

Regulation of Organization and Operation of the Compensation Fund for Investors in Securities

Adopted by Decision No. 40-P dated 10 August 2005 of the Financial Supervision Commission, promulgated in the State Gazette No. 69/23.08.2005, Amended and supplemented SG No. 2/09.07.2007

Section I General Provisions

Article 1. These regulations shall govern the organization and operation of the Compensation Fund for Investors in Securities, hereinafter referred to as "the Fund".

Article 2. (1) The Fund shall be a self-financed legal person with registered office in Sofia.

(2) The Fund shall collect contributions from the investment intermediaries under Article 54 (3) of the Public Offering of Securities Act for the purpose of paying compensation to the clients of an investment intermediary, which is unable to meet the obligations thereof to the said clients for reasons directly related to the financial circumstances of the said intermediary.

(3) The Fund shall pay compensation to the clients of an investment intermediary in the cases where:

1. bankruptcy proceedings against the investment intermediary have been instituted by judgment of the competent district court, including where the bankruptcy proceedings have been closed in pursuance of Article 632 of the Commerce Act; 2. the licence or the authorization, as the case may be, for conduct of business in an investment-intermediary capacity has been revoked by a decision of the competent authority in the cases referred to in Item 5 of Article 68 (1) of the Public Offering of Securities Act and, applicable to investment intermediaries which are banks, in the cases covered under Article 21 (2) of the Banking Act, depending on which of the two conditions occurs earlier.

(4) The Fund shall pay supplementary cover to the clients of a branch of an investment intermediary under Article 77a (5) of the Public Offering of Securities Act upon receipt of notification from the competent authority of the Member State in which the registered office of the said investment intermediary is situated to the effect that the said investment intermediary is unable to meet the obligations thereof to the clients thereof for reasons directly related to the financial circumstances of the said intermediary. Sentence one shall furthermore apply to any investment intermediaries, which are not, banks.

Section II Structure and Management of the Fund

Article 3. (1) The Fund shall be managed by a Management Board, which shall consist of five members: a Chairperson, a Deputy Chairperson, and three other members.

(2) The members of the Management Board shall be elected by the Financial Supervision Commission, hereinafter referred to as "the Commission," as follows:

1. the Chairperson and the Deputy Chairperson: nominated by the Deputy Chairperson of the Commission in charge of the Investment Activity Supervision Department;

2. one member: nominated by an association or associations representing the persons which have obtained an authorization for conduct of business in an investment-intermediary capacity, with the exception of banks, and which are obligated to make money contributions to

the Fund under the terms and according to the procedure established by the Public Offering of Securities Act;

3. one member: nominated by an association or associations representing the banks which have obtained an authorization for conduct of business in an investment intermediary capacity and which are obligated to make money contributions to the Fund under the terms and according to the procedure established by the Public Offering of Securities Act;

4. one member: nominated jointly by the associations referred to in Items 2 and 3.

(3) Within the time limit referred to in Article 77g (2) of the Public Offering of Securities Act, the association or associations referred to in Items 2 and 3 of Paragraph (2) shall submit to the Commission the decision by the relevant competent governing body on selection of a person to be nominated for membership of the Management Board of the Fund, as well as documents certifying compliance with the eligibility requirements covered under Article 77f (5) and (6) of the Public Offering of Securities Act. Sentence one shall furthermore apply, *mutatis mutandis*, to the nomination by the Deputy Chairperson of the Commission in charge of the Investment Activity Supervision Department.

(4) By the decision on election of a Chairperson and members of the Management Board, the Commission shall also fix the amount of the remuneration thereof.

Article 4. (1) The members of the Management Board shall be elected for a term of five years and shall be re-eligible without limitation.

(2) In the cases of pre-term termination of a term of office, the Commission shall pronounce within fourteen days after learning of the occurrence of a circumstance covered under Article 77g(3) of the Public Offering of Securities Act and shall notify the person or persons concerned, covered under Article 3 (2) herein, whereof the representative has been removed from office prior to the expiry of the term of office thereof, of the decision of the Commission, allowing the said person or persons thirty days to submit a nomination of a person to be elected member of the Management Board.

(3) If the Deputy Chairperson of the Commission in charge of the Investment Activity Supervision Department or the association or associations fail to nominate a person to be elected member of the Management Board within the time allowed under Paragraph (2), the Commission shall elect a new member nominated by the Chairperson of the Commission.

(4) Upon pre-term termination of a term of office of the Chairperson, the Deputy Chairperson of the Management Board of the Fund shall perform the functions of the said Chairperson until election of a new Chairperson.

Article 5. (1) The Management Board of the Fund shall:

1. fix the percentage rate of the annual contribution due from the investment intermediaries, including from the non-resident investment intermediaries which offer supplementary cover to the clients thereof in Bulgaria according to Item 2 of Article 77a (4) and Article 77a (5) of the Public Offering of Securities Act; the Management Board shall promulgate the decision thereof in the *State Gazette* and shall post the said decision on the Internet site of the Fund not later than the 31st day of December of the last preceding year;

2. identify, after collection of the appropriate evidence, the branches of non-resident investment intermediaries in Bulgaria in respect of which the conditions under Article 77a (4) of the Public Offering of Securities Act are in place and they must participate in the Fund, as well as the branches of non-resident investment intermediaries in Bulgaria in respect of which the conditions under Article 77a (5) of the Public Offering of Securities Act are in place and they may participate in the Fund for the purpose of offering supplementary cover to the clients thereof in Bulgaria;

