

<b>References</b>	Issued	30/8/2000
		BSX Business Rules, Chapter 3
		Guidance Notes, Financial Obligations
		Annexures, 3A

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**Introduction**

This guidance note has been issued to assist BSX brokers comply with their capital liquidity obligations under the BSX Business Rules.

**Regulatory Objectives**

The capital liquidity regime imposed on BSX brokers under the BSX Business Rules is aimed at ensuring that BSX brokers have adequate capital to meet their obligations and any associated risks associated with those obligations.

**Background**

BSX's capital liquidity regime builds on the key financial and capital obligations of securities dealers under the Corporations Law so as to provide an appropriate operating environment for BSX brokers and their clients.

In particular, it builds upon the requirements described in ASIC Policy Statement 42 (PS42) and Pro Formas 5 & 6, which accompany PS42.

Some BSX brokers will already be members of another stock exchange such as ASX. As a result, their securities dealer's license may not contain financial conditions since they already submit returns to ASX based on industry standards established by ASX (refer PS 42.12).

Some BSX brokers will not be members of any other stock exchange and are therefore likely to have existing capital adequacy and/or surplus liquid asset requirements included in their securities dealers license conditions.

BSX intends to make it as simple as possible for members of different regulatory regimes to exhibit compliance with BSX's capital liquidity regime. In particular, BSX intends, to the extent that it is practicable to do so, to make reporting easily aligned to the existing reporting regime contained in the Corporations Law.

**Primary Obligations of BSX Brokers**

Chapter 3 of the BSX Business Rules sets out the capital liquidity requirements of BSX brokers. These provisions should be read closely with the financial obligation provisions contained in Chapter 2 of the BSX Business Rules.

The primary obligations of BSX brokers under Chapter 3 are to:

- maintain at all times a surplus liquid capital (as defined in the BSX Business Rules) of \$50,000 or 5% of adjusted liabilities, whichever is the greater;
- notify BSX if they breach this requirement; and

- comply with a reporting regime.

As noted above, while BSX broker's are responsible for satisfying the requirements in Chapter 3, the capital liquidity regime has been designed, as far as possible, to build upon the existing Corporations Law regime.

### **Surplus Liquid Capital**

Under BSX Business Rule 3.2, a BSX broker's surplus liquid capital is calculated as follows:

$$A + B + C - D - E$$

Where:

- A means the BSX broker's current assets
- B means assets of the BSX broker that are capable of being realised within one month (and which the BSX Accountant has approved for inclusion in the BSX brokers surplus liquid capital calculation)
- C means subordinated debt owed by the BSX broker that the BSX Accountant has approved for inclusion in the BSX broker's surplus liquid capital calculation
- D means the BSX broker's total liabilities less any amounts approved by the BSX Accountant for exclusion from the BSX broker's surplus liquid capital calculation
- E means assets of the BSX broker that are prescribed as excluded assets by BSX.

Surplus liquid capital therefore includes current assets together with any other assets BSX approves for inclusion (under the heading of realisable within

one month or approved subordinated debt). From this combined figure is then deducted the entire amount of a BSX broker's liabilities and any excluded assets.

### **Surplus Liquid Capital Calculation**

As noted above, the BSX surplus liquid capital calculation is made up of a number of elements. BSX's policy on how each of the elements should be calculated is set out below.

#### *Current Assets*

Current assets are taken from a BSX broker's balance sheet and should illustrate liquid assets or non-cash assets that are capable of being realised into cash.

BSX expects BSX brokers to exclude any current assets which do not have a ready market, any receivable the recovery of which is doubtful or not capable of being realised within 12 months, amounts owing from associates [refer PS 42], assets lodged with ASIC or assets encumbered to support a performance guarantee or bond, any assets to the extent they have been charged or pledged and intangible assets. Many of these assets may already be treated as "excluded assets" under PS 42.

Securities should be valued at the lower of market or cost and should be valued net of realisation costs.

BSX specifically allows BSX brokers to include assets other than current assets as part of a surplus liquid capital calculation provided the BSX Accountant has approved such an inclusion. The BSX Accountant will deal with specific requests for inclusions by BSX brokers on a case by case basis.

### *Subordinated Debt*

The BSX Accountant will deal with requests by BSX brokers to include subordinated debt in their surplus liquidity calculation on a case by case basis.

Approval for inclusion of subordinated debt will not be given unless the amount owed under the subordination agreement will not be paid until all other debts which the BSX broker owes are repaid.

### *Total Liabilities*

The BSX surplus liquid capital calculation includes a BSX broker's total liabilities, not just current liabilities. BSX brokers should therefore include contingent liabilities.

### *Excluded Assets*

BSX broker's should take the same approach to excluded assets as is taken in PS 42 and the accompanying Pro Formas.

BSX may, on a case by case basis, require the exclusion of assets in addition to those described in PS42 and the accompanying Pro Formas.

### **Adjusted Liabilities**

BSX brokers are required under BSX Business Rule 3.1 to maintain a level of surplus liquid capital of not less than \$50,000 or 5% of their adjusted liabilities, whichever is greater.

BSX regards adjusted liabilities as being a BSX broker's total liabilities without reference to funds held or obligations associated with a BSX broker's trust accounts.

### **BSX Broker Summary Return**

Under BSX Business Rule 3.5 a BSX broker must prepare and keep available for inspection by the BSX Accountant a summary return of their surplus liquid capital position.

This obligation is an ongoing requirement and BSX brokers should use the summary return and the overall capital liquidity reporting regime as a method of internal control of their business.

The form and style of the summary return is best developed by each BSX broker. BSX may, however, require a BSX broker to modify the style and content of their summary return to more clearly meet the spirit and intent of Rule 3.5.

### **Monthly Surplus Liquid Capital Return**

In addition to their summary return, BSX brokers must, under BSX Business Rule 3.6, forward a completed return of surplus liquid asset calculations to the BSX Accountant on a monthly basis.

Annexure 3A contains the form that should be used by BSX brokers to meet their requirements under Rule 3.6.

### **Monthly Aged Debtor return (Rule 3.7)**

Under BSX Business Rule 3.7 a BSX broker must forward an aged debtors return to the BSX Accountant on a monthly basis.

BSX will accept any well ordered return adopting current industry accounting conventions showing the aged position of a BSX broker's debtors. BSX may require a BSX broker to modify the style and content of their return if it is unclear to BSX how the reported level of debtors and their aging has been reconciled.

## **Exemptions**

BSX has the power to grant an exemption from all or any of the Rules in Chapter 3. While BSX will consider requests for exemptions on a case by case basis, BSX does not envisage granting any broad exemptions from the capital liquidity Rules.

## **Scope of Guidance Note**

This guidance note is intended to assist BSX brokers comply with their obligations under the BSX Business Rules. It is not exhaustive, does not in any way act as a substitute for any BSX Business Rules and is not binding on BSX in its application of the Rules in any particular case.

This guidance note also does not attempt to summarise the requirements BSX brokers may be subject to under other capital liquidity regimes. BSX brokers should satisfy themselves that they are complying with their obligations under any other relevant capital liquidity regimes in addition to their obligations under the BSX Business Rules.

This guidance note does not constitute legal advice by BSX. Where appropriate, BSX brokers should obtain their own professional advice about compliance with their obligations under the BSX Business Rules.

## **Queries**

If you have queries about this guidance note please contact the BSX Brokers Office on:

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