

CENTRAL BANK OF THE REPUBLIC OF ARMENIA

BOARD RESOLUTION 25-N

Adopted February 8, 2011

On approval of Regulation on “Opening and maintenance of unallocated metal accounts”

By virtue of the Law of the Republic of Armenia on “The Central bank”, article 20(e), the Law of the Republic of Armenia on “Banks and banking”, article 41, the Law of the Republic of Armenia on “Legal Acts” article 16 (4), the Board of the Central bank of Armenia *decides to*:

1. Approve Regulation on “Opening and maintenance of unallocated metal accounts” pursuant to Appendix (attached).
2. This Resolution shall enter into force 10 days after its official publication.

Chairman of the Central bank of Armenia
A. Javadyan

February 11, 2011
Yerevan

Appendix

Approved by
Central Bank
of the Republic of Armenia
Board Resolution 25-N,
February 8, 2011

REGULATION

Opening and maintenance of unallocated metal accounts

CHAPTER 1

GENERAL PROVISIONS

1. This Regulation shall establish limitations on opening and maintenance of unallocated metal accounts by banks: procedure of opening and maintenance of unallocated metal accounts, permitted account operations, limitations, publication of information. Relations between a bank and a customer arising from servicing of unallocated metal accounts shall also be governed by this regulation.

2. Requirements prescribed by this regulation do not apply to banks' precious metals, jewelry and other property depository operations.

3. For the purposes of this regulation unallocated metal account (hereinafter metal account) is defined as a demand or a time account, which is provided for recording unallocated gold, for which only fineness and weight of the gold is indicated. Metal accounts may be opened only upon 999.5 or 999.9 fineness. The terms “banking gold” and “gold bullion” used in this regulation have the same meaning as in the Law of the Republic of Armenia on “Currency regulation and currency control” and the Law of the Republic of Armenia on “Precious metals” respectively.

4. Unallocated gold on metal accounts is recorded in: drams, according to the gold accounting price published by the Central Bank of the Republic of Armenia (hereinafter Central bank) and quantity, expressed either in grams (accurate within 0.01g.) or in troy ounces (accurate within 0.001 troy ounce). For the purposes of this act one troy ounce equals 31.10348 grams.

CHAPTER 2

GRANTING OF PERMISSION FOR SERVICING METAL ACCOUNTS

5. In order to be eligible to open and maintain metal accounts, as well as other banks' correspondent unallocated gold accounts (loro), banks operating on the territory of the Republic of Armenia shall receive the permission of the Central bank.

6. In order to receive the permission stated in Point 5 of this Regulation, the following documents shall be submitted to the Central bank:

- 1) Application for receiving the permission.

- 2) Bank's internal acts, describing principles, regulation and procedures of opening, maintaining, pricing, controlling (including risk management) and closing of metal accounts, approved by eligible management body of the bank.
- 3) Reference about having at least one correspondent unallocated gold account at the date of application either in one of the clearing banks of the London gold market (London Bullion Clearing Member) (hereinafter clearing bank), or in any bank that has correspondent unallocated gold account in a clearing bank, or in any bank operating on the territory of the Republic of Armenia which has a permission to open and maintain metal accounts. The name of the correspondent bank, the date of the opening of the correspondent metal account and the name of the clearing bank (in case of opening a correspondent metal account with clearing bank) shall be indicated in the reference.
- 4) Bank's internal acts regarding procedures of opening, maintaining and closing correspondent gold nostro and loro accounts with banks operating on the territory of the Republic of Armenia and foreign banks (if applicable), as well as procedures and terms of implementing transfers through bank's customers' metal accounts as defined in Point 12 (2 and 4) of this Regulation.
- 5) Bank's internal acts regarding detailed description of provision of services by metal accounts, which shall include, but not be limited to the following:
 - a) Terms (conditions) of the service, agreement forms.
 - b) List of documents (information) required by bank to open metal account.
 - c) Information about tariffs, fees and other payments, sanctions, fines and cases of their application, percent or any other income payable to the customers, procedures of setting the size of the above mentioned, terms and order of changing them and factors driving those changes.
 - d) Pricing of unallocated gold.
 - e) All the terms which limit accessibility of the service provided by the bank.
 - f) Criteria and procedures of rejecting transactions (refusing to provide the services).
 - g) Procedures and criteria of discontinuing the provision of services.
 - h) Procedures of providing services with terms different from the established general ones (execution of agreements with more/less favorable terms), as well as description of those criteria, upon which such kind of decisions would be made by eligible management bodies of the bank.
- 6) Bank's internal acts which describe procedures of publishing information about provision of services regarding metal accounts.

