

SECURITIES ACT 2007

SECURITIES (FINANCIAL STATEMENTS) REGULATIONS 2008

ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

Regulation

1. Citation
2. Interpretation
3. Contravention

PART 2

ACCOUNTING RECORDS

4. Duty to keep accounting records
5. Records to be up to date
6. Audit trail
7. Conformity with accounting standards
8. Retention of records
9. Inspection of records
10. Securities market may impose additional requirements on members

PART 3

FINANCIAL STATEMENTS AND RETURNS

11. Duty to prepare annual financial statements
12. Balance sheet to give a true and fair view
13. Profit and loss account to give a true and fair view
14. Form and content of financial statements
15. Securities Authority may require returns
16. Licensees to obtain auditor's report etc.
17. Annual financial statements to be submitted to the Authority
18. Contents of auditor's report
19. Qualified reports

PART 4

MINIMUM ISSUED AND PAID-UP CAPITAL REQUIREMENTS

20. Minimum capital requirements

S.I.46 OF 2008

SECURITIES ACT, 2007

*(Act No. 8 of 2007)*SECURITIES (FINANCIAL STATEMENTS)
REGULATIONS, 2008

In exercise of the powers conferred by section 133 of the Securities Act, the Minister of Finance, on the recommendation of the Securities Authority, makes the following Regulations.

PART 1
PRELIMINARY

- 1.(1) These Regulations may be cited as the Securities (Financial Statements) Regulations, 2008. Citation and application
- (2) These Regulations shall apply to securities dealers licensed by the Authority, except for regulation 20 which shall apply to securities dealers and other persons specified therein.
2. In these Regulations – Interpretation
- “Authority” means the Securities Authority;
- “financial year” means the calendar year ending on 31st December unless, in the case of a licensee, the Authority has approved in writing another financial year period;
- “licensee” means a securities dealer licensed under the Act;
- “the Act” means the Securities Act, 2007;
3. A licensee who contravenes any provision of these Regulations commits a disciplinary offence under the Act. Contravention

PART 2
ACCOUNTING RECORDS

- 4.(1) A licensee shall keep accounting records which are sufficient to show and explain its securities transactions, whether they are effected on its own behalf or on behalf of others, and that – Duty to keep accounting records

- a) disclose with reasonable accuracy, at any time, the financial position of the licensee at that time; and
 - (b) enable the licensee to prepare a balance sheet and a profit and loss account as at any time and which comply with the requirements of these Regulations.
- (2) The accounting records must in particular contain -
- (a) entries from day to day of all sums of money received and expended by the licensee, and the matters in respect of which the receipt and expenditure takes place;
 - (b) a record of all assets and liabilities of the licensee including any commitments or contingent liabilities;
 - (c) entries from day to day of all purchases and sales of securities by the licensee distinguishing those which are made by the licensee on its own account and those which are made by it on behalf of others;
 - (d) entries from day to day of—
 - (i) all client money which is paid into or out of a client bank account maintained for the purposes of these Regulations;
 - (ii) receipts and payments of client money not passed through a client bank account, identifying the persons to whom each receipt or payment relates;
 - (e) a record of balances—
 - (i) on client bank accounts;
 - (ii) balances with individual clients stating the name of each client and the amount held or received for that client; and
 - (f) details of all securities that are—
 - (i) the property of the licensee, showing by whom they are held and whether, if held otherwise than by the licensee itself, they are so held as collateral against loans or advances; and

- (ii) not the property of the licensee but for which the licensee is accountable, showing by whom and for whom they are held distinguishing those which are deposited with a third party whether as security for loans or advances made to the licensee or any related person or for any other purpose.

Records to be up to date

5. The obligations under these Regulations are continuing obligations and continuous performance of them is required so as to ensure that records are updated daily.

Audit trail

6.(1) Where these Regulations require information to be recorded it shall be recorded in such a way as to enable a particular transaction to be identified at any time and traced through from initiation of the order to final settlement.

(2) All records shall be arranged, filed, indexed and cross referenced so as to permit prompt access to any particular record.

Conformity with accounting standards

7. The accounting records that a licensee is required to keep must conform to the requirements of international accounting standards.

Retention of records

8. A licensee shall preserve the accounting records that is required to be kept under regulation 4 for at least seven years from the date on which they are made.

Inspection of records

9. Accounting records which are required to be kept under regulation 4 shall, at any time during the period in which they are required to be preserved, be produced for inspection to the Authority, or any person authorised by the Authority to receive the documents, on demand at a reasonable time and place that may be specified by the Authority or the authorised person.

