

Decree No. 10/2009 MNB
of (II.27.)
of the Governor of the MNB

on the requirements for the General Terms and Conditions and operating rules of the
central securities depository

Pursuant to the authorisation defined under Article 60 (3) c) of Act LVIII of 2001 on the
Magyar Nemzeti Bank, I hereby decree the following:

CHAPTER I
GENERAL PROVISIONS

Article 1

The scope of this Decree shall apply to the organisation carrying out the activities which
can be performed by the central securities depository (hereinafter referred to as ‘central
securities depository’) under Act CXX of 2001 (hereinafter referred to as ‘Capital Market
Act’).

Article 2

For the purposes of this Decree

- a) *securities settlement system* (hereinafter referred to as ‘system’) a formal arrangement
between participants and the central securities depository based on a written private
contract or law, with common rules and standardised arrangements for offsetting
debits and claims stemming from securities transactions, where the central securities
depository as the operator of the *securities settlement system* perform the activity under
Article 336(2)(c) of the Capital Market Act and entitled to perform the activities
stipulated under points a)-b) and d)-f) of Article 336(2) of the Capital Market Act;
- b) *insolvency proceedings* shall mean the procedures and measures specified under Article 2
(1) d) of Act XXIII of 2003 on Settlement Finality in Payment and Securities
Settlement Systems (hereinafter referred to as ‘Act on Settlement Finality’);
- c) *liquid assets* shall mean available funds (account-based money or cash), securities
convertible into funds upon request, irrevocable and unconditional bank guarantees
payable at the first call ;

- d) *emergency* shall mean a situation requiring special proceedings, during which the activity of the central securities depository and the process of performing the settlement in the system are different from those specified in the Rules;
- e) *participant* shall mean an organisation concluding a contract with the central securities depository in order to participate in the system operated by the central securities depository;
- f) *Rules* shall mean the rules or part of the rules required to the functioning of the system operated by the central securities depository that prescribe the regulations specified under this decree and available for the participants of the system;
- g) *delivery versus payment' service* shall mean a mechanism which links a transfer of securities (or other financial instruments) and a fund transfer in such a way as to ensure that delivery occurs if, and only if, payment occurs;
- h) *real-time gross settlement* shall mean the settlement method in which processing and settlement takes place on a transaction-by-transaction basis in real time ;
- i) *settlement finality* shall mean that the settlement of obligation, either effecting payment or delivering assets, is irrevocable and unconditional.

CHAPTER II SECURITIES SETTLEMENT SYSTEM

General regulations

Article 3

- (1) The central securities depository shall determine in its Rules the conditions of having access to the system and making use of the services provided by the central securities depository, as well as of the termination or discontinuance of participation.
- (2) The Rules shall define the rights and obligations of the participants and of the central securities depository, as well as the procedures in such a way that the legal, financial and operational risks related to participation in the system shall be clear and unambiguous.
- (3) In its Rules, the central securities depository shall specify:
 - a) the objective and principles of the system, as well as the public documents regulating the functioning of the system;
 - b) the legal, financial and operational risks borne by the participants of the system and the tools available for risk management purposes;
 - c) the rules and agreements relating to the system, especially the ones connected with the legal risk or the risk management due to the participation of non-resident participants;

- d) the procedures, rules and conditions of clearing and settlement based on the delivery versus payment principle;
 - e) the way of determining the schedule of operation of the system and the calendar for closing days;
 - f) the rules of co-operation with those external organisations which facilitate the complete and smooth settlement process, in particular including those that carry out outsourced services as specified in the Capital Market Act and provide clearing house activities according to the Capital Market Act;
 - g) the conditions and rules pertaining to emergency situations;
 - h) daily reconciliation procedures of the securities holdings registered on the central securities accounts with participants;
 - i) if the system is designated under the Act on Settlement Finality, the conditions for non-resident participants defined in such a way which ensures full and proven compliance with the requirements set forth for non-resident participants in the Act on Settlement Finality;
 - j) the complaint-handling procedures including the deadline, which shall be no longer than 15 business days in each case;
 - k) the publication procedure of the Rules, the way of commenting the Rules including the period, during which the participants are entitled to make these comments.
- (4) The schedule of operation of the system and the calendar for closing days shall at least be made public by the central securities depository on its website.

