ORDINANCE No. 15 of 4.10.2007

on the Control over Transactions in Government Securities

Issued by the Minister of Finance, prom, SG, issue 85 of 23.10.2007 effective since 1.11.2007

Chapter One GENERAL PROVISIONS

- **Art. 1.** (1) This Regulation establishes the procedure and manner of regulating and exercising control over transactions in book-entry government securities issued by the Minister of Finance in the domestic market, hereinafter referred to "GS".
- (2) This Regulation shall not apply to the control over transactions in GS, carried out on regulated markets in financial instruments and Multilateral Trading Facilities.
- **Art. 2.** The regulation and control over transactions in government securities is intended to ensure compliance with the provisions of the Government Debt Act, Regulation No. 5 of 2007 on the Terms and Procedure for Acquisition, Registration, Redemption and Trade in Government Securities (Regulation No. 5 of 2007), Regulation No. 31 of 2007 on the Settlement of Government Securities (Regulation No. 31 of 2007) and the Instructions issued by the Minister of Finance and the Governor of the Bulgarian National Bank.
- **Art. 3.** The regulation and control over transactions in government securities shall ensure a fair, effective and transparent GS market, shall protect investors' interests and reduce to a minimum the risks in the systems for registration of government securities in compliance with the recommendations developed and adopted by the CPSS (Committee on Payment and Settlement Systems) and IOSCO (International Organization of Securities Commissions) and the standards for the GS clearing and settlement systems of ESCB (European System of Central Banks) and CESR (Committee of European Securities Regulators).

Chapter two

SELECTION OF GS PRIMARY DEALERS

- **Art. 4.** (1) GS primary dealers may be, as follows:
- 1. banks, which license covers the services and activities under Art. 2, para 2, items 8 and 9 of the Credit Institutions Act, including such from other member-states;
- 2. investment firms holding a license for provision of investment services and activities under the Markets in Financial Instruments Act, including such from other member-states.
- (2) The persons under para 1, applying for GS primary dealership, shall participate in the Computerised Book-entry System for Registration of and Trade in Government Securities (CBSRTGS) and hold their own current account at BNB.
- (3) The banks, which are not GS subdepositories, and the investment firms shall have an effective contract a GS subdepository bank and shall hold their own current account at BNB.
- (4) The persons under para 1, applying for GS primary dealership, shall have a qualified staff with the required knowledge and experience in GS operations. Staff qualification is established once for each employee, authorised by the primary dealer to conclude GS transactions by means of a written test elaborated by the Ministry of Finance.
- **Art. 5.** Selection of GS primary dealers shall be carried out by a Commission designated by the Minister of Finance. The Commission shall meet at least once a year and select the primary dealers for a 1-year period.

- **Art. 6.** (1) The primary dealers are selected on the grounds of GS primary dealer selection criteria, which are subject to approval by the Minister of Finance.
- (2) The Commission draws up a list of applicants for primary dealership, who meet the GS primary dealer selection criteria. The Minister of Finance approves the list of primary dealers. The approved list of primary dealers is published on the web site of the Ministry of Finance.
- (3) The GS primary dealer selection criteria lay down the requirements towards GS primary market participants, which the latter shall comply with in order to be eligible to act as primary dealers.
- **Art. 7.** (1) The applicants shall submit an application to the Ministry of Finance declaring their compliance with GS primary dealer selection criteria and obligation to observe these criteria within the period, for which they are selected.
- (2) The application under para 1 shall be signed by the persons, representing the applicant for GS primary dealership.
 - (3) The following documents shall be attached to the application under para 1:
 - 1. a copy of the bank/investment firm license;
- 2. a copy of a contract concluded with a subdepository bank, in case if the applicant is not a GS subdepository;
- 3. the unified tariff on the fees and commissions charged in relation with GS operations and services;
 - 4. a financial statement;
- 5. internal rules for GS operations and a declaration for presence of an effective and reliable internal control system;
- 6. a list of the primary dealer's staff members, in compliance with the provisions of Art. 4, para 4, who will operate at the GS primary market.
- (4) The documents under this Regulation issued in foreign language shall be accompanied by a certified Bulgarian translation.
- (5) The primary dealers shall notify the Ministry of Finance within one week upon occurrence of any change to the documents under para 3 in the period, for which they are selected.
- **Art. 8.** (1) The investment firms and banks, which have been approved as GS primary dealers, shall conclude a GS Primary Dealership Contract with the Ministry of Finance.
- (2) The GS Primary Dealership Contract with the Ministry of Finance lays down the main rights and obligations of the primary dealer, the conditions for pre-term contract termination, as well as other underlying arrangements settling the relations between the primary dealers and the GS issuer.
- (3) Upon occurrence of changes to the GS primary dealer selection criteria, the rights, obligations or other arrangements specified in the GS Primary Dealership Contract, the parties shall sign an annex to the contract.
- (4) The GS Primary Dealership Contract shall be terminated automatically in case if the respective primary dealer is not selected for the next 1-year period.
- (5) the Minister of Finance may exclude a primary dealer from the list of primary dealers upon:
 - 1. failure of the primary dealer to observe the selection criteria and requirements;
- 2. failure of the primary dealer to comply with the provisions herein or with those of Regulation No. 5 of 2007;
- 3. infringement of one or more of the obligations under the Primary Dealership Contract.

