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Regulation on transaction suspension, sequestration and incontestable collection of money funds from banking accounts, approved by the DCA of the NBM, No.375 of December 15, 2005

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No.428 of December 19 2005

APPROVED
Ministry of Finance
No.106 of December 16 2005

REGULATION
ON TRANSACTION SUSPENSION, SEQUESTRATION AND INCONTESTABLE
COLLECTION OF MONEY FUNDS FROM BANKING ACCOUNTS

CHAPTER I.
GENERAL STIPULATIONS

1. General provisions

1.1. This Regulation is worked out pursuant to Article 11 of Law No. 548-XIII of 21 July 1995 on National Bank of Moldova and stipulates the procedure of suspension, sequestration and incontestable collection of money funds from banking accounts opened with banks of the Republic of Moldova.

1.2. For the purpose of this Regulation:
Paying bank shall mean the bank that carries out the incontestable collection from the payer's (taxpayer's / debtor's) banking account of the amount indicated in the collection order.
Beneficiary bank shall mean the bank that receives the collection order for purposes of making available the amount indicated in the collection order to the beneficiary.
Creditor shall mean the individual or legal entity in whose favour the executory document has been issued.
Taxpayer shall mean the person that, according to the fiscal legislation, is obliged to calculate and /or to pay to the budget any fee and tax, relevant penalty and sanction.
Debtor shall mean the individual or legal entity that, according to the executory document, is obliged to pay a certain amount of money.
Issuer shall mean the person authorised by law to issue the collection order to incontestably collect money funds from taxpayers' /debtors' banking accounts on own name or on third person's name, including in cases of collection by the National Bank of Moldova of money funds from accounts of banks of the Republic of Moldova.

CHAPTER II.
TRANSACTION SUSPENSION AND SEQUESTRATION OF MONEY FUNDS IN BANKING ACCOUNTS

2. Suspension of transactions in banking accounts

2.1. Suspension of transactions in banking accounts shall be carried out by relevant legally authorised bodies and shall be aimed at restricting the rights of taxpayers or of other persons, on whom the suspension procedure may be applied, to use money funds available and /or to be placed in banking accounts, except for credit or provisional funds (financial means' accumulation for purposes of statutory fund establishment or increase), as well as for funds of individuals or legal entities that are not subjects of entrepreneurial activity.

2.2. Relevant bodies legally authorised to suspend transactions in banking accounts shall issue suspension documents (dispositions, orders, etc.), which shall be submitted, through representatives or postal offices, to banks with whom taxpayers and other persons subject to suspension procedure, have opened banking accounts.

2.3. Upon reception of suspension document for execution, the bank shall as follows:
a) register the suspension document according to bank's internal procedures;
b) suspend all transactions in banking accounts according to suspension document provisions, except for those transactions that may be carried out according to normative acts in effect;
c) inform the body issuing the suspension document on available funds in accounts, is such information is requested.

2.4. Over the period of transaction suspension in banking accounts, the bank shall additionally inform the body that issued the suspension document on the accumulation of funds in banking accounts, if such information is requested.

2.5. The bank shall cease the suspension document execution when it receives the relevant court decision or the issuer's notification on document ceasing or withdrawal.

2.6. In the event of ceasing of suspension document execution, the original of suspension document shall be returned to the issuer with all relevant remarks and the copy shall be held by the bank.

3. Sequestration of money funds in banking accounts

3.1. With the view to ensuring due execution of executory documents, the sequestration of money funds in banking accounts shall be carried out by relevant bodies legally authorised to act so.

3.2. Relevant bodies legally authorised to sequestrate money funds in banking accounts shall issue executory documents (conclusions, decisions, orders, etc.), which shall be submitted, through representatives or postal offices, to banks with whom debtors have opened banking accounts.

3.3. Upon reception of executory document for execution, the bank shall as follows:
a) register the executory document according to the bank's internal procedures;
b) sequester the amounts indicated in the executory document;
c) apply on the copy of the issuer's executory document the date and time of reception of thereof for execution.

3.4. In the event available funds in the account are not sufficient, the bank sequestration shall cover available funds and shall duly inform the body issuing the executory document on the amount subject to sequestration. Along with funds' accumulation in the account, the bank shall be obliged to sequestrate such funds until ensuring full amount as indicated in the executory document.

3.5. The bank shall cease to execute the executory document when it receives the relevant court decision or the issuer's notification on document ceasing or withdrawal.

3.6. In the event of ceasing of executory document execution, as well as full execution of thereof, the original of executory document shall be returned to the issuer with all relevant remarks and the copy shall be held by the bank.