7. After receiving the documents specified in Point 6 of this Regulation, the Central bank examines them and during 30-day period makes a decision to grant or to reject the permission to open and maintain metal accounts. The Central bank shall notify the bank about its decision until the end of the 30-day period. In case of need to clarify some facts required by the Central bank and (or) to make some changes or corrections in documents submitted by the bank, 30-day examination period may be suspended by the decision of the Central bank, but not more than once and for no longer than 30 days. The Central bank must notify the bank about its decision to suspend the 30-day examination period until the end of that 30-day period. In cases when the bank is not notified about the decision of the Central bank to grant or reject the permission to open and maintain metal accounts or to suspend the examination period within the time frame specified in this Point, the permission is considered granted to the bank.

8. The Central bank may reject the application specified in Point 7 of this Regulation, if:
 - 1) submitted documents do not comply with the requirements specified in laws and regulations, including this Regulation,
 - 2) according to reasonable opinion of the Central bank, engaging in operations of opening and maintaining metal accounts may significantly endanger interests of the bank's depositors and (or) creditors.

CHAPTER 3

OPENING OF METAL ACCOUNTS

9. In order to open a metal account a bank and a client shall sign an agreement, which shall comprise all the essential terms of the contract. Nonobservance of written form of the agreement of metal account entails the invalidity of that agreement and such agreement is considered void.

10. In cases when metal account agreement provides for holding minimal quantity of unallocated gold on the metal account, the agreement shall be considered concluded from the time of replenishment of the metal account by appropriate quantity of unallocated gold.

11. From those entities, which want to open a metal account in a bank and which are specified in Regulation on «Submitting signature sample cards to tax authorities while opening bank accounts in banks operating on the territory of the Republic of Armenia», approved by the Central Bank of the Republic of Armenia Board Resolution 319-N of December 11, 2001, the bank shall require to submit signature sample cards of their executives, chief accountants, as well as other persons who are liable for accounting of the entity and authorized to conduct financial transactions with the bank, to regional tax authority and submit these signature sample cards certified by tax authorities to the bank according to the regulation specified in this Point.

CHAPTER 4

PERMITTED OPERATIONS THROUGH METAL ACCOUNTS AND THEIR IMPLEMENTATION PROCEDURE

12. Banks shall conduct the following operations through metal accounts:

- 1) Replenishment of metal account by buying unallocated gold from the bank and crediting it to the metal account,
- 2) Replenishment of metal account by transferring unallocated gold from other bank account of the same or other person opened in the same or other bank,
- 3) Withdrawal from metal account by selling the unallocated gold to the bank,
- 4) Withdrawal from metal account by transferring the unallocated gold to other bank account of the same or other person opened in the same or other bank.

13. No other operations, including granting loans on metal accounts, as well as replenishment or withdrawal of metal accounts by non cash means (except interbank transfers, in cases of which correspondent unallocated gold accounts may be replenished or withdrawn by banking gold or gold bullions of respective fineness), are allowed to be conducted by banks through metal accounts other than those specified in Point 12 of this Regulation. Metal accounts may be pledged.