Securities exchange may impose additional requirements on members

10. Nothing in these Regulations shall prevent a licensed securities exchange from imposing on licensees who are members of the exchange any further obligations or requirements that may be necessary with respect to –

- (a) the keeping of accounts, books and records;
- (b) the making of periodic financial reports to the security exchange in the form and manner required by the exchange;
- (c) the auditing of accounts;

- (d) the provision of an appropriate trail;
- (e) the information to be given in reports by auditors; or
- (f) spot order checks.

PART 3
FINANCIAL STATEMENTS AND RETURNS

- | | |
|---|---|
| <p>11. A licensee shall prepare for each of its financial year annual financial statement that must consist of-</p> <ul style="list-style-type: none"> (a) a balance sheet as at the last day of the financial year; and (b) a profit and loss account for the financial year. | <p>Duty to prepare annual financial statements</p> |
| <p>12. The balance sheet must give a true and fair view of the state of affairs of the licensee as at the end of the financial year.</p> | <p>Balance sheet to give a true and fair view</p> |
| <p>13. The profit and loss account must give a true and fair view of the profit or loss of the licensee for the financial year.</p> | <p>Profit and loss account to give a true and fair view</p> |
| <p>14. The financial statements of a licensee must comply with the requirements of international accounting standards.</p> | <p>Form and content of financial statements</p> |
| <p>15.(1) The Authority may by a written notice require a licensee to submit periodic returns to it.</p> | <p>Authority may require returns</p> |
| <p>(2) In addition to any periodic returns required under sub-regulation (1), the Authority may by a written notice require a licensee, either generally or in a particular case or class of case, to submit exceptional returns to the Authority.</p> | |
| <p>16. A licensee shall submit, within six weeks after the end of each financial year, its annual financial statements to its auditor for audit and shall obtain an auditor's report that complies with the requirements of regulation 18.</p> | <p>Licensee to obtain auditor's report etc</p> |
| <p>17.(1) A licensee shall submit, within four months after the end of each financial year, its auditor's report to the Authority together with -</p> <ul style="list-style-type: none"> (a) its annual financial statements; and | <p>Annual financial statements to be submitted to the Authority</p> |

- (b) confirmation in writing that it has complied with every regulation that it is required to comply and any further information or confirmation as the Authority may require from time to time.

(2) Where the auditor's report is qualified on the grounds of the auditor's uncertainty as to the completeness or accuracy of the accounting records, that report when submitted by the licensee to the Authority shall be accompanied by a written document signed by two directors stating whether all—

- (a) the accounting records of the licensee have been made available to the auditor for the purposes of the audit;
- (b) transactions undertaken by the licensee have been properly reflected and recorded in its accounting records; and
- (c) other records of the licensee and related information have been made available to the auditor.

Contents of
auditor's
report

18. (1) The auditor's report shall state whether the annual financial statements of the licensee have been audited in accordance with approved auditing standards.

(2) The auditor's report shall also state whether in the opinion of the auditor—

- (a) the annual financial statements of the licensee have been properly prepared in accordance with these Regulations;
- (b) in the case of the balance sheet, a true and fair view is given of the financial state of affairs of the licensee as at the end of the financial year;
- (c) in the case of the profit and loss account, a true and fair view is given of the profit or loss of the licensee for the financial year;
- (d) the licensee has, throughout the financial year, kept proper accounting records in accordance with the requirements of these Regulations;
- (e) the licensee has kept client money properly segregated in accordance with regulation 31 of the Securities (Conduct of Business) Regulations, 2008;

- (f) the balance sheet and the profit and loss account are in agreement with the licensee's accounting records.

19. (1) If the auditor is of the opinion that one or more of the requirements of regulation 18 have not been met, the auditor shall state that fact in the report and specify the relevant requirements and the respects in which they have not been met.

Qualified reports

(2) If the auditor fails to obtain all the information and explanations that, to the best of the auditor's knowledge and belief, are necessary for the purposes of the audit, that fact shall be stated in the report.

(3) If the auditor is unable to form an opinion as to whether one or more of the requirements of regulation 18 have been met, the auditor shall state that fact in the report and specify those requirements and give reasons why it was not possible to form an opinion.

PART 4

MINIMUM ISSUED AND PAID-UP CAPITAL REQUIREMENTS

20. The following persons shall have a minimum issued and paid-up capital of not less than as follows –

Minimum capital requirements

- (a) licensed securities dealers – US\$50,000;
- (b) licensed investment advisors – US\$25,000;
- (c) licensed securities exchange – US\$150,000;
- (d) licensed clearing agency – US\$100,000; and
- (e) other licensed securities facility – US\$50,000;

MADE this 8th day of July, 2008.

**DANNY FAURE
MINISTER FOR FINANCE**