CHAPTER III.
INCONTESTABILE COLLECTION OF MONEY FUNDS FROM BANKING ACCOUNTS

4. Procedure of issuance and submission of collection order

4.1. The bank shall carry out the incontestable collection of money funds from banking accounts of taxpayers /debtors based on collection orders issued by the relevant person authorised to act so, except for incontestable collection of money funds from banking accounts of the State Treasury.

4.2. The collection order shall be issued in the state language and shall be submitted towards both the account opened in Moldovan Lei, as well as the account opened in foreign currency, depending on the account and currency indicated in the collection order.

4.3. Depending on available technological tools, the issuer of the collection order may use the templates of the collection order as provided in Attachment No.1 or Attachment No.2 of this Regulation. The collection order shall be filled in according to Attachment No.3 of this Regulation.

4.4. The collection order shall be issued as follows:
a) in two copies – in the event the issuer of the collection order acts as beneficiary;
b) in three copies – in the event the issuer is legally authorised to issue collection orders on the name of a third person.

4.5. The first copy of the collection order shall be certified with the signatures of authorized executors and the stamp of the issuer. In the event that the collection order is issued by a person authorised to issue collection orders on the name of a third person, the beneficiary's (third person's) information shall be duly indicated.

4.6. The collection order shall be directly submitted by the issuer or the authorised person of thereof to the bank that serves the issuer not later than the next working day after the issuance 5 day. In the event that the collection order is issued based on an executory document, the issuer shall attach the original of thereof.

4.7. The bank that serves the issuer shall apply on the first copy of the collection order the relevant remarks according to paragraphs 1.12 – 1.14 of Attachment No.3 of this Regulation and shall send it to the paying bank, if the following conditions are met:
a) the issuer has the legal right, according to the normative acts in effect, to issue collection orders;
b) the collection order is filled in according to the requirements of this Regulation;
c) data indicated in the executory document comply with those indicated in the collection order (is such executory document exists);

4.8. The bank serving the client shall, over the same day, deliver the collection order for execution to the paying bank together with the executory document (in the event that such order has been issued based on the executory document) via postal office or the issuer's authorised person.

4.9. The collection order that cannot be delivered to the paying bank for execution shall be returned to the issuer together with relevant documents. Grounds of rejection, as well as the date, month and year and the signature of the bank's responsible officer and the bank's stamp, shall be indicated on the obverse of the collection order.

4.10. In the event that the payer (taxpayer /debtor) holds a banking account with a bank in process of insolvency or liquidation or in event the payer is a bank in process of insolvency or liquidation, the collection order shall, after due verification, be submitted by the bank serving the issuer or by the issuer for execution directly to the administrator's office /receiver /liquidation commission (liquidator).

5. Collection order execution at paying bank

5.1. The paying bank shall accept a collection order for execution if the following conditions are met:
a) the collection order is issued by a legally person authorised to act so;
b) the collection order is issued in accordance with requirements of this Regulation;
c) the collection order is accompanied by the original executory document (in the event that such order has been issued based on an executory document);
d) data indicated in the executory document comply with data indicated in the collection order (in the event that such executory order exists);
e) the signature and stamp of the bank where the issuer is served are applied on the collection order;
f) money funds in the account are sufficient to integrally or partially execute the amount indicated in the collection order and available for use (no suspension /sequestration procedure is applied on funds or the relevant amount has been ensured after such procedure).

5.2. The collection order non-accepted for execution shall be returned by the paying bank to the bank where the issuer is served or directly to the issuer; grounds of rejection, as well as the date, month and year and the signature of the bank's responsible officer and the bank's stamp, shall be indicated on the obverse of the collection order.

5.3. The paying bank shall apply all relevant remarks on the collection order accepted for execution according to paragraphs 1.15 – 1.19 of Attachment No.3 of this Regulation and shall execute the order according to bank's internal

procedures.

5.4. While carrying out partial payment, the bank shall apply on the obverse of all copies of the collection order the remark with regard to the amount of partial payment, the date, month and year, the bank's signature and stamp; in the event that there is also an executory document, such remarks shall be applied on the obverse of thereof, as well.

5.5. The paying bank shall write off the total or partial amount specified in the collection order during the day of order acceptance for execution. The collection order shall, together with the total or partial amount, be submitted over the same day as follows:
a) through the Automated Interbank Payments System to the beneficiary bank;
b) through bank's internal system to the beneficiary, in the event that the payer and the beneficiary are served within the same bank;
c) through other system used by the bank, in the event that the transfer is made in foreign currency.