14. The operations specified in Point 12 of this Regulation shall be made by a bank on the basis of an order by a client. Without an order by the client, the operations specified in Point 12 of this Regulation shall be made upon decision of a court or in other cases established by a statute or provided by the contract between the bank and the client.

15. In case of conducting the operations specified in sub points 1 and 3 of Point 12, bank shall provide its customer with a receipt, verifying purchase and sale operations of unallocated gold, which shall at least comprise the following requisites (information):

- 1) The name of the bank (in cases of operations conducted by branches, also the name of the branch),
- 2) The address of the bank (in cases of operations conducted by branches, the address of the branch),
- 3) License number of the bank,
- 4) Tax payer's registration number,
- 5) Transaction sequence number,
- 6) Transaction date and time,
- 7) Transaction type ("buy unallocated gold" or "sell unallocated gold"),
- 8) Exchange rate in drams,
- 9) Funds obtained (amount in numbers and words) and the weight (in grams and/or troy ounces) and the fineness of the unallocated gold sold, or funds disbursed (amount in numbers and words) and the weight (in grams and/or troy ounces) and the fineness of the unallocated gold bought,
- 10) The name, surname of the customer (in case of representatives of legal entities also the name, address and seal of that legal entity),
- 11) The details of the customer's identification document,
- 12) Customer's signature,
- 13) Bank employee's signature and stamp.

16. Requirements specified in the third chapter of the Regulation on "Provision of receipts by specialized entities to customers verifying foreign currency purchase and sale operations" approved by the Central bank of the Republic of Armenia Board Resolution 293-N of June 8, 2005, are applicable to the receipts specified in Point 15 of this Regulation.

17. The bank shall credit unallocated gold received to the metal account of the customer not later than the day following the day of the arrival of the respective payment document at the bank, unless shorter time period is provided by statute or the contract of bank metal account.

18. Under the contract of demand metal account bank shall withdraw unallocated gold from the metal account on order of the client not later than the day following the day of the arrival of the respective payment document at the bank, unless shorter period is provided by a statute or the contract of bank metal account.

19. Under the contract of time metal account, bank shall withdraw the whole or part of unallocated gold from the metal account upon the first demand of the customer within the timeframe specified in Point 18 of this Regulation, with the exception of metal accounts opened by legal entities on other return conditions provided by the contract.

20. In order to conduct operations specified in sub points 2 and 4 of Point 12 of this Regulation, the bank, which provides services of opening and maintaining metal accounts, shall have at least one correspondent account in respective fineness in either a clearing bank, or in any bank that has correspondent unallocated gold account in a clearing bank, or in any bank operating on the territory of the Republic of Armenia that has a permission to open and maintain metal accounts.

21. Banks may set up a minimum amount of unallocated gold required for opening a metal account, as well as a minimum amount of transaction for metal account replenishment.

CHAPTER 5

PAYMENT OF INTEREST AND REVALUATION OF METAL ACCOUNTS

22. In case of provision for interest payment, payment of calculated interest shall be made in Armenian drams, according to the price of the unallocated gold set by the bank on the payment date or, at the option of the customer, may be added to the customer's metal account according to the price of unallocated gold (by simultaneously buying and selling unallocated gold).

23. Banks shall revalue unallocated gold on metal accounts (including metal accounts opened in other banks) every day according to the accounting price of unallocated gold published by the Central bank on the date of revaluation.

CHAPTER 6

PUBLICATION OF INFORMATION

24. Bank shall place prices of unallocated gold at least on its website and prominent places in the head office and branches (where services of opening or maintaining metal accounts are provided) according to the Point 90.1 of Regulation 1 on "Registration and licensing of banks and branches of foreign banks; registration of branches and representations; qualification and registration of management of banks and branches of foreign banks", approved by the Central Bank of the Republic of Armenia Board Resolution 145-N of April 12, 2011.

