

On Approval of the Regulation for Calculation of Liquidity Rates Limiting the Risks of Stock Market Professional Activity

**Securities and Stock Market State Commission 2381 as of December 27, 2007
Registered with the Ministry of Justice of Ukraine at No 61/14752 dated January 28, 2008**

In pursuit of item 2, Article 8 of the Law of Ukraine On the State Regulation of Ukraine's Securities Market; and Article 27 of the Law of Ukraine On Securities and the Stock Market, the Securities and Stock Market State Commission hereby **RESOLVES**:

1. Approve the Regulation for Calculation of Liquidity Rates Limiting the Risks of Stock Market Professional Activity (attached).
2. Y. Nazarenko, Head of the Securities and Stock Market State Commission Apparatus, shall supervise that the following is done:
This Resolution is submitted with the Ministry of Justice of Ukraine for state registration;
This Resolution is disclosed as set forth by the law.
3. Control over compliance with this Resolution shall be vested with Y. Nazarenko, Head of the Securities and Stock Market State Commission Apparatus.
4. This Resolution shall be deemed effective starting with November 1, 2008, except for item 7 of Chapter 7, Section III of the Regulation which shall come into effect as of May 13, 2009.

Commission Acting Chairman

S. Biriuk

APPROVED:

**Acting Head of the State Committee of
Ukraine for Regulatory Policy and
Entrepreneurship**

K. Vashchenko

APPROVED

by the Resolution 2381 of the Securities and
Stock Market State Commission as of
December 27, 2007 and registered with the
Ministry of Justice of Ukraine at No
61/14752 as of January 28, 2008

Regulation for Calculation of Liquidity Rates Limiting the Risks of Stock Market Professional Activity

This Regulation has been developed in line with item 2 of Article 8 of the Law of Ukraine On the State Regulation of Ukraine's Securities Market; and Article 27 of the Law of Ukraine On Securities and the Stock Market.

Section I. General provisions

1. For the purposes of this Regulation the definitions in the following meanings shall apply:

Securities trader own funds – securities trader capital used to cover negative impact of various exposures incurred by the traders in operation;

Contracts executed by securities traders – contracts executed by securities traders under the Rules (terms) of Securities Trade, i.e. Broker/Dealer Activity, Underwriting, and Securities Management, approved by the SSMSC Resolution 1449 dated 12.12.2006 and registered with the Ministry of Justice of Ukraine at No 52/13319 as of 23.01.2007;

Paid-in capital – the excess of proceeds the securities trader receives from the initial issue of stocks and other voting stock over the stocks or other voting stock par value;

Liquidity rates limiting stock market professional activity – the rates calculated by the securities traders in line with this Regulation in order to determine whether the securities traders are able to settle their liabilities;

Direct investment of securities traders – transaction of entering funds and/or property (including property rights) to a legal entity's statutory fund in trade for corporate rights issued by the legal entity.

2. This Regulation shall apply to all securities traders regardless of their legal and organizational form (other than banks).

3. Securities traders engaged in broker/dealer activities and underwriting shall calculate liquidity rates limiting the risks of stock market professional activity following Section II and Chapter 2 of Section III hereof.

Securities traders that manage securities shall calculate liquidity rates limiting risks associated with stock market professional activity in keeping with Section III hereof.

Section II. Liquidity rates of securities traders

1. The liquidity rate of a securities trader involved in the broker activity shall be calculated as the ratio of the total amount of contracts executed by the securities trader with other securities traders but not settled as of the settlement date (open positions), to the statutory capital of the securities trader. Such liquidity rate may not exceed 10.

2. The liquidity rate of a securities trader involved in the broker activity shall be calculated as the ratio of the total amount of contracts executed by the securities trader with other legal entities and

individuals but not settled as of the settlement date (open positions), to the statutory capital of the securities trader. Such liquidity rate may not exceed 20.

3. The liquidity rate of a securities trader involved in the dealer activity shall be calculated as the ratio of the total amount of contracts executed by the securities trader with other legal entities and individuals but not settled as of the settlement date (open positions), to the statutory capital of the securities trader. Such liquidity rate may not exceed 15.

4. The liquidity rate of a securities trader involved in broker/dealer activities shall be calculated as the ratio of the total amount of contracts executed by the securities trader with other legal entities and individuals but not settled as of the settlement date (open positions), to the statutory capital of the securities trader. Such liquidity rate may not exceed 30.

