

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

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

*Amended by:
Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova*

CHAPTER I

General provisions

1. This Regulation lays down the conditions for granting, suspending and withdrawing the right of participant in the Single Central Securities Depository (hereinafter - the Single Central Depository).

[Point 1 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

2. Participants are required to comply with the provisions of Law no. 234/2016 on the Single Central Securities Depository (hereinafter – Law no. 234/2016), of the present Regulation, of the Single Central Securities Depository Rules, as well as other regulations issued by the National Bank of Moldova (hereinafter - NBM), the National Commission for Financial Markets (hereinafter – NCFM) and the Single Central Depository.

[Point 2 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

3. The terms and expressions used in this Regulation have the meanings provided in the Law no. 548/1995 on the National Bank of Moldova, Law no. 234/2016, Insolvency Law no. 149/2012, Law no. 171/2012 on the Capital market. For the purposes of this Regulation, the following term is also established:

Single Central Depository System - securities settlement system, managed by the Single Central Depository, which ensures the provision by the Single Central Depository of securities registration, centralized administration and settlement services.

[Point 3 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

CHAPTER II

Granting the right of participation in the Single Central Depository

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

- 1) a bank, as defined by the Law no. 202/2017 on the activity of banks;
- 2) an investment firm, as defined by the Law no. 171/2012 on the Capital market, which is entitled to provide custody services for financial instruments;
- 3) an investment firm, as defined by Law no. 171/2012 on the Capital market, other than stipulated in subpoint 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;
- 6) central counterparty, settlement agent, clearing house or system operator;
- 7) a central depository of financial instruments.

[Point 4 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

5. To become the Single Central Depository's Participant, an entity shall submit to the Single Central Depository an application, in accordance with the reference form set out by the Single 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 applicant's license/ authorization certificate, issued by the competent authority in the applicant's state of origin, held, as the case may be, by the entities established by point 4 subpoints 1)-4), 6) and 7);
- 3) the application for requesting the setting up an account(s) in the Single Central Depository;
- 4) the contract between the Single Central Depository and the Participant, according to the reference form set forth by the Single Central Depository, signed by the applicant;
- 5) the copy of the payment order confirming payment of the Single Central Depository's participation fee;
- 6) other documents specified in the Single Central Depository Rules.

[Point 5 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

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 Single Central Depository's specifications), in particular for running the Single Central Depository Client application;
- 2) to request in writing the registration of at least two users in order to perform operations in the Single Central Depository system, in accordance with the reference form provided by the Single Central Depository;
- 3) to ensure segregation of functions in the conduct of operations in the Single Central Depository System, as required by the Single Central Depository Rules;

4) to ensure in the Single Central Depository System, within the time limit set out in the Single Central Depository Rules, the individual segregation of clients who hold:

- a) securities issued by banks;
- b) securities issued by insurance or reinsurance companies;

4¹⁾ to ensure, upon opening the omnibus account, the record of the clients' rights over the securities within their own systems and internal registers, for the period during which the securities are held on the accounts in the respective systems and internal registers;

[Subpoint 4¹ included by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

4²⁾ without prejudice to the provision of subpoint 4), to offer its customers at least the choice between omnibus customer segregation and individual customer segregation and to inform them of the costs and risks associated with each option, unless the omnibus segregation of customers is established by law;

[Subpoint 4² included by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

5) other requirements set out in the Single Central Depository's Rules and Procedures.

[Point 6 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

7. The Participants shall assist in tests, to be conducted at least yearly by the Single Central Depository, to test incident response capabilities in accordance with scenarios developed by the Single Central Depository.

[Point 7 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

8. The Single Central Depository shall examine the candidate's application for participation in the Single Central Depository and shall provide its reply within latest 30 calendar days from the date of application receipt.

[Point 8 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

9. The Single 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 Single 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.

[Point 9 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

10. The Single Central Depository may reject the application for obtaining the right of participation if:

- 1) the applicant is not an entity specified under point 4 and / or does not meet other requirements set out in the Single Central Depository Rules;
- 2) the applicant did not submit the requested documents and information within the deadline set forth by the Single Central Depository, or the submitted documents and information contain incomplete, contradictory, inaccurate or insufficient data to enable the Single Central Depository to ascertain compliance with the conditions set out in points 5-6.

[Point 10 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

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 Single 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.

[Point 12 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

13. Once the Single 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 Single Central Depository as well as forward a written notice to the NBM and NCFM 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 Single Central Depository System in accordance with the Single 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 Single Central Depository taken with regard to the date on which the Participant can commence to carry out its operations in the Single Central Depository System.

[Point 13 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

CHAPTER III

Suspending the right of participation in the Single Central Depository

14. The suspension of the right of participation in the Single 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 Single Central Depository is requested;
- 2) as a result of the Participant's violation of the provisions of this Regulation, the Single Central Depository Rules, including the provisions of the contract concluded with the Single Central Depository;
- 3) the failure of the Participant to fulfil its payment obligations for the services rendered by the Single Central Depository or its settlement obligations, established in accordance with the Single 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) as a result of the suspension of the license/authorization certificate issued by the competent authority in the Participant's state of origin, as the case may be, for the entities established by point 4 subpoint 1)-4), 6) and 7);
- 6) whenever a Participant does not meet eligibility requirements, set forth in the Single Central Depository Rules.

[Point 14 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

15. In case the suspension of the right of participation in the Single 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.

[Point 15 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

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

[Point 16 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

17. The Single Central Depository shall inform the NBM and NCFM 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.

[Point 17 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

CHAPTER IV

Withdrawing the right of participation in the Single Central Depository

18. The withdrawal of the right of participation in the Single 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 Single 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 Single Central Depository;
- 2) following violation of the provisions of this Regulation, the Single Central Depository Rules, including the provisions of the contract concluded with the Single Central Depository.

[Point 18 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

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

[Point 19 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

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 Single Central Depository shall inform in writing the NBM and NCFM, 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.

[Point 21 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

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

- 1) following an entity's merger, liquidation or division;
- 2) following the expiry, cancellation or withdrawal of the license/authorization certificate issued by the competent authority in the Participant's state of origin, as the case may be, for the entities established for point 4 subpoint 1)-4), 6) and 7);
- 3) following the Participant's filing for bankruptcy, liquidation or other similar proceedings.

[Point 22 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

CHAPTER V

Final provisions

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

[Point 23 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]

24. The Single Central Depository shall prepare reference forms of:

- 1) applications for requesting the granting / suspension / withdrawal of the right of participation in the Single Central Depository;

- 2) the application for requesting the setting up of an account(s) in the Single Central Depository.

[Point 24 amended by Decision No 188 of 24 July 2024 of the Executive Board of the National Bank of Moldova]