



BERMUDA

INVESTMENT BUSINESS (PRUDENTIAL STANDARDS)
(STANDARD LICENCES, TEST LICENCES, AND CLASS A
REGISTERED PERSONS) (CAPITAL, NET ASSETS
AND LIQUIDITY) RULES 2022

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The Bermuda Monetary Authority makes the following Rules, in exercise of the power conferred under the Investment Business Act 2003 by section 10A(1) and paragraphs 5(3) and 5(4) of the Second Schedule to that Act.

Citation

1 These Rules may be cited as the Investment Business (Prudential Standards) (Standard Licences, Test Licences, and Class A Registered Persons) (Capital, Net Assets and Liquidity) Rules 2022.

Interpretation

2 In these Rules, “the Act” means the Investment Business Act 2003.

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Minimum net assets to be maintained

3 (1) This rule, and rules 4, 5, 6 and 7, applies to an investment provider who has been granted a standard licence or a test licence.

(2) For the purposes of paragraph 5(3) of the Second Schedule to the Act, an investment provider shall be regarded as conducting its business in a prudent manner if it maintains or, as the case may be, will maintain minimum net assets of—

- (a) \$100,000 in the case of an investment provider who is an agent;
- (b) \$250,000 in the case of an investment provider who is a principal;
- (c) \$12,000 in the case of an investment provider who is neither an agent nor a principal.

Requirement to maintain increased minimum net assets

4 Where the Authority makes a determination that the minimum net asset requirement specified under rule 3 is not appropriate in the case of a particular investment provider, the Authority shall make adjustments, in accordance with rule 5, as it considers appropriate that exceed the minimum net assets specified under rule 3.

Procedure for determining if minimum net asset requirement is not appropriate

5 (1) In determining whether the minimum net asset requirement specified under rule 3 is not appropriate in the case of a particular investment provider, the Authority may take into consideration whether the investment provider—

- (a) has assumed material principal positions through, among other things, the trading or holding of significant portfolios of securities or derivatives;
- (b) conducts material non-investment business; and
- (c) intends to offer margin or other lending facilities.

(2) Where the Authority makes a determination under paragraph (1) in respect of a particular investment provider, it may—

- (a) substitute the minimum net asset requirement specified under rule 3 for a fixed higher minimum net asset threshold; or
- (b) apply a fluctuating market risk-based minimum capital requirement in accordance with rule 6(1).

Requirement to maintain fluctuating market risk-based minimum capital

6 (1) Where the Authority has made a determination under rule 5(2)(b) that a fluctuating market risk-based minimum capital is appropriate in respect of a particular investment provider, then the minimum net assets required to be maintained by the investment provider shall be—

- (a) 8% of RWA; and
- (b) not less than \$250,000,

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and the investment provider shall be required to maintain at least 6% of such RWA as tier 1 capital, and the remaining 2% of RWA may be met by tier 2 capital.

- (2) For the purposes of this rule—
- (a) “RWA” means risk weighted assets;
 - (b) “tier 1 capital” means common stock and disclosed reserves;
 - (c) “tier 2 capital” means undisclosed reserves, asset revaluation reserves, hybrid (debt and equity) capital instruments and subordinated debt.

Minimum liquid asset requirement

7 (1) For the purposes of paragraph 5(4) of the Second Schedule to the Act, an investment provider shall maintain a minimum of liquid assets in accordance with paragraph (2).

- (2) Where—
- (a) an investment provider acts as a principal or an agent, liquid assets required to be maintained shall be the equivalent of three months of the investment provider’s annual expenditure;
 - (b) an investment provider does not act as a principal or an agent, liquid assets required to be maintained shall be the equivalent of not less than one month of the investment provider’s annual expenditure.

(3) For the purposes of this rule, an investment provider’s “annual expenditure” shall be—

- (a) based on the most recent annual or annualised financial statement or accounts filed by the investment provider with the Authority under section 38 of the Act; and
- (b) calculated where the investment provider made—
 - (i) a profit in the previous year, as total revenue less profit before appropriations; or
 - (ii) a loss in the previous year, as total revenue plus loss before appropriations.

(4) For the purposes of this rule, “liquid assets” shall include but not be limited to—

- (a) cash and cash equivalents (i.e. cash, term deposits and marketable securities);
- (b) prepayments, where the period of prepayment is less than three months;
- (c) amounts accrued or receivable with respect to interest on marketable investments;
- (d) unsecured receivables, where these are outstanding for less than 30 days;

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- (e) receivables, arising from the sale of investments outstanding for less than 30 days from the contractual settlement date;
- (f) other receivables, arising from investment business outstanding for less than two months.

Capital and liquidity requirements: Class A registered persons

8 (1) A Class A registered person who is subject to capital and liquidity requirements imposed by a recognised regulator, shall maintain capital and liquidity of such amounts and in such form and in accordance with any conditions, restrictions or limitations as may be required by the recognised regulator.

(2) A Class A registered person who is not subject to capital or liquidity requirements by a recognised regulator shall, for the purposes of paragraphs 5(3) and 5(4) of the Second Schedule to the Act, satisfy such capital and liquidity requirements as the Authority may determine.

Notifying the Authority

9 An investment provider who has been granted a standard licence or a test licence, and a Class A registered person shall notify the Authority forthwith where—

- (a) it has breached any capital or liquidity requirement applicable to it;
- (b) it has reason to believe that it will breach any capital or liquidity requirement applicable to it;
- (c) the liabilities of one or more of its subsidiaries exceed that subsidiary's assets; or
- (d) the liabilities of the investment provider's parent company or the Class A registered person's parent company exceed its assets.

Commencement

10 These Rules shall come into operation on 27 July 2022.

Made this 12th day of July 2022

Chairman
Bermuda Monetary Authority

[Operative Date: 27 July 2022]