5.6. The paying bank shall file the first copy of the collection order together with the copy of the executory document (in the event that such order is issued based on an executory document).

5.7. The second copy of the collection order and the copy of the executory document (in the event that such order is issued based on an executory document) shall be returned to the payer (taxpayer /debtor) attached to the relevant account statement.

5.8. The third copy of the collection order shall be submitted to the bank serving the issuer authorised to issue collection orders on the name of a third person for purposes of submitting the copy to the issuer.

5.9. Following the execution of the collection order in total or partial amount, the paying bank shall apply on the obverse of the original executory document the executed amount, payment date, signature of bank's responsible officer and the bank's stamp and shall submit the original to the issuer through the bank serving this issuer.

6. Obligations of beneficiary bank

6.1. The beneficiary bank shall, after receiving for execution the collection order from the paying bank from the Automated Interbank Payments System, control, over the same working day, the accuracy of indicated beneficiary's banking account and fiscal code.

6.2. In the event that the beneficiary's banking account and fiscal code are indicated correctly in the collection order, the beneficiary bank shall as follows:
a) register the money funds in the beneficiary's banking account on the same working day;
b) print two copies of the collection order and submit the first copy, with all relevant remarks applied according to bank's internal procedures, to the beneficiary and include the second copy in the relevant file.

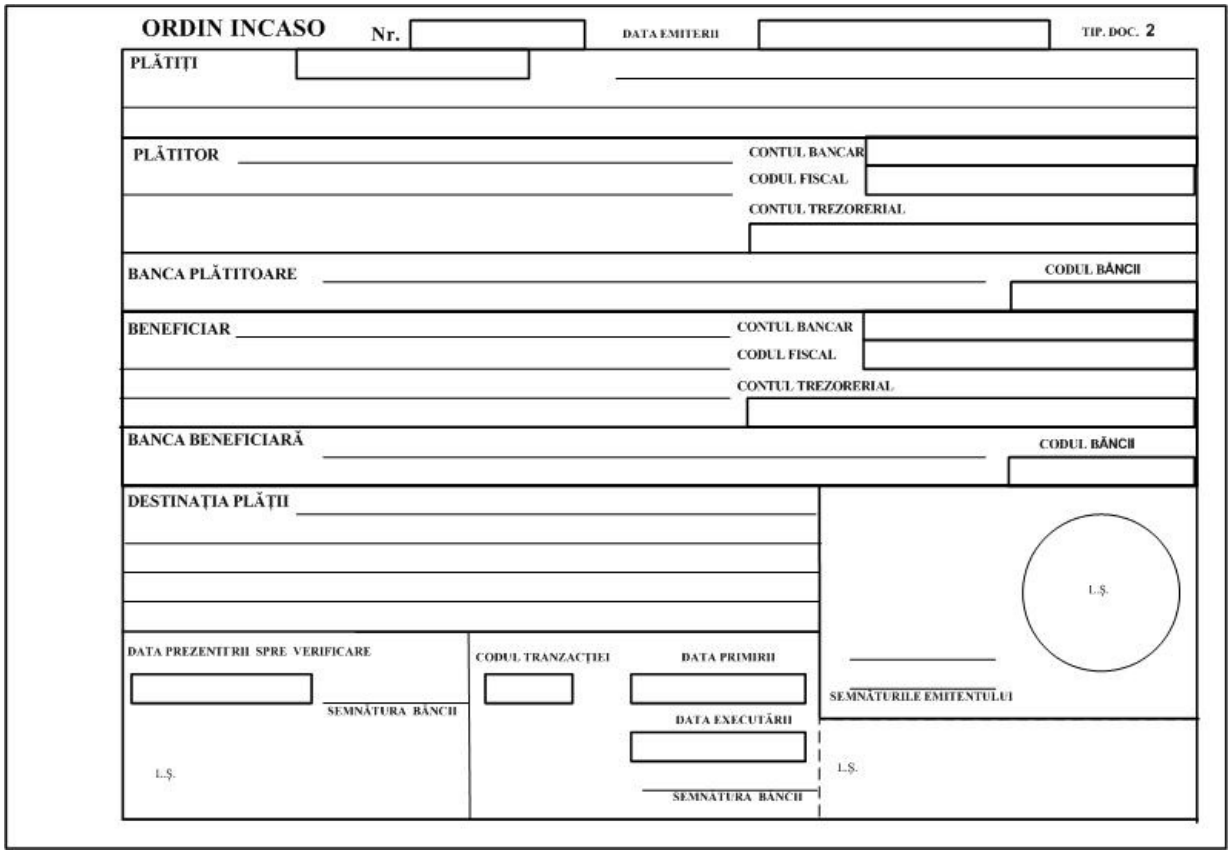
6.3. If the beneficiary bank reveals that the beneficiary's account and /or fiscal code are indicated incorrectly in the collection order received from the paying bank, or such account does not exist, the beneficiary bank shall return the relevant amount to the paying bank not later than the next working day after the reception date, duly issuing a new payment order according to the Regulation on Credit Transfer. The beneficiary bank shall indicate in its issued payment order the transaction code and the reference to the collection order erroneously submitted by the paying bank.

