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Regulation on the conditions for granting, suspending and withdrawing the rights of participation in the Central Securities Depository, approved by the Decision of the Executive Board of the NBM no.159 of 11 July 2018

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EXECUTIVE BOARD
OF THE NATIONAL BANK OF MOLDOVA

DECISION
no. 159 of 11 July 2018

on the approval of the Regulation on the conditions for granting, suspending and withdrawing the rights of participation in the Central Securities Depository

REGISTERED:
By the Ministry of Justice
of the Republic of Moldova
under no. 1345 on 19 July 2018

Pursuant to Article 5 par. (1) (f), Article 11 par. (1), Article 27 par. (1) (c) and Article 49² of the Law no. 548-XIII of 21 July 1995 on the National Bank of Moldova (republished in the Official Monitor of the Republic of Moldova, 2015, no. 297-300, art. 544), with the subsequent amendments and completions; Article 17 par. (2) (c) and Article 24 of the Law no. 234 of 3 October 2016 on the Central Securities Depository (Official Monitor of the Republic of Moldova, 2016, no. 343-346, art. 711), the Executive Board of the National Bank of Moldova

RESOLVES:

1. To approve the Regulation on the conditions for granting, suspending and withdrawing the rights of participation in the Central Securities Depository, as laid down in the Annex hereto (hereinafter – Regulation).
2. The Central Securities Depository shall ensure the application of the Regulation approved under this Decision from the date of entry into force of the decision of the National Bank of Moldova on the start of the operation of the Central Securities Depository pursuant to Art. 19 of the Law no. 234 of 3 October 2016 on the Central Securities Depository.

CHAIRMAN
OF THE EXECUTIVE BOARD
OF THE NATIONAL BANK OF MOLDOVA

Sergiu CIOCLEA

Annex
to the Decision of the Executive Board
of the National Bank of Moldova
no. 159 of 11 July 2018

REGULATION

on the conditions for granting, suspending and withdrawing the rights of participation in the Central Securities Depository

CHAPTER I

General provisions

1. This Regulation is drawn up pursuant to Article 5 par. (1) (f), Article 11 par. (1), Article 27 par. (1) (c) and Article 49² of the Law no. 548-XIII of 21 July 1995 on the National Bank of Moldova and Articles 17 par. (2) (c) and 24 of the Law no. 234 of 3 October 2016 (hereinafter – Law no.234/2016) on the Central Securities Depository (hereinafter – Central Depository) and lays down the conditions for granting, suspending and withdrawing the rights of participation in the Central Securities Depository.

2. Participants are required to comply with the provisions of the Law no. 234/2016, this Regulation, the Central Depository Rules, as well as other regulations issued by the NBM and the Central Depository.

3. The terms and expressions used in this Regulation have the meanings provided in the Law no. 548-XIII of 21.07.1995 on the National Bank of Moldova, Law no. 234/2016, Insolvency Law no. 149 of 29.06.2012, Law no. 171 of July 11, 2012 on the Capital market. For the purposes of this Regulation, the following term shall also be used:

The Central Depository System - a securities settlement system, managed by the Central Depository, which ensures the provision of securities' registration, centralised administration and settlement services.

CHAPTER II

Granting the right of participation in the Central Depository

4. Any of the following entities is entitled to receive the right of participation in the Central Depository:

- 1) a bank, as defined by the Law no. 202 of 06.10.2017 on the Banking activity;
- 2) an investment firm, as defined by the Law no. 171 of July 11, 2012 on the Capital market, which is entitled to provide custody services for financial instruments;
- 3) an investment firm, as defined by Law no. 171 of July 11, 2012 on the Capital market, other than stipulated in par. (2);
- 4) any enterprise having its headquarters abroad, which performs activities permitted to banks and investment firms;
- 5) public and publicly guaranteed entities, as follows:
 - a) National Bank of Moldova;
 - b) Ministry of Finance;
 - c) Deposit Guarantee Fund in the banking system;
 - d) central counterparty, settlement agent, clearing house or system operator.

5. To become the Central Depository's Participant, an entity shall submit to the Central Depository an application, in accordance with the reference form set out by the Central Depository, enclosing the following documents:

- 1) the extract from the State Register of Legal Entities, containing updated information on the applicant;
- 2) the copy of the license held by an entity, for entities specified under article 4 par. (1)-(4) and (6), where applicable;
- 3) the application for requesting the setting up an account(s) in the Central Depository;
- 4) the contract between the Central Depository and the Participant, according to the reference form set forth by the Central Depository, signed by the applicant;
- 5) the copy of the payment order confirming payment of the Central Depository's participation fee;
- 6) other documents specified in the Central Depository Rules.

6. The Participant is required to comply with the following requirements:

- 1) to meet specified technical requirements (the minimum hardware and software configurations according to the Central Depository's specifications), in particular for running the Central Depository Client application;
- 2) to request in writing the registration of at least two users in order to perform operations in the Central Depository system, in accordance with the reference form provided by the Central Depository;
- 3) to ensure segregation of functions in the conduct of operations in the Central Depository System, as required by the Central Depository Rules;
- 4) to ensure individual client segregation in the Central Depository System, within maximum 20 working days from the date of obtaining the right of participation in the Central Depository;
- 5) other requirements set out in the Central Depository's Rules and Procedures.