5. The liquidity rate of a securities trader involved in underwriting shall be calculated as the ratio of the total amount of contracts executed by the securities trader with other legal entities and individuals but not settled as of the settlement date (open positions), to the statutory capital of the securities trader. Such liquidity rate may not exceed 20.

6. The liquidity rate of a securities trader involved in broker/dealer activities and underwriting shall be calculated as the ratio of the total amount of contracts executed by the securities trader with other legal entities and individuals but not settled as of the settlement date (open positions), to the statutory capital of the securities trader. Such liquidity rate may not exceed 35.

7. The calculation of liquidity ratios described in items 1-6 of this Section shall:

7.1 include the amount of securities purchase and sale contracts not settled as of the settlement date and the amount of contracts executed as of the settlement date;

7.2 not include the amount of securities purchase and sale contracts settled by the securities trader as of the settlement date;

7.3 not include the amount of securities purchase and sale contracts executed and settled on the same day.

Section III. Calculation of the equity indicator and the indicator of securities traders investment

Chapter 1. Types of indicators

1. This Regulation mandates securities traders to meet the following indicators requirements:

1.1 equity indicators:

Minimum own funds;

Adequacy of own funds;

Adequacy of main capital;

1.2 Investment indicators:

Investment in securities by every legal entity separately;

Total amount invested.

2. The main capital adequacy shall be calculated on the basis the securities trader's main capital. Other indicators mentioned in this Section shall be calculated on the basis of the securities trader's own funds.

3. Equity indicators and the indicators for securities traders' investment shall be calculated on the basis of the accounting data recorded in keeping with the Law on Accounting and Financial Reporting in Ukraine, the accounting policy and the relevant system of accounts registers and analytical accounting defined by the securities traders.

A rough list of accounts in conformity with the Chart of Accounts, Capital, Liabilities and Business Operations of Companies and Organizations, approved by the Ordinance of the Ministry of Justice of Ukraine 892/4185 dated 30.11.99 (hereinafter Records Plan of Accounting) used in the calculation of liquidity rates limiting the risks of stock market professional activities is presented in Annex 1.

Chapter 2. Procedure for Calculation of the Minimum Own Funds Indicator for a Securities Trader

1. A securities trader's own funds include main capital and additional capital.
2. Main capital includes such elements:
 - a) actually paid registered statutory capital;
 - б) reserve funds set up in conformity with the law;
 - в) share premium;
 - г) other contributed capital.
- 2.1. The actually paid statutory capital equals registered statutory capital less extracted and unpaid capital.
- 2.2. Reserve funds are included on the main capital if meeting the following requirements only:

Deductions to the reserve funds are from after-tax income or income before tax adjusted by all potential tax liabilities;

Securities traders must have reserve funds to use them without restriction and delay to cover losses.
3. Total main capital shall be reduced by the amount of:
 - a) more than 30 days overdue and doubtful accrued revenues from transactions performed by the securities trader;
 - б) intangible assets less the accrued intangible assets amortization;
 - в) capital investment in intangible assets;
 - г) outstanding losses.
4. Additional capital includes the following elements:
 - a) increase in the value of assets;
 - б) non-current assets obtained free-of-charge;
 - в) undistributed profits;
 - г) other additional capital.
5. In the calculation of the securities trader own funds, the main and additional capital is additionally reduced by the amount invested in the associated and subsidiary units capital, and by the amount invested in other institutions' capital, such investment exceeding 25% of the statutory capital.
6. The formula for calculation of the securities trader own funds is presented in Annex 2 hereto.
7. Minimum own funds of a securities trader shall be no less than the statutory capital of securities traders required by the Securities and Stock Market Law of Ukraine.

Chapter 3. Own Funds Adequacy Indicator

1. Own funds adequacy indicator reflects the securities trader's ability to settle all his liabilities in a timely manner.
2. Capital adequacy is calculated as a ratio of the broker's own capital to risk weighted total assets less collateral for securities, security for direct liabilities or cash security in the form of a pledge or third party guarantee
3. The indicator of own funds adequacy is calculated by the below formula:

$$\text{Own funds adequacy indicator} = \frac{\text{BK}}{\text{Ap} - \text{ПЗ}} \times 100 \%,$$

with BK – own funds of the broker calculated in keeping with items 1-6 of Chapter 2 of this Section;

Ap – risk weighted assets;

ПЗ – collateral for securities, security for direct liabilities or cash security in the form of a collateral or third party guarantees.