25. Banks shall publish information regarding metal accounts according to requirements of Regulation 8/03 on "Information publication by banks, credit organizations, insurance companies, Central Depository and payment and settlement organizations implementing money remittances" approved by the Central Bank of the Republic of Armenia Board Resolution 166-N of June 2, 2009 (hereinafter Regulation 8/03).

26. Any advertisement, announcement, proposal, offer or invitation to make an offer published by banks on the territory of the Republic of Armenia or on the Internet regarding opening of metal accounts or execution of agreement thereof, in addition to the requirements stipulated by Regulation 8/03, shall also include a notice that metal accounts are not guaranteed by Deposit Guarantee Fund.

27. Metal account agreements with individuals shall include notice in distinctive and specific form (in other font, in other font size, in other color and (or) in other form) that metal accounts are not guaranteed by Deposit Guarantee Fund.

28. Metal account agreements shall include but not be limited to information about permissible operations, procedures of replenishing and withdrawing metal accounts, terms and procedures of calculation and payment (charging) of fees and interest (if provided for), as well as the following information:

- 1) Announcement that individual customer might apply to the Financial system mediator, submitting his/her claim arising from the transaction between company and customer. In cases, when the company has not signed an agreement about denying the right of appealing the Financial system mediator's decisions, than the announcement shall contain a note about it, according to regulations set by the Central bank.

- 2) If an arbitrage agreement has been signed between bank and the customer, then sufficient information shall be disclosed in written form regarding rights and responsibilities of the parties. Explanatory information on dispute settlement shall be provided as an annex to the agreement in accordance with the requirements set by the Central bank regulations.

CHAPTER 7

PERMISSION SUSPENSION AND REVOCATION

29. Central bank may suspend the permission defined in Point 5 of this Regulation (hereinafter in this chapter permission) in case of violation of requirements stipulated by this and other regulations by a bank. Bank is not allowed to execute new metal account agreements or extend the existing ones, as well as undertake such kind of changes in those agreements, as a result of which a metal account holder is changed, starting the day after notifying the bank about the decision of the Central bank to suspend the permission (if another later date is not stated) until removal of that suspension. Permission suspension shall be deemed annulled on the day following the day, when the suspension period is terminated. Where the period of permission suspension, upon the decision of the Central bank, is set up until the reason of the violation is eliminated, the permission suspension may be annulled upon the decision of the Central bank, which can be made on the initiative of the Central bank, as well as application of the bank. The Central Bank may reject the application if reasons for suspension are not eliminated. During the permission suspension period the bank is entitled to service metal accounts existent on the date of the decision of the Central bank to suspend the permission, by performing the operations stated in Point 12 of this Regulation.

30. Central bank may revoke the permission in case of violation of requirements stipulated by this and other regulations by a bank. Bank is not allowed to execute new metal account agreements or extend the existing ones starting the day after notifying the bank about the decision of the Central bank to revoke the permission (if another later date is not stated). In case of revocation of the permission, the bank is entitled to service metal accounts existent on the date of the decision of the Central bank to revoke the permission, by performing the operations stated in Point 12 of this Regulation, except when the Central bank has decided that the bank has to pay off all the liabilities arising from metal accounts, through either repaying or transferring them to other bank. For two years starting the day following the day of notifying the bank about the decision of the Central bank to revoke the permission, bank is not entitled to apply to the Central bank to receive a permission of opening and maintaining metal accounts (including correspondent metal accounts).

CHAPTER 8

CONCLUDING PROVISIONS

31. Funds obtained through metal accounts shall be reserved with the Central bank according to Regulation 2 on “Regulation of banking, prudential standards for banking”,

approved by the Central Bank of the Republic of Armenia Board Resolution 39-N of February 9, 2007 (hereinafter Regulation 2).

32. Foreign currency risk of metal accounts is calculated according to the requirements established by Regulation 2.

33. For the purposes of tax regulation, banks shall recognize income and/or expenses of the buy/sell operations of unallocated gold through metal accounts according to the regulation established by relevant state authority.