated documents are documents that are indispensable to the implementation of this procedure. These are:

Document	Reference
Insurance Industry Act	No.10 of 2015
NBFIRA Act	No.21 of 2023
Securities (Amendment) Act	No.16 of 2023
Securities Act	No.26 of 2014
Securities (Institutions Licensing) Regulations	Statutory Instrument No.31 of 2017
Securities (Persons Operating a Securities Infrastructure Business) Regulations	Statutory Instrument No.32 2017

4. DEFINITIONS

Term	Definition
Approved by	The person endorsing or authorizing documents.
Authored by	The individual responsible for creating or writing a particular document.
Key Personnel	Has the same meaning assigned to it under the Securities (Institutions Licensing) Regulations.
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
---------------------	--

5. ACRONYMS AND ABBREVIATIONS

Abbreviation	Full Phrase
CEO	Chief Executive Officer
CM	Capital Markets
FRRR	Financial Resources Requirements Rules
NBFI	Non-Bank Financial Institution
NBFIRA	Non-Bank Financial Institutions Regulatory Authority

6. RESPONSIBILITY

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

7. RULES

7.1 APPLICATION

- (a) The Financial Resources Requirements Rules (FRRRs) for Securities Brokers or Dealers replace the Capital Adequacy Requirements Guidelines for Securities Brokers or Dealers, 2021.
- (b) The Non-Bank Financial Institutions Regulatory Authority (NBFIRA) may issue guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance presents an outline of compliance with the Rules.

7.2 FINANCIAL RESOURCES REQUIREMENTS

- (a) An NBFI shall, at all times, maintain:
 - i. Net assets of not less than P250, 000 or
 - ii. Liquid assets sufficient to cover at least 3 months of expenditure, whichever is greater based on the previous year's audited financial statements
- (b) The Securities Broker shall follow the framework for the calculations of financial resources requirements as may be prescribed by NBFIRA from time to time.

i. Guidance Note

The FRRRs recognize that there will be some instances where the Rules for Financial Resources Requirements and Liquidity Requirements will not consider the nature and complexity of the NBFI.

Such instances might be, for example, due to foreign exchange risk, risk of counterparty default, off balance sheet assets and liabilities (including contingent liabilities) or principal positions which the NBFI has taken.

Accordingly, the Board and Management of the NBFI should consider an additional provision above the required level in these Rules and evidence that consideration when required to do so by NBFIRA.

In assessing the above, as a minimum, the Board should consider the calculations laid out under Rule 7.8 These calculations are intended to be a guidance.

7.3 INSURANCE ARRANGEMENTS

- (a) An NBFI, acting as a Securities Broker/Dealer must maintain insurance cover which is commensurate with the size and nature of the business. Cover must include professional indemnity insurance and fidelity insurance against employees' dishonesty or fraud.

ii. Guidance Note

The consideration by the NBFI of its insurance requirements should be clearly documented, at local Board or Senior Management level, to demonstrate how the decision was made.

NBFIRA expects all NBFIs, whether they are part of organisations with offices elsewhere, to consider the insurance requirements for entities in Botswana.

Where a local operation is part of a group and the local Board or Management do not consider available cover, to the Botswana NBFI, to be adequate, NBFIRA expects the Board or Management, to plan to maintain appropriate cover. This may include purchasing a separate policy for the local operation in line with the applicable Insurance Industry Act.

NB: An insurance cover for Botswana licensed NBFI, shall be placed with Botswana based insurers and reinsurers in line with the Insurance Industry Act.

iii. Guidance Note

Insurance cover based on a prior year's audited financial statements does not need to be amended before the next annual renewal following the release of the following year's annual financial statements. However, the NBFI should consider whether to arrange additional cover if the annual financial statements show a material increase in income.