Chapter Two ORGANIZATION AND SCOPE OF CONTROL

- **Art. 9.** Control over the systems for registration of GS transactions at BNB and at the subdepositories of GS is exercised by the Ministry of Finance and BNB.
- **Art. 10.** (1) The Bulgarian National Bank and Ministry of Finance shall jointly exercise control over the systems for registration of GS transactions maintained by the GS subdepositories under the provisions of Art. 24 of Regulation No. 5 of 2007 concerning:
- 1. existence of an automated register of individual GS accounts providing information about the GS held by their clients or by clients of CBSRTGS participants, who are not GS subdepositories, with whom they have concluded a contract;
 - 2. other requirements set by the Ministry of Finance and BNB.
 - (2) For the purposes of control BNB shall:
- 1. collate the data in CBSRTGS with the Information Sheet submitted electronically by the system participants with regard to the GS at a nominal value held by them and by their clients altogether (Appendix 1);
- 2. collate the data contained in the Information Sheets under Appendix 1 concerning the GS held by clients of CBSRTGS participants, who are not GS subdepositories, with those from the Information Sheets submitted electronically by the subdepositories (Appendix 2).
- (3) Collations under para 2 shall be done on a daily, weekly and monthly basis in compliance with the Instructions of the Ministry of Finance and BNB.
- **Art. 11.** (1) The Bulgarian National Bank shall organise and exercise daily control over registration and accounting of GS transactions at the primary and secondary markets in compliance with the effective legislation through operative procedures and mechanisms employed and daily collation of GS data in CBSRTGS and those in the System of Government Securities Settlement (GSS).
- (2) In compliance with the established international standards, recommendations and information concerning the functions of the depository systems, drawn up and adopted by the specialised international organisations, BNB shall provide regular reports on the parameters and the functions of CBSRTGS and CSS by filling in the relevant questionnaires for assessment by rating agencies. BNB shall publish the answers to the questionnaires on its official web site.

Chapter four

FORMS OF CONTROL AND AUTHORITY OF THE CONTROLLING BODIES

- **Art. 12.** Control over registration of GS transactions shall be based on reports, statements, information and other documents submitted by CBSRTGS participants on a monthly and quarterly basis or upon request by the Ministry of Finance and BNB in compliance with the provisions herein and with those of Regulation No. 5 of 2007 and Regulation No. 31 of 2007.
- **Art. 13.** (1) On-site inspection of GS subdepositories shall be carried out jointly by officials of the Ministry of Finance and BNB based on an order issued by the Minister of Finance and the Governor of BNB or other persons authorised by them.
 - (2) The controlling persons shall be entitled to:
- 1. free access to the premises and documentation of examined persons concerning GS transactions;
- 2. require additional references, information and other documents connected with the inspection.