CHAPTER IV.
FINAL PROVISIONS

7.1. The banks shall independently issue their internal procedures with regard to the registration of suspension documents /executory documents and the execution of collection orders, as well as the authentication of thereof in event of documents' reception from the Automated Interbank Payments System.

7.2. Incontestable collection of money funds from banking accounts of the State Treasury shall be carried out according to provisions of Law No.847-XIII of 24.05.96 on Budgetary System and Budgetary Process and the normative acts of the Ministry of Finance.

Attachment No.1



Attachment No.2

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:BENEFICIAR                  CONTUL BANCAR:                     :
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Attachment No. 3

Procedure of filling in a collection order

1. Under the scope of incontestable collection of money funds that do not relate to the national public budget, columns of a

collection order shall be filled in as follows:

1.1. “Nr.” – with the number of the collection order, maximum 10 symbols;

1.2. “DATA EMITERII” – with the date of collection order issuance (date and year in digits, month in words);

1.3. “PLĂTIȚI” – with the amount in digits, aligned at left, the dash sign “-“ used as separator of decimals, maximum 15 symbols, with amount in words, starting with capital letter, aligned at left, followed by the words “LEI” / name of the foreign currency if the collection order is issued in foreign currency, maximum 150 symbols;

1.4. “PLĂTITOR”/“BENEFICIAR” – with capital letter at the beginning between parenthesis (R) / (N) – to indicate the belonging of the payer / beneficiary to the category of resident / non-resident, followed by the full or short name / name and surname of the payer / beneficiary pursuant to the document certifying the registration of thereof by the legally authorised body or the name and surname of the payer / beneficiary (in the event that such person is an individual that does not practice entrepreneurial or other type of activity) pursuant to identity card of thereof, if provisions of the legislation in effect allow incontestable collection of money funds from banking accounts of the payer, maximum 105 symbols;

1.5. “CONTUL BANCAR” – with the number of the payer’s banking account with the paying bank, respectively with the number of the beneficiary’s banking account with the beneficiary bank, maximum 21 symbols;

1.6. “CODUL FISCAL” – with the payer’s fiscal code and, respectively, the beneficiary’s fiscal code, maximum 13 symbols. In the event that the payer / beneficiary is a non-resident that does not hold any fiscal code pursuant to normative acts in effect, this column shall not be filled in;

1.7. “BANCA PLĂTITOARE”/”BANCA BENEFICIARĂ” – with the name of the paying bank (branch office) / beneficiary bank (branch office), maximum 50 symbols;

1.8. “CODUL BANCII” – with the code of the paying bank (branch office), respectively of the beneficiary bank (branch office), maximum 11 symbols; 12

1.9. “DESTINAȚIA PLĂȚII” – with payment specification and reason, data on normative act that provides the right to incontestably collect money funds / the executory document (name, number, date, issuer) any additional information, maximum 210 symbols;

1.10. “SEMNĂTURILE EMITENTULUI” – the issuer’s signatures shall be applied; these signatures shall comply with the specimens provided in the signature and stamp Card; in the event that the issuer is a bank, the signatures of bank’s authorised persons shall be applied. The signatures shall be autographic and applied in blue or black ink;

1.11. “L.Ş.” – the issuer’s round stamp shall be applied; the stamp shall comply with the specimen provided in the signature and stamp Card. If the issuer is a bank, the bank’s round stamp shall be applied. In the event that the beneficiary is a person that, pursuant to with the legislation in effect does not have a round stamp, no stamp shall be applied;

1.12. “DATA PREZENTĂRII SPRE VERIFICARE” – the date (date and year – in digits, month – in words) when the collection order has been received for verification by the bank that serves the issuer shall be applied;

1.13. “SEMNĂTURA BĂNCII” – the signature of the responsible officer of the bank serving the issuer shall be applied. The signature shall be autographic and applied in blue or black ink;