- (b) Notwithstanding the above, an NBFI is not required to have aggregate insurance cover exceeding an amount determined by a certified Assessor, provided the Board of the NBFI has considered and decided that such level of cover is appropriate and sufficient for its business. The NBFI shall provide evidence of such assessment if requested by NBFIRA.

iv. Guidance Note

7.3 (b) above is also applicable to an NBFI which is a part of a group and relies on Professional Indemnity Cover provided by the group. For this case, the consideration should ensure the group professional indemnity cover policy is appropriate for the NBFI, in particular that the NBFI will be able to fund the excess if a claim is made on the professional indemnity cover policy.

Where the NBFI also carries out activities not regulated by NBFIRA, the NBFI shall consider whether the minimum indemnity limit of its professional indemnity policy, and scope of the professional indemnity cover, are appropriate for its business, shall consider possible claims that may also arise from unregulated business.

7.3.1 Scope of Cover

- (a) An NBFI shall maintain, at all times, cover for:
 - i. negligence, errors or omissions by the NBFI or its employees;
 - ii. any liability for the dishonesty or fraudulent acts of employees which may fall on the NBFI;

- iii. liabilities which the NBFBI might incur, any jurisdiction, in which it could reasonably foresee that it may be held liable for damages and costs;
- iv. legal defense costs; and
- v. any other operational risk that might be incurred by the NBFBI

7.4 NOTIFICATIONS

7.4.1 Immediate Notification

- (a) An NBFBI shall notify NBFIRA, immediately, where:-
 - i. It is in breach of its financial resources requirement or liquidity requirement, including setting out, in writing, the steps that it is taking, or were taken, to remedy the breach;
 - ii. It anticipates being in breach of its financial resources requirement or liquidity requirement within thirty (30) days; including setting out, in writing, the steps that it proposes to take to avoid the breach;
 - iii. Its auditor's intents to qualify the Financial Statements;
 - iv. The liabilities of a subsidiary of the NBFBI exceed the subsidiary's assets;
 - v. The liabilities of the parent company of the NBFBI exceed the parent company's assets; and
 - vi. remedial actions taken to address (iv) and (v) above.

7.5 GENERAL PROVISIONS

- (a) The returns submitted by a securities broker/dealer company shall be signed by the Managing Director and Head of Finance.
- (b) No securities broker or dealer shall be allowed a shortfall in any capital funds, other than in specific temporary exceptions granted by NBFIRA due to unusual circumstances.
- (c) NBFIRA may require the Key Personnel to appear personally and produce the company's set of financial statements and answer questions, including questions relating to any actual or possible violation of these Guidelines.
- (d) NBFIRA may appoint an external auditor to verify capital or liquidity shortfalls when they are detected or suspected. In the event that such irregularities and/or capital shortfall, as the case maybe are confirmed by the auditor, the securities broker or dealer shall bear all the costs associated with the verification exercise.
- (e) NBFIRA will have full discretion regarding the necessity and sufficiency of special adjustments in any particular case presented by the Securities Broker/Dealer, taking into consideration all factors pertaining to the market

with regard to the financial position or future contracts and the affairs as a whole, of the Securities Broker or Dealer involved.

- (f) The Regulatory Authority may modify these or prescribe additional requirements as it may deem appropriate for the discharge of its mandate from time to time.

7.6 TRANSITIONAL ARRANGEMENTS, REVOCATIONS, CITATIONS AND COMMENCEMENT

- (a) The NBFIs shall comply with these Rules at their next insurance renewal following the date on which the FRRRS for Securities Brokers or Dealers come into effect.
- (b) Revocation of the Capital Adequacy Requirements Guidelines for Securities/Brokers, 2021 are revoked.
- (c) These Rules shall replace the Capital Adequacy Requirements Rules for Securities Brokers or Dealers, 2023.
- (d) These Rules shall come into effect on April 01, 2023.

