

26/10/2010
No 282 N

ON APPROVAL OF REGULATION 4/12 “RULES ON PROTECTION OF LIQUIDITY OF
CUSTOMERS OF PERSONS PROVIDING INVESTMENT SERVICES”

In accordance with Article 67.7 of the Republic of Armenia law “On Securities Market”, and pursuant to Article 20(e) of the Republic of Armenia law “On Republic of Armenia Central Bank” and Article 16.1 of the Republic of Armenia law “On Legal Acts”, Republic of Armenia Central Bank Board,

Hereby Decides:

1. To approve Regulation 4/12 “Rules on Protection of Liquidity of Customers of Persons Providing Investment Services”, in accordance with Annex (see Attached).
2. This Resolution shall enter into force on the tenth day following promulgation.
3. Following entry of this Regulation into force, persons providing investment services shall, within two months, bring their activities into compliance with this Regulation.

Arthur Javadyan
Governor of the Central Bank
Republic of Armenia

November 2, 2010
Yerevan

REGULATION 4/12
“RULES ON PROTECTION OF LIQUIDITY OF CUSTOMERS OF PERSONS PROVIDING
INVESTMENT SERVICES”

CHAPTER 1. DEFINITIONS

1. *Securities financed operation* means operation on borrowing or lending securities, Repo or Reverse Repo operation or purchase operation with the right of resale, or sale operation with the right of repurchase.
2. *Customer’s liquidity* means cash and/or securities owned by a customer and transferred under the disposal and/or management of a person providing investment services, based on the contract signed between customer and person providing investment services, including profit resulting from its/their management.
3. Other definitions used in this regulation have the meaning as defined in the Republic of Armenia law “On Securities Market”.

CHAPTER 2. PROTECTION OF CUSTOMERS’ SECURITIES AND CASH

4. With the view to ensuring interests of customers relating to their securities and cash, person providing investment services shall be obligated:
 - 1) maintain information, carry out such record keeping and accounting in such a manner as to be able at any time and without delay to separate each customer’s liquidity from liquidity of other customers, as well as from its own funds;
 - 2) maintain information, carry out such record keeping and accounting in such a manner as to secure their accuracy and compatibility with its management and/or cash and securities of other customers transferred under its management;
 - 3) carry out regular comparisons and adjustments between its own and other persons’ customers’ financial accounts, information and records;
 - 4) ensure the possibility to separate each customer’s securities kept at a third party from securities owned by person providing investment services, as well as from securities of third person by using different names of securities accounts or other instruments for ensuring the adequate level of protection. The requirement stipulated by this paragraph shall not apply in the case of the transfer by person providing investment services of the public securities owned by its customer to a person which is sub-custodian of public securities, provided that it is impossible to open at the sub-

- custodian of public securities separate (of different name) accounts for securities of the person providing investment services and its customers;
- 5) provide all necessary arrangements with the view to managing the risk of the loss of customers' liquidity or the title thereto, resulting from improper or unauthorized use of customers' liquidity, fraud, incomplete record keeping or negligence.
5. Person providing investment services must apply procedures of maintenance and protection of customers' liquidity set by its internal rules.

CHAPTER 3. CUSTODY OF CUSTOMERS' SECURITIES

6. Person providing investment services may dispose customers' securities in the account (accounts) opened on behalf of the customer at a third party. With regard to selection and contracting of a third person and regular monitoring of custody of the respective securities, person providing investment services must act in bona fide, take its best efforts demonstrate good faith, sufficient attention and due care. In selection and contracting of third persons, person providing investment services must take into account the experience and reputation of a third person, as well as legal requirements relating to custody of customers' securities and applicable business customs with the view to preventing any negative impacts on customer rights.
7. Where person providing investment services is planning to provide custody of customer's securities at a third person located in a country which set specific requirements and control over the custody of securities belonging to other persons, person providing investment services shall be disallowed to dispose its customer's securities at a person operating in such country, which is not subject to such requirements and control.
8. Person providing investment services shall be disallowed to dispose its customer's securities at a person operating in a foreign country where custody of securities owned by other persons is not legally regulated, excluding where at least one of the following conditions exist:
 - 1) nature of securities or the related investment services entails their custody at a person operating in the relevant country;
 - 2) securities belong to a customer, which is classified as a professional in accordance with Regulation 4/07 "Requirements on performance of Persons Providing Investment Services" approved by Republic of Armenia central Bank Board Resolution No 113 of April 8, 2008, whereby such customer issued a written

instruction thereof to person providing investment services or provided its consent for custody of its securities at a person operating in the relevant country.

CHAPTER 4. CUSTODY AND USE OF CUSTOMERS' CASH

9. Investment company shall be obligated to deposit customers' cash in one or several accounts opened at any commercial bank.
10. Investment company shall be obligated to deposit its own and its customers' cash in separate banking accounts. To this end, contract on banking account opened for a customer's cash must contain an explicit note specifying that the relevant banking account will be used exclusively for the accounting of cash of investment company customers.
11. While selecting the commercial bank for depositing its customer's cash, investment company must act in bona fide, take its best efforts demonstrate good faith, sufficient attention and due care to the best interests of its customers. Investment company must take into account experience and reputation of the commercial bank, its reputation, as well as legislation requirements in respect of custody of customers' cash and market practices aimed at ensuring adequate protection of customers' rights and avoiding any possible negative impacts on their customers' interests. Accordingly, where investment company selects a foreign bank for depositing its customer's cash, investment company must obtain customer's written consent on depositing its liquidity in the relevant foreign bank, unless the selected foreign bank's rating is not lower than "BBB-" of Standard and Poor's "BBB" group, "Baa3" of Moody's "Baa" group, "B+" of A.M. Best's "B" group, "BBB-" of Duff and Phelps' "BBB" group, "B" of Veissi "B" group, or "BBB-" of Fitch "BBB group".
12. Where person providing investment services is a bank, the contract on provision of investment services between person providing investment services and its customer shall contain a provision that person providing investment services may use its customers' cash to its benefit.

CHAPTER 5. MANAGEMENT AND DISPOSAL OF CUSTOMERS' SECURITIES

13. Person providing investment services shall be disallowed to carry out transactions financed by securities owned by its customer or otherwise dispose such securities to its or other customers' benefit, unless otherwise established in paragraphs 14 and 15 hereof.
14. Person providing investment services may dispose securities owned by its customer only if the following conditions simultaneously exist:
 - 1) customer has in advance provided its written consent to the disposal of its securities, specifying the conditions of such disposal. Such consent can exist in the contract on provision of investment services signed with the customer;
 - 2) disposal of customer's securities shall be limited to conditions specified by that customer.
15. Person providing investment services may carry out securities financed operation with the securities owned by its customer deposited in the consolidated account or any other account opened at a third person, or otherwise dispose or manage to its or its other customers' benefit securities owned by its customer deposited in the consolidated account or any other account opened at a third person, provided conditions established in paragraph 14 are met and person providing investment services employs adequate security system, which ensures that only securities of a customers that provided their content in accordance with paragraphs 14.1 hereof, can be disposed in manner prescribed in paragraphs 14 and 15, hereof.
16. Person providing investment services must carry out adequate accounting and record keeping on the customers whose securities it has disposed based on their consent and on conditions specified by them, as well as the number of disposed securities per customer.