Granting access to the system and terminating the business relationship with the participants

Article 4

- (1) The criteria of participation in the system shall be determined by the central securities depository in such a way which permits fair and open access.
- (2) By way of derogation from Paragraph (1), denial of access to the system shall be risk-based, access may be refused if admitting the new participant entails such additional risk which endangers the reliable and efficient functioning of the system.
- (3) If according to the Paragraph (2) the access is refused, the denial of access shall be explained in writing to the party that applied for participation.
- (4) The Rules shall define the deadline for sending the notification specified under Paragraph (3) and detailed procedure to apply for remedies against the refusal.
- (5) If there is, the Rules shall define the level of participation in the system.
- (6) With regard to the level of participation specified under Paragraph (5), the same minimum requirements shall apply to all participants with the same type of participation.

- (7) The Rules shall define the operational procedures in case insolvency proceedings are opened against a participant and if the participant's license for operation is withdrawn by the competent authority.

Financial and technical requirements of participation in the system

Article 5

- (1) The Rules shall specify the financial and technical criteria of participating in the system, especially those ensuring the reliable and efficient functioning of the system.
- (2) As financial and technical criteria of participation in the system, the Rules shall require meeting at least the following:
 - a) if the central securities depository requires collateral on the basis of the Capital Market Act, providing the collateral to the extent, in the form and by the deadline determined in advance;
 - b) the opening and continuous maintenance of a bank account which allows the cash settlement of securities transactions cleared and settled according to the delivery versus payment principle.
- (3) The Rules shall specify the rules for effective monitoring of compliance with the financial and technical participation requirements by the central securities depository.

**CHAPTER III
RISK MANAGEMENT**

Management of principal risk related to securities transactions

Article 6

- (1) The Rules shall provide the possibility of settling stock exchange and over-the-counter transactions based on the 'delivery versus payment' principle.
- (2) The Rules of the central securities depository providing clearing house services with respect to over-the-counter securities transactions specified under Article 336 (2) b) of the Capital Market Act shall ensure the settlement finality of these transactions – unless otherwise disposed by the participant – on the settlement day by applying real-time gross settlement ensuring that the clearing and the final settlement are effected simultaneously.
- (3) If relating to the service specified under Paragraph (1) the cash settlement is performed by other organisations,
 - a) the Rules shall determine the interrelations and – if the relevant detailed rules are prescribed by other organisations – refer to those rules of other organisations;
 - b) the central securities depository shall ensure the harmonisation of its calendar for closing days and its operational hours with the calendar of closing days and the operational hours of those other organisations.

- (4) The Rules of the central securities depository shall contain the default procedures in case of transactions cleared as specified under Paragraph (2). The Rules shall ensure the central securities depository to monitor the settlement fails and take the necessary steps.
- (5) In order to reduce default risk, the Rules of the central securities depository shall define procedural and other rules aimed at reducing these risks and ensuring timely clearing and settlement.

Article 7

- (1) If on the basis of the Capital Market Act, the central securities depository requires providing collateral to ensure the timely settlement of transactions, the Rules shall define the collateral exclusively in liquid assets in order to ensure their prompt availability upon request.
- (2) The list of eligible collateral and the risk control measures shall at least be made public by the central securities depository on its website.

Operating a securities lending system, management of the risks of securities lending

Article 8

- (1) If the central securities depository operates a securities lending system based on Article 336 (2) d) of the Capital Market Act, the Rules shall define:
 - a) the terms and conditions of participating in the securities lending system,
 - b) the operational procedures of the securities lending system, with special regard to the procedures to be applied in the event of a failure to meet the obligation of returning the securities,
 - c) the method of calculation and daily re-valuation of the collateral eligible for securities lending, and
 - d) the collateral eligible for securities lending and the way of providing the collateral.
- (2) The Rules shall specify the financial and technical criteria of participating in the securities lending system, ensuring the reliable and efficient functioning of the securities lending system.
- (3) The financial and technical criteria of participating in the securities lending system shall be determined by the Rules in such a way which permits fair and open access.
- (4) The Rules shall define the collateral eligible for securities during the lending exclusively in liquid assets in order to ensure their prompt availability upon request.
- (5) The list of collateral eligible for securities lending and the risk control measures shall at least be published by the central securities depository on its website.