7. The Participants shall assist in tests, to be conducted at least yearly by the Central Depository, to test incident response capabilities in accordance with scenarios developed by the Central Depository.
8. The Central Depository shall examine the candidate's application for participation in the Central Depository and shall provide its reply within latest 30 calendar days from the date of application receipt.
9. The Central Depository may request the applicant to complete or rectify the submitted documents where the applicant did not provide a complete list of documents or the documents' content is not clear, or they are not drawn up in accordance with the provisions of these Regulation or the Rules of the Central Depository. The time limit set for the examination of the application shall run from the date of receipt of a complete set of documents as described above.
10. The Central Depository may reject the application for obtaining the right of participation if:
- 1) the applicant is not an entity specified under article 4 and / or does not meet other requirements set out in the Central Depository Rules;
 - 2) the applicant did not submit the requested documents and information within the deadline set forth by the Central Depository, or the submitted documents and information contain incomplete, contradictory, inaccurate or insufficient data to enable the Central Depository to ascertain compliance with the conditions set out in articles 5-6.
11. In the case of rejection of a candidate's application for obtaining the right of participation, the applicant may submit a new application after clearing up the circumstances that served as grounds for rejecting the previous application.
12. The Central Depository shall inform the applicant in writing about its refusal to grant the right of participation, including by stating the reasons for that refusal, which shall be objective and non-discriminatory and shall be based on a proper risk assessment.
13. Once the Central Depository decided to grant the right of participation to an applicant, it shall:
- 1) inform the applicant in writing on having granted it the right of participation in the Central Depository as well as forward a written notice to the NBM on its decision to grant the above right, within one working day of the date of such decision;
 - 2) provide access codes and passwords for the users designated by the Participant to the Central Depository System in accordance with the Central Depository Rules, as well as provide necessary software for accessing the system (Client application);
 - 3) inform the Participant about the decision of the Executive Board of the Central Depository taken with regard to the date on which the Participant can commence to carry out its operations in the Central Depository System.

CHAPTER III

Suspending the right of participation in the Central Depository

14. The suspension of the right of participation in the Central Depository may take place in the following cases:
- 1) at the Participant's request (shall indicate the reasons), specifying the date from which the suspension of the right of participation in the Central Depository is requested;
 - 2) as a result of the Participant's violation of the provisions of this Regulation, the Central Depository Rules, including the provisions of the contract concluded with the Central Depository;
 - 3) the failure of the Participant to fulfil its payment obligations for the services rendered by the Central Depository or its settlement obligations, established in accordance with the Central Depository Rules;
 - 4) in the event that it was found that the Participant submitted documents and information containing incomplete, contradictory, inaccurate or insufficient data;
 - 5) following the suspension of the license, for entities specified under article 4 par. (1)-(4) and (6);
 - 6) whenever a Participant does not meet eligibility requirements, set forth in the Central Depository Rules.
15. In case the suspension of the right of participation in the Central Depository takes place based on the Participant's request, the suspension period may not exceed 60 calendar days from the date of application of suspension.
16. The Central Depository shall lay down in its Rules the steps to be taken to suspend a Participant's right of participation in the Central Depository.
17. The Central Depository shall inform the NBM in writing, within one working day of the date of application of such measure, of the suspension of a Participant's right of participation, stating the suspension grounds.

CHAPTER IV

Withdrawing the right of participation in the Central Depository

18. The withdrawal of the right of participation in the Central Depository may take place in the following cases:

1) at the request of the Participant who shall submit the following documents:

- a) the application for requesting the withdrawal of the right of participation in the Central Depository (shall indicate the reason(s)), specifying the date from which the termination of the participation is requested;
- b) supporting documents;
- c) notification of termination of the contractual relationship with the Central Depository;

2) following violation of the provisions of this Regulation, the Central Depository Rules, including the provisions of the contract concluded with the Central Depository.

19. The Central Depository shall lay down in its Rules the steps to be taken to withdraw a Participant's right of participation in the Central Depository.

20. The right of participation shall cease at the date of the decision to withdraw the Participant's right of participation or on the date specified in the decision.

21. The Central Depository shall inform in writing the NBM, within one working day of the application of the respective measure, of the withdrawal of a Participant's right of participation, stating the withdrawal grounds.

22. A Participant's right for participation shall cease:

- 1) following an entity's merger, liquidation or division;
- 2) following the expiry or cancellation of the license, for entities specified under article 4 par. (1)-(4) and (6);
- 3) following the Participant's filing for bankruptcy, liquidation or other similar proceedings.

CHAPTER V

Final provisions

23. The decision on granting, suspending or withdrawing the right of participation in the Central Depository shall be taken by the Executive Board of the Central Depository.

24. The Central Depository shall prepare reference forms of:

- 1) applications for requesting the granting / suspension / withdrawal of the right of participation in the Central Depository;
- 2) the application for requesting the setting up of an account(s) in the Central Depository.

See also

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