

SECURITIES AND EXCHANGE COMMISSION OF ZIMBABWE



CAPITAL ADEQUACY FRAMEWORK FOR INVESTMENT ADVISORY COMPANIES

March 2015

Short title

This Directive shall be cited as the Securities and Exchange Commission (**Capital requirements of Investment Advisory Companies**) Directive 2015. It is made in terms of Paragraph 21 of the First Schedule to the Securities and Exchange Act [Chapter 24:25], as read with Paragraph 7 of the Sixth Schedule to S.I. 100 of 2010. The provisions of paragraph 7 of the sixth schedule to SI.100/2010 are hereby waived.

1. Proposed New Capital Requirement Summary

Category	Component	Details
Tier 1	Available paid up equity shareholders funds	(i) Shareholders' funds must always be positive. In other words, where shareholders' funds become negative, shareholders will have to recapitalise the business.
Tier 2	Risk based Capital Allocation	(i) Contingency measures in the form of insurance policies (ii) Adequate and sound risk management systems (iii) SECZ risk assessments and oversight

2. Proposed Capital Requirements in detail

Tier 1: Positive Paid up equity, and working capital

Paid up equity capital

2.1 Shareholders' funds must always be positive as shown in the computation below. In other words, where shareholders' funds become negative, shareholders must immediately recapitalize the company. Those applying to carry out investment advisory services relating to offshore investment products shall be required to have total assets cover of 250% of total liabilities and that 50% of these excess assets must be in cash or cash equivalent;

2.2 Preference share capital shall constitute available capital if it is not redeemable;

Positive Working Capital

- 2.3 Maintain positive working capital (current assets less current liabilities) all the time.
Variation to this requirement must be regularized within 30 days.

Computation of available paid up equity capital:

		\$
Ordinary share capital	xx	
Preference share capital	xx	
Share premium	xx	
Retained income	xx	
Other distributable reserves		<u>xx</u>
Shareholders' funds		<u>xx</u>

Tier 2: Risk Governance and Risk Based Capital

- (i) Adequacy of strategy, policies and procedures;
- (ii) Adequacy of risk identification, measurement, monitoring, control, evaluation and reporting systems; and
- (iii) SECZ Supervisory and regulatory risks rating.

3. Risk Based Capital

3.1 Risks applicable but not limited to the following:

Risk Category	Definition	Mitigation
Operational risk (OR)	The risk of loss resulting from inadequate or failed internal processes, people, systems or from external events:	i. OR management framework; ii. Conducting stress testing and reports;
(Others risks covered under		

<p>OR)</p> <p><i>Reputational risk</i></p> <p><i>Accounting risk</i></p> <p><i>Fraud risk</i></p> <p><i>Legal risk</i></p> <p><i>Conduct risk</i></p> <p><i>Technological risk</i></p> <p><i>Money laundering risk</i></p>	<p>i. Processes</p> <ul style="list-style-type: none"> • Policies and procedures • Roles segregation • Automated processes • Company funds management • Document management • Company assets management • Limits management • Payments and settlements • Accurate, timely and credible information reporting <p>ii. People</p> <ul style="list-style-type: none"> • Skills retention policies • Training and development • Rewards, recognition & performance management • Safety of employees • Fraudulent activity • Employee discipline <p>iii. Systems</p> <ul style="list-style-type: none"> • System enhancements and support • Systems deficiencies, availability, maintenance and state (obsolete) • System integrity, confidentiality, access control and change management <p>iv. External</p> <ul style="list-style-type: none"> • Trade counterparties relationships • Customer complaints monitoring procedures • Litigation and claims • Penalties and fines • Legislative developments • Competitors 	<p>iii. Adequate professional indemnity cover ;</p> <p>iv. Adequate fidelity guarantee cover;</p> <p>v. Adequate insurance cover for all company assets;</p> <p>vi. Comprehensive KYC procedures;</p> <p>vii. Quarterly impact evaluation report;</p> <p>viii. SECZ adequacy and effectiveness of firm's risk management assessment report</p>
<p>Regulatory/Compliance risk</p>	<p>The risk of failure by the company to meet its regulatory requirement or manage changes in regulatory requirements with respect to new legislation, resulting in investigations, fines or regulatory sanction</p>	<p>(i) Compliance risk management framework;</p> <p>(ii) Independent compliance function;</p> <p>(iii) Regular internal audits</p>

reports to SECZ

Strategic risk

The potential negative impact on earnings due to misjudged strategic decisions or lack of responsiveness to industry changes.