Rules of emergency-handling

Article 9

- (1) The operational procedures regarding emergency-handling which concern the participants shall be specified in rules (hereinafter referred to as ‘rules of emergency-handling’).
- (2) The participants shall be informed of the rules of emergency-handling.
- (3) The rules of emergency-handling shall define:
 - a) the types and criteria of emergencies;
 - b) the rules of establishing and announcing of emergencies;
 - c) the circumstances and consequences of implementing the emergency-handling procedures as well as the tasks and responsibilities of the central securities depository and the participants in the course of implementation;
 - d) the possibility of deviating from the pre-determined procedures;
 - e) the way of communication in emergencies, the possible alternative communication channels as well as the rules of compilation and updating of the contact list containing the name and the availability of contact persons designated for emergencies.
- (4) The rules of emergency-handling shall define the way of co-operation with other organisations facilitating the clearing and settlement, with special regard to the harmonisation of operating hours in those very special cases when those are extended.

**CHAPTER IV
SECURITIES SERVICES PROVIDED TO THE MAGYAR NEMZETI BANK**

Article 10

If the central securities depository provides services to the Magyar Nemzeti Bank (hereinafter referred to as ‘MNB’) relating to the MNB’s basic tasks, the Rules shall define the calendar for closing days and the operating hours harmonized with the MNB.

**CHAPTER V
BASIC PRINCIPLES OF DETERMINING FEES**

Article 11

- (1) The Rules of the central securities depository shall clearly specify
 - a) the services related to the fees, commissions and/or prices to be paid,
 - b) the basis of the fee, the way of paying the fee and the due date,
 - c) the discounts and rebates relating to the fees, commissions and/or prices to be paid, if any, as well as the conditions of those discounts and rebates,
 - d) the method of calculating the fees, commissions and/or prices to be paid.

- (2) In accordance with point a) of Paragraph (1), the Rules shall define the fees in a way that sets prices separately by services to enable the participant to freely decide on the use of individual services.
- (3) There shall only be differences in the fees, commissions and/or prices charged by the central securities depository on the basis of the size of the turnover, the value of securities handled, contents of the service provided and the type of communication method chosen.
- (4) The rules under Paragraph (1) to (3) shall not be applied to the activities incidental to clearing house activities specified in the Capital Market Act.

CHAPTER VI GENERAL PROVISIONS REGARDING THE PUBLICATION OF THE RULES

Article 12

- (1) The Rules and their amendments, not including the rules of emergency-handling specified under Article 9 and their amendments, shall be published and made continuously available by the central securities depository on its website.
- (2) The central securities depository shall provide the participants with the Rules and their amendments before they come into force, and allow a reasonable amount of time for them to comment on the Rules or the changes in the Rules.
- (3) The central securities depository shall give at least 5 business days for the participants' to make their comments specified under Paragraph (2) above, or at least 10 business days in case of a comprehensive or lengthy amendment.
- (4) The central securities depository shall only be allowed not to apply the procedure described under Paragraph (2) in the following cases:
 - a) in case of the Rules on fees, commissions and/or prices or their amendment;
 - b) if the type and/or the size of risk management tools varies;
 - c) if the amendment of the Rules according to Paragraph (2) hinder the reliable and smooth operation of the system.
- (5) Taking Paragraph (1) into account, the Rules shall at least be published in Hungarian, and if it is justified by the composition of the participants, at least in a language used generally in accepted international financial markets.

CHAPTER VII CLOSING PROVISIONS

Article 13

- (1) This Decree shall enter into force on 28 February 2009.

- (2) Organisations performing central securities depository activities on the territory of the Republic of Hungary when this Decree enters into force shall meet the requirements specified in this Decree no later than within 6 months from the entry into force of this Decree.

Article 14

- (1) Article 13(2) shall be repealed on 2 September 2009.
- (2) Paragraph (1) shall be repealed on 3 September 2009.