7.7 MISCELLANEOUS

- (a) Beyond the minimum levels of capital specified in these Rules, it is the responsibility of the Board of Directors and Senior Management of a Securities Broker or Dealer to make regular assessments of the company's capital adequacy to ensure that its capital resources are appropriate for level and nature of all the risks to which the company is exposed.
- (b) All Securities Brokers or Dealers should have suitable systems in place to identify, measure and manage the risks associated with their activities, and to hold capital which is adequate for their overall risk profile. As part of the process, all Securities Brokers or Dealers should maintain and implement capital management plans setting out its overall strategy for managing capital resources over time. The capital management plan should be consistent with the company's overall business plan and should include actions and procedures for monitoring compliance with the required capital adequacy ratios. Targets and trigger ratios should be set to alert management of, and avert, potential breaches to the minimum capital ratios.
- (c) A securities broker or dealer shall obtain prior written consent from NBFIRA before:
 - i. seeking to reduce or change the nature of its issued capital or the rights and obligations of its security shareholdings;

- ii. acquiring 10 percent or more of the voting securities of another company;
or
- iii. entering into any agreement to sell or merge the whole or any part of the registered firm to or with a third party.
- (d) A securities broker/dealer shall as soon as it becomes aware, notify NBFIRA immediately of an incident that is likely to impair its minimum liquidity requirement as well as provide a mitigation plan. The Securities Broker/Dealer shall in addition, submit a plan on how it will rectify the position within a period not exceeding thirty (30) days.
 - (a) Where a securities broker/dealer company fails to comply with these Rules, NBFIRA may consider initiating appropriate regulatory action.
 - (b) In terms of the Act, NBFIRA may reprimand, sanction, suspend and or cancel the registration of a securities broker or dealer company declared a defaulter.
 - (c) The suspension or cancellation of a Securities Broker/Dealer's registration shall automatically suspend all rights and privileges of a securities broker/dealer, without relieving it of its liabilities.

7.8 CALCULATIONS OF FINANCIAL RESOURCES REQUIREMENTS

7.8.1 PROPRIETARY POSITIONS OF SECURITIES BROKERS OR DEALERS

- (a) A Securities Broker/Dealer shall include in its liquid assets any of the following assets that it beneficially owns:
 - i. cash and cash equivalents;
 - ii. listed shares;
 - iii. liquid debt securities; and
 - iv. any other securities subject to NBFIRA's approval; at market value, less the haircut amounts in relation to the securities or specified investments concerned, which may be prescribed by NBFIRA.

7.8.2 AMOUNTS RECEIVABLE FROM CLEARING HOUSES, ETC.

- (a) A Securities Broker/Dealer shall include in its liquid assets undisputed amounts receivable from Clearing Houses or any other Settlement Agencies relating to Securities under Clause 7.8.1.

7.8.3 AMOUNTS RECEIVABLE UNDER REPURCHASE TRANSACTIONS

- (a) A Securities Broker/Dealer which is the purchaser in the first instance of any securities under a purchase transaction shall include in its liquid assets any amount receivable from the seller of the securities that it is deemed to have in respect of the consideration for which it purchased the securities.

7.8.4 MISCELLANEOUS ASSETS

- (a) A Securities Broker/Dealer shall include in its liquid assets any of the following assets:-
- i. The amount of any fees, commissions, commission rebates and interest charges to which it is beneficially entitled which arise from the carrying on by it of any regulated activity for which it is licensed;
 - a. which have accrued and will first be due for billing or payment within the next 3 months; or
 - b. which have been billed or fallen due for payment and remain outstanding for one month or less after the date on which they were billed or fell due;
 - ii. deposits which it beneficially owns and maintains, and in accordance with the rules or requirements of, a licensed securities exchange as security for its obligations or liabilities owed to the licensed securities exchange;
 - iii. prepaid operating expenses which will be incurred within the next 3 months;
 - iv. interest accrued to it under an interest rate swap agreement to which it is a party, other than interest which remains outstanding after it is first due for payment;
 - v. amounts paid by it for its own account for subscribing for or equal to Clause 7.8;
 - vi. dividends receivable on shares listed on a licensed securities exchange or on a specified exchange that are traded on an ex-dividend basis and which it beneficially owns; and
 - vii. interest accrued on qualifying debt securities or special debt securities that are traded on an ex-interest basis and which it beneficially owns.

8. RECORDS

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