- (i) Board and Board Committees oversight;
- (ii) Board and Management performance; measurement tool(s) and evaluation results

3.2 Contingency measures

3.2.1 Policy of Professional indemnity insurance and Fidelity Guarantee cover

(i) Corporate finance and related services

The firm shall be required to take up a minimum professional indemnity cover of US\$150 000, issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The policy shall be in such reasonable form and amount as the fiduciary duties of the employees or sponsored individuals require. The policy shall be renewed annually not later than each anniversary of the commencement of the policy and failure so to renew the policy shall be the grounds of the Commission to cancel the licence concerned forthwith.

The firm shall also be required to take up a fidelity guarantee policy issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The bond shall be in such reasonable form and amount as the fiduciary duties of the company officials require but with due consideration to all relevant factors in relation to all its licensed activities.

(ii) Investment products and related services

Local and foreign investment products

The firm shall be required to take up a minimum professional indemnity cover of US\$150 000, issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The policy shall be in such reasonable form and amount as the fiduciary duties of the employees or sponsored

individuals require. The policy shall be renewed annually not later than each anniversary of the commencement of the policy and failure so to renew the policy shall be the grounds of the Commission to cancel the licence concerned forthwith.

The firm shall also be required to take up a fidelity guarantee policy issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The bond shall be in such reasonable form and amount as the fiduciary duties of the company officials require but with due consideration to all relevant factors in relation to all its licensed activities.

Local investment products

The firm shall be required to take up a minimum professional indemnity cover of US\$100 000, issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The policy shall be in such reasonable form and amount as the fiduciary duties of the employees or sponsored individuals require. The policy shall be renewed annually not later than each anniversary of the commencement of the policy and failure so to renew the policy shall be the grounds of the Commission to cancel the licence concerned forthwith.

The firm shall also be required to take up a fidelity guarantee policy issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The bond shall be in such reasonable form and amount as the fiduciary duties of the company officials require but with due consideration to all relevant factors in relation to all its licensed activities.

(iii) Corporate finance and investment products

The firm shall be required to take up a minimum professional indemnity cover of US\$200 000, issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The policy shall be in such reasonable form and amount as the fiduciary duties of the employees or sponsored individuals require. The policy shall be renewed annually not later than each anniversary of the

commencement of the policy and failure so to renew the policy shall be the grounds of the Commission to cancel the licence concerned forthwith.

The firm shall also be required to take up a fidelity guarantee policy issued by an insurer registered in terms of the Insurance Act [Chapter 24:07]. The bond shall be in such reasonable form and amount as the fiduciary duties of the company officials require but with due consideration to all relevant factors in relation to all its licensed activities.

4. General Obligations

- 4.1 The returns submitted by the Investment Advisory Company shall be signed by a minimum of two Principal Officers;
- 4.2 No Investment Advisory Company shall allow a shortfall in any Tier capital, other than pursuant to a specific temporary exception granted by the Commission due to unusual circumstances;
- 4.3 The Investment Advisory Company shall notify the Commission immediately in writing if there are any indication that it may not meet the Capital Adequacy Requirements;
- 4.4 The Commission may require the Principal Officers 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 this Directive;
- 4.5 The Commission may appoint an external auditor to verify capital shortfalls when they are detected or suspected;
- 4.6 In the event that such irregularities and or capital shortfalls, as the case may be, are confirmed by the auditor or an inspection report, the Investment Advisory company shall bear all costs associated with the verification exercise or inspection; and

4.7 The Commission has full discretion as to the necessity and sufficiency of special adjustments in any particular case, taking into consideration all factors pertaining to the market with regard to financial position or future contracts and the affairs as a whole of the Investment Advisory Company involved.

5. Suspension of Defaulting Companies

5.1 Where the Investment Advisory Company fails to comply with this Directive s, the Commission shall declare the Investment Advisory Company to be a defaulter;

5.2 The Commission shall have the power, in terms of the Securities and Exchange Act, to reprimand, sanction, suspend and or cancel the registration of an Investment Advisory Company declared to be a defaulter; and

5.3 The suspension or cancellation of an Investment Advisory Company’s registration shall automatically suspend all rights and privileges of the Investment Advisory Company, without relieving it of its liabilities.

For and On Behalf of Securities and Exchange Commission of Zimbabwe

Mr. Tafadzwa Chinamo
Chief Executive Officer

Date