1.14. “L.Ş.” – the rectangular stamp of the bank serving the issuer shall be applied;

1.15. “CODUL TRANZACȚIEI” – with the transaction code (assigned by the paying bank) pursuant to provisions of the Regulation on Automated Interbank Payments System, maximum 3 symbols;

1.16. “DATA PRIMIRII” – the date when the collection order is received by the paying bank shall be indicated (date and year – in digits, month – in words);

1.17. “DATA EXECUTĂRII” – the date when the collection order is executed by the paying bank shall be indicated (date and year – in digits, month – in words);

1.18. “SEMNĂTURA BĂNCII” – the signature of the responsible officer of the paying bank shall be applied. The signature shall be autographic and shall be applied in black or blue ink;

1.19. “L.Ş.” – the paying bank’s rectangular stamp shall be applied.

2. The collection order used in event of incontestable collection of money funds into / from the national public budget shall be worked out pursuant to provisions of paragraph 1 of this Procedure, except for the following columns, which shall be filled as follows:

2.1. “PLĂTITOR”/ „BENEFICIAR” – with capital letter at the beginning between parenthesis (R) / (N) – to indicate the belonging of the payer / beneficiary to the category of resident / non-resident, followed by the full or short name / name and surname of the payer / beneficiary pursuant to the document certifying the registration of thereof by the legally authorised body maximum 105 symbols, depending on the case:
a) the name of the State Treasury unit, if the State Treasury unit acts as payer / beneficiary;
b) the name of the State Treasury unit (short name of State Treasury units) and the name of the economic agent or public institution to whom money funds are transferred, if the State Treasury unit acts as payer / beneficiary;
c) the name of the State Treasury unit and the name of the public institution served at the State Treasury unit, if the relevant public institution acts as payer / beneficiary;
d) the name of the legal entity / individual or the name and surname of the individual that exercise certain type of activity, if such person acts as payer / beneficiary;
e) the name and surname of the individual pursuant to his/her identity card, if such individual that does not practice entrepreneurial or other type of activity, acts as payer / beneficiary;
f) the name of the bank (branch office), if such bank (branch office) acts as payer beneficiary.

2.2. “CODUL FISCAL” - with the fiscal code of the payer / beneficiary, maximum 13 symbols, followed, as the case may be, after smash, by the code of the payer’s / beneficiary’s subdivision to whom payment is made towards the administrative-territorial unit budget, as assigned by the Main State Tax Inspectorate, maximum 4 symbols, overall 18 symbols, depending on the case:
a) the code of the State Treasury unit, if the State Treasury unit acts as payer / beneficiary;
b) the code of the economic agent or public institution to whom money funds are transferred, if the State Treasury unit acts as payer / beneficiary;
c) the code of the public institution served at the State Treasury unit, if the relevant public institution acts as payer / beneficiary;
d) the code of the legal entity / individual that exercise certain type of activity, if such person acts as payer / beneficiary;
e) the code of the bank, if such bank acts as payer / beneficiary;
f) the code of the individual pursuant to legislative provisions in effect, if such person, that does not practice entrepreneurial or other type of activity, acts as payer beneficiary. In event that the payer is a non-resident that does not hold a fiscal code, such column shall not be filled in.

2.3. “CONTUL BANCAR” - with the number of the banking account of the payer / beneficiary, maximum 21 symbols, depending on the case: 14
a) with the number of the banking account of the State Treasury unit, if the State Treasury unit acts as payer / beneficiary;
b) with the number of the banking account of the legal entity / individual, if such legal entity / individual acts as payer / beneficiary;
c) with the account number pursuant to with the Chart of accounts for banks and other financial institutions of the Republic of Moldova of 26 March 1997, if the bank acts as payer / beneficiary.

2.4. “CONTUL TREZORERIAL” – with the number of the treasury account of the payer / beneficiary, maximum 29 symbols, depending on the case:
a) with the number of treasury account of the public institution served at the State Treasury unit, if the relevant public institution acts as payer / beneficiary;
b) with the number of treasury account pursuant to the Register of Income Treasury Accounts.

2.5. “DESTINAȚIA PLĂȚII” – with payment specification and reason, data on the normative act that provides the incontestable collection of money funds / executory document (name, number, date and issuer), specification of taxes, fees and other payments into / from the national public budget pursuant to the budgetary Classification, additional conditions; maximum 210 symbols.

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Tags
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incontestable collection [2]

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Sequestration of money funds [4]

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