- **Art. 14.** The controlling persons shall keep the bank and the professional secrets, which have come to their knowledge in the course of inspection.
- **Art. 15.** The managers and the employees of examined persons shall provide assistance to the representatives of the Ministry of Finance and BNB in the course of inspection.
- **Art. 16.** The persons carrying out the inspection shall:
 - 1. analyse the examined activity;
- 2. draw conclusions on the compliance of the documents presented under Art. 12 with the requirements of this Regulation and of Regulation No. 5 of 2007 and Regulation No. 31 of 2007;
- 3. draw up a findings statement of the inspection in triplicate; one of the copies shall be provided to the examined persons.
- **Art. 17.** Upon establishment of infringements, the controlling persons shall notify the Minister of Finance and the Governor of BNB, who in compliance with their authority, in person or through their authorised representatives, may undertake the following measures:
 - 1. a written warning;
- 2. exclusion from the lists under Regulation No. 5 of 2007 of participants in GS Auctions and in CBSRTGS;
 - 3. exclusion from the list of primary dealers.

TRANSITIONAL AND FINAL PROVISIONS

- **§ 1.** This Regulation is issued pursuant to Article 36, para. 2 of the Government Debt Act and shall enter into force on 1 November 2007.
- § 2. This Regulation repeals Regulation No. 15 of 2002 Γ. on the Control over Transactions in Book-Entry Government Securities (prom., SG, issue 119 of 2002; amended, issue 38 of 2006).
- § 3. The persons approved to operate as primary dealers by the Minister of Finance and the Governor of BNB in the period from 1 July 2007 to 31 October 2007, shall continue to perform PD functions up until 31 March 2008 in compliance with Regulation No. 5 on the Terms and Procedure for Acquisition, Registration, Redemption and Trade in Government Securities of 2007.
- § 4. The banks, which are not GS subdepositories, and the investment firms under § 3 shall conclude a contract with the GS subdepository bank within 30 November 2007.
- § 5. The Bulgarian National Bank and the Ministry of Finance shall jointly and separately issue instructions on the implementation on this Regulation.

to Art. 10, para 2, item 1

INFORMATION SHEET

| about government securities held by | and their clients a | t nominal value as of |
|-------------------------------------|---------------------|-----------------------|
| | (participant) | (date) |

| ISIN issue code | Currency type | Government securities in own portfolio Government securities, owned by clients | | | | | | | | TOTAL | | | |
|---|------------------|---|---------|-------|-------|---|---------------|---|-------|--------------------------|--------------------------|------------------|--------|
| | | Actually owned | blocked | total | banks | | and insurance | Bank Deposit Companies and Held by Guaranteecitizens Fund | | | | | |
| | | | | (1+2) | | | | | total | Incl. foreign persons | total (4+5+6+ 7+8) | Incl. blocked | (3+10) |
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 1. Short-term government securities 1 2 3 - | | | | | | | | | | | | | |
| Short-term total | | | | | | | | | | | | | |
| | | | | | | _ | | | | | | | |

| 2. Medium-term government | | | | | | | |
|--|--|--|---|---|--|--|--|
| securities | | | | | | | |
| 1 | | | | | | | |
| 2 | | | | | | | |
| 3 | | | | | | | |
| - | | | | | | | |
| Medium-term total | | | | | | | |
| 3. Long-term government securities 1 2 3 | | | | | | | |
| Long-term total | | | _ | _ | | | |
| GS total | | | | | | | |

Appendix 2

to Art. 10, para 2, item 2

INFORMATION SHEET

| about the GS kept by | (subdepository) | who are not subdepositories as of (date) | | | | |
|---|------------------|--|--|--|--|--|
| CBSRTGS participant, who is not a subdepository | Currency type | ISIN issue code | Total GS held by clients (nominal value) | | | |
| I. Participant's name: | | Short-term GS 1 2 3 - Short-term total Medium-term GS 1 2 3 - Medium-term total | | | | |

Long-term total Total client's GS of the participant II. Participant's name: Short-term GS Short-term total Medium-term GS Medium-term total Long-term GS Long-term total

Long-term GS

Total client's GS of the participant

III. Participant's name:

```
Short-term GS
1
2
3
-
Short-term total

Medium-term GS
1
2
3
-
Medium-term total

Long-term GS
1
2
3
-
Long-term total

Total client's GS of the participant
```