Risk weighted assets (Ap) are calculated by the below formula:

$$\text{Risk-weighted assets (Ap)} = A1K1 + A2K2 + A3K3 + A4K4,$$

with K1, K2, K3, K4 – weight ratios as set forth in item 4 of this Chapter;

A1, A2, A3, A4 – assets groups as set forth in item 4 of this Chapter.

4. For the purposes of calculation of adequacy indicator for the securities trader own funds, such assets shall be divided into four groups by risk levels and summed up based on the book value including the relevant weighting ratios:

a) Assets group I 0% risk weighted (K1 = 1):

cash and cashless funds of the securities trader;

banking metals owned by the securities trader;

debt instruments of the National Bank of Ukraine or state authorities;

accrued income from the National Bank or state authorities bonds;

liabilities arising from managing client securities and cash;

б) Assets group II 10% risk weighted (K2 = 1,1):

securities listed at securities trade organizers;

в) Assets group III 15% risk weighted (K3 = 1,15):

debt securities by local authorities;

mortgage bonds;

mortgage notes;

pledge;

FREO (fund for real estate operations) certificates;

Investment certificates;

Commodities and materials;

Fixed assets;

Accrued income from the securities by local authorities;

Accrued income from mortgage bonds and certificates;

Accrued income from pledge;

Accrued income from investment certificates and FREO certificates;

г) asset group IV 25% risk weighted (K4 = 1,25):

assets other than those mentioned in asset groups I, II and III.

5. Securities traders shall have at least a 10% indicator for their own funds adequacy to meet the legislation requirements.

Chapter 4. Main Capital Adequacy Indicator

1. The main capital adequacy indicator shall be calculated to show the securities trader's ability to protect his clients and counterparties from contingent losses he may encounter when operating on the stock market, depending on the amount of various risks.

2. The adequacy indicator for the securities trader main capital is calculated as a ratio of the main capital to total assets of the securities trader.

3. The adequacy indicator for the main capital is calculated by the following formula:

$$\text{Main capital adequacy indicator} = \frac{\text{OK}}{\text{Ap}} \times 100 \%,$$

with OK – the main capital calculated in keeping with items 2 and 3 of Chapter 2 of this Section;

Ap – risk weighted assets.

4. For the purposes of calculating the main capital adequacy indicator, total assets amount is calculated based on the risk level of assets value, taking into account the relevant weighting ratios as set forth in item 4 of Chapter 3 of this Section.

5. Adequacy indicator for the main capital shall be at least 4% to meet the legislation requirements.

Chapter 5. Requirements for the Calculation of Investment Indicators

1. The calculation of investment indicators includes book value of shares and other securities acquired by the securities trader in the course of securities management.

2. The calculation of investment indicators shall use the amounts of securities purchase and sale contracts deemed settled as of the moment of calculating the investment indicators or settled within one reporting day.

Chapter 6. Investment Indicator in Securities of Each Legal Entity

1. The indicator for investing in securities for each legal entity individually is calculated as a ratio of assets (cash or/and securities) invested in the securities of each legal entity and the securities trader own funds.

2. The indicator for investing in the securities of each legal entity is calculated by the following formula:

$$\begin{array}{l} \text{The indicator} \\ \text{for investing in} \\ \text{securities for} \\ \text{each legal entity} \\ \text{individually} \end{array} = \frac{\mathbf{K_{iH}}}{\mathbf{BK}} \times 100 \%,$$

with K_{iH} – securities traders assets invested in the securities of each legal entity;

BK – own funds of the securities trader calculated in keeping with items 1-6 of Chapter 2 of this Section.

3. The indicator for the investment in the securities of each legal entity shall not exceed 15% to meet the legislation requirements.

Chapter 7. Total Investment Indicator

1. Total investment indicator is calculated as a ratio of assets (cash and/or securities) invested in the securities of any legal entity and the securities trader own funds.

2. Total investment indicator is calculated by the following formula:

$$\begin{array}{l} \text{Total} \\ \text{investment} \\ \text{indicator} \end{array} = \frac{\mathbf{K_{iH}}}{\mathbf{BK}} \times 100 \%,$$

with K_{iH} – securities traders assets invested in the securities of each legal entity;

BK – own funds of the securities trader calculated in keeping with items 1-6 of Chapter 2 of this Section.

