

Guidance Note: Accuracy Of Returns

References Chapter 2, SIM VSE Business Rules

Introduction

This guidance note has been provided to assist Exchange brokers in complying with their obligations to lodge accurate financial returns with the Exchange under Chapter 2 of the SIM VSE Business Rules.

Regulatory Objectives

Exchange brokers must lodge financial returns with the Exchange in order to satisfy certain regulatory objectives of the market. The main regulatory objectives are as follows:

- the information provides the Exchange with the necessary financial data to determine whether or not the Exchange broker is financially sound. Exchange brokers are required to be financially sound under the Exchange Business Rules in order to protect investors and entities trading on the market; and
- The Exchange must be able to ensure the integrity of its market. Maintaining a profile of the financial strength of brokers allows the Exchange to monitor and assess a broker's ability to remain as a going concern, thereby protecting the integrity of the market and the reputation of the Exchange as a regulator.

Returns must Accord with Rules

SIM VSE Business Rule 2.27 states that:

All returns, schedules and calculations submitted to the Exchange or the Exchange Accountant by an Exchange broker must be prepared in accordance with the rules.

General Rule Regulating Accuracy of Returns

SIM VSE Business Rule 2.29 states that:

The information contained in the returns, schedules and calculations referred to in rule 2.27 must be extracted from the books and records of the Exchange broker and accurately reflect the state of affairs of the Exchange broker.

Returns to be Certified

SIM VSE Business Rule 2.28 states that:

All returns, schedules and calculations submitted to the Exchange or the Exchange Accountant must be certified as having been prepared in accordance with the rules by:

- a director, in the case of a corporate Exchange broker; or
- the Exchange broker, in the case of a natural person Exchange broker.

Overview of Returns to be Lodged with the Exchange

- At the end of every financial year an Exchange broker must lodge a schedule of its investments with the annual accounts and audit report.
- On a quarterly basis a trust account schedule must also be lodged with the Exchange.
- An Exchange broker that participates in underwriting activities must maintain a register containing the details of each underwriting agreement entered into.

- A monthly Capital Liquidity Return (Annexure 3A) must be submitted.
- A monthly aged debtors return is required.
- Where appropriate, a quarterly return of discretionary account details should be supplied to the Exchange.
- The Exchange may request additional information regarding a SIM VSE broker's financial position.

Investments Schedule

SIM VSE Business Rule 2.18 requires an Exchange broker to prepare a schedule of its investments as at the end of their financial year and include the schedule with the accounts furnished to the Exchange Accountant under Rule 2.8. The schedule of investments is returned to the Exchange Accountant using Annexure 2A.

Exchange Business Rule 2.8 provides that annual accounts must be lodged no later than two months after the end of the Exchange broker's financial year. However, in certain circumstances the Exchange may grant an extension of one month's time in which to lodge the accounts.

Trust Account Schedule

On the first business day of each week Exchange Brokers are required (by SIM VSE Business Rule 2.20) to reconcile the balance held in the Exchange broker's trust account on the last business day of the preceding week with the corresponding balance in the Exchange broker's accounting records.

If an Exchange broker fails to carry out a reconciliation for any week they must immediately notify the Exchange.

SIM VSE Business Rule 2.22 states that:

Within 5 business days of 31 March, 30 June, 30 September and 31 December in each year an Exchange broker must prepare, or cause to be prepared, a schedule showing the respective amounts held in the Exchange broker's trust account on behalf of clients together with the name of the particular client in relation to each amount as at the above dates.

Underwriting

An Exchange broker participating in underwriting activities must maintain a register of their activities.

SIM VSE Business Rule 2.23 prescribes that the following information must be contained in the underwriting register:

- a the number of securities covered by the underwriting agreement;
- b the gross amount the Exchange broker is liable for by the underwriting agreement;
- c the dates of commencement, termination and/or crystallisation of the Exchange broker's underwriting obligations under the underwriting agreement; and
- d the number of securities disposed of or allocated to sub underwriters by the Exchange broker during the period of the underwriting agreement.

If the gross amount that an Exchange broker is liable for under the current underwriting agreement exceeds 25% of an Exchange broker's net tangible assets (as disclosed in the most recent balance sheet provided by the Exchange broker to the Exchange Accountant) the Exchange broker must immediately notify the Exchange Accountant under SIM VSE Business Rule 2.24.

Furthermore, if required under SIM VSE Business Rule 2.25 an Exchange broker must provide the Exchange Accountant with details of any current underwriting agreement they are a party to.

Factors the Exchange Considers when Determining the Accuracy of a Return

- Whether the inaccuracy regarding the reporting on the financial position of the Exchange broker is unintentional or intentional.
- Whether the matter should be investigated or referred to ASIC.
- Whether the error is in relation to a current or past reporting period. Matters may be reviewed more seriously if the error is in relation to a current reporting period.
- Whether notice has been given to the Exchange Accountant of any error or omission.
- Whether this is the first time an error or omission has been detected for the particular Exchange broker.
- Whether an Exchange broker has been warned about past errors or omissions.

Scope of Guidance Note

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

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

Queries

If you have queries about this guidance note please contact the SIM VSE Broker Office on:

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