3. Total investment indicator shall not exceed 90% to meet the legislation requirements.

**Section IV. Supervision of the Securities Traders' Compliance with the Liquidity Rates
Limiting the Risks of Stock Market Professional Activity**

1. In their activities, securities traders shall ensure compliance with the liquidity rates limiting the risks of stock market professional activity.

2. The Securities and Stock Market State Commission shall supervise the securities traders' compliance with the liquidity rates limiting the risks of the stock market professional activity.

**Director of the Department for Monitoring
and Stock Market Development Strategy**

O. Tabala

Annex 1 to the Regulation for Calculation
of Liquidity Rates Limiting the Risks of
Stock Market Professional Activity

**Tentative chart of accounts set forth in the Chart of Accounts to be used in liquidity rates
calculation to limit professional stock market operational risks**

Account No	Title
Calculation of own capital	
Balance sheet account. 40	Statutory capital
Balance sheet account. 421	Share premium
Balance sheet account. 422	Other invested capital
Balance sheet account. 423	Increase in the value of assets
Balance sheet account. 424	Non-current assets obtained free of charge
Balance sheet account. 425	Other additional capital
Balance sheet account. 43	Reserve capital
Balance sheet account. 441	Retained earnings
Balance sheet account. 442	Outstanding losses
Balance sheet account. 45	Withdrawn capital
Balance sheet account. 46	Unpaid capital
Balance sheet account. 12	Intangible assets
Balance sheet account. 133	Accumulated depreciation of intangible assets
Balance sheet account. 141	Investment into associated parties by equity method
Balance sheet account. 154	Acquisition (creation) of intangible assets
Balance sheet account. 38	Reserve for doubtful receivable
Calculation of risk weighted assets	
Balance sheet account. 10	Fixed assets
Balance sheet account. 11	Other non-current assets
Balance sheet account. 131	Fixed assets depreciation
Balance sheet account. 142	Other investments to associated parties

Balance sheet account. 143	Investment to non-associated parties
Balance sheet account. 16	Long-term receivables
Balance sheet account. 18	Other non-current assets
Balance sheet account. 20	Inventories
Balance sheet account. 22	Low-value and depreciable items
Balance sheet account. 30	Cash
Balance sheet account. 31	Bank accounts
Balance sheet account. 33	Other funds
Balance sheet account. 351	Cash equivalents
Balance sheet account. 352	Other current financial investments
Balance sheet account. 36	Settlements with customers and ordering customers
Balance sheet account. 373	Settlement of accruals
Balance sheet account. 377	Settlements with other debtors
Balance sheet account. 473	Coverage of warranty liabilities
Balance sheet account. 474	Coverage of other expenses and payments
Balance sheet account. 685	Settlements with other creditors

Notes: As set forth in the Chart of Accounts, analytical accounting based on the below accounts:
- 142, 143, 352 shall be kept divided by the types of financial investment; an opportunity shall be guaranteed to get investment information both on the territory of the country, and abroad;
- 36, 373, 377, 685 shall be kept divided by each debtor and creditor, types of indebtedness and the terms for debt creation and redemption.

Annex 2 to the Regulation for
Calculation of Liquidity Rates Limiting the
Risks of Stock Market Professional Activity

Calculation of own funds of a securities trader

Own funds of a securities trader shall be calculated by the below formula:

$$\mathbf{BK = (OK + \mathcal{D}\mathcal{K}) - \text{Balance sheet account. 141,}}$$

with BK as a securities trader own funds;

OK – fixed assets;

$\mathcal{D}\mathcal{K}$ – paid-in capital;

Balance sheet account 141 – balance sheet account as set forth in the Chart of Accounts.

Fixed assets (OK) of a securities trader is calculated by the below formula:

$OK = (\text{Balance sheet account 40} - \text{Balance sheet account 45} - \text{Balance sheet account 46}) + \text{Balance sheet account 421} + \text{Balance sheet account 422} + \text{Balance sheet account 43}) - \text{Balance sheet account 38} - (\text{Balance sheet account 12} - \text{Balance sheet account 133}) - \text{Balance sheet account 154} - \text{Balance sheet account 442}.$

Paid-in capital ($\mathcal{D}\mathcal{K}$) of a securities trader is calculated by the below formula:

$\mathcal{D}\mathcal{K} = \text{Balance sheet account. 423} + \text{Balance sheet account. 424} + \text{Balance sheet account. 425} + \text{Balance sheet account. 441}.$