3. organize and assume responsibility for the collection of the financial resources of the Fund;
4. see to the regular payment of the contributions due to the Fund by the investment intermediaries;
5. organize the collection and safe custody of the information referred to in Article 77m (11) of the Public Offering of Securities Act;
6. invest the financial resources of the Fund in accordance with the requirements covered under Article 77p (2) of the Public Offering of Securities Act;
7. upon ascertainment of a deficit of the financial resources of the Fund for performance of the functions thereof, determine the manner of covering the said deficit according to Article 77q (1) of the Public Offering of Securities Act and submit the decision thereof to the Commission for approval;
8. make a decision on contracting a loan and on the terms and conditions under the said loan in the cases referred to in Item 4 of Article 77q (1) of the Public Offering of Securities Act and submit the said decision to the Commission for approval;
9. make decision on discontinuance and resumption of the payment of annual contributions in the cases referred to in Article 77r of the Public Offering of Securities Act and submit the said decision to the Commission for approval;
10. consider and pronounce on requests for payment of compensation to the clients of investment intermediaries;
11. ensure the payment of compensation to the clients of investment intermediaries up to the levels provided for in Article 77d of the Public Offering of Securities Act;
12. adopt the draft of the annual budget on the administrative expenses of the Fund and a report on the utilization of the said budget, and submit the said draft and report to the Association for approval;
13. organize, control and assume responsibility for the legally conforming disbursement of the financial resources of the Fund for the intended purpose of the said resources;
14. adopt an annual report on the operation of the fund and an annual financial statement, certified by a registered auditor, and submit the said report and statement to the Commission and to the National Audit Office not later than the 30th day of May of the next succeeding year;
15. approve the registered auditor of the Fund and fix the remuneration thereof;
16. determine the organizational structure of the Fund and adopt internal rules of organization and operation of the Fund, and submit them to the Commission for its information;
17. adopt the staffing schedule of the Fund, the internal wage rules, and fix the amount of remuneration of the employees of the Fund, and submit them to the Commission for endorsement;
18. make decisions on the participation of the Fund in international organizations of compensation institutions for investors in securities and in events organized by such organizations;
19. approve agreements on cooperation of the Fund with institutions of State and public organizations in Bulgaria and abroad in connection with the operation implemented by the Fund;
20. elaborate drafts of ordinances on application of Section IV of Chapter Five of the Public Offering of Securities Act and submit the said drafts to the Commission for consideration and adoption;
21. consider and address other issues related to the operation of the Fund, arising from the Public Offering of Securities Act or another statutory instrument.

(2) The documents referred to in Items 9, 16 and 17 of Paragraph (1), as well as any revisions therein, shall be made available to the Commission within seven days of the adoption of the said documents and revisions.

(3) The Management Board shall publish an annual report on the performance thereof on the Internet site of the Fund and in another appropriate manner within ten days after submission of the said report to the Commission.

(4) The internal wage rules, referred to in Item 17 of Paragraph (1), shall furthermore include the terms and procedure for payment of a remuneration supplementary to the basic monthly remuneration of the members of the Management Board and of the employees of the administration of the Fund, as well as the criteria for determination of the specific amount of the said supplementary remuneration.

Article 6. (1) The Management Board of the Fund shall pronounce regarding the circumstances referred to in Item 2 of Article 5 (1) herein when required to do so by the Commission or when requested to do so by a non-resident investment intermediary wishing to carry on business in Bulgaria.

(2) The request by the non-resident investment intermediary, referred to in Paragraph (1), shall enclose documents issued by the compensation institution for investors in securities or by the relevant competent authority in the State in which the registered office of the said investment intermediary is situated, containing a description of the compensation scheme for investors in securities of which the said investment intermediary is a member.

(3) In the cases where the non-resident investment intermediary wishes to participate in the Fund for the purpose of offering supplementary cover, the type and amount of the supplementary cover, which the investment intermediary wishes to offer the clients of the branch thereof in Bulgaria, shall be expressly stated.

Article 7. The Management Board shall notify the Commission or the Bulgarian National Bank, as the case may be, in the cases where an investment intermediary fails to fulfil the obligations thereof under the Public Offering of Securities Act and these Regulations in connection with the participation of the said intermediary in the Fund, for the taking of appropriate action. Article 77n (2) of the Public Offering of Securities Act shall apply to any investment intermediaries whereof the registered office is situated in a Member State.

Article 8. (1) The Management Board of the Fund shall consider and address the issues within the competence thereof at meetings.

(2) By decision of the Management Board of the Fund, employees of the administration of the Fund may be present at the meetings of the Management Board.

(3) At the discretion of the Chairperson of the Management Board of the Fund, other persons may be present as well at the consideration of specific items on the agenda of a meeting.

Article 9. (1) The meetings of the Management Board shall be ordinary and extraordinary.

(2) The meetings shall be convened by the Chairperson on his or her own initiative or on the requisition of at least three of the members of the Management Board.

(3) The Management Board shall meet at least once quarterly with a preannounce agenda determined by the Chairperson. The draft of the agenda and the materials for the meeting shall be made available to the members of the Management Board not later than two working days before the meeting, and in the cases of extraordinary meetings, not later than on the day preceding the day of the meeting.

(4) The materials shall include a draft decision on each item of the agenda.

(5) By unanimous decision of the members of the Management Board present, the agenda may be supplemented or amended if necessary.

Article 10. (1) For the valid transaction of business at any meeting of the Management Board, more than one-half of the members thereof shall have to be present.

(2) The meetings of the Management Board shall be presided over by the Chairperson or, in the absence thereof, by the Deputy Chairperson or by another member designated by the Chairperson.

Article 11. (1) The Management Board shall make decisions by open ballot and by a majority of the votes of the members of the Board.

(2) The voting power of each member of the Management Board shall be limited to a single vote. Abstentions, as well as attendance of the meeting and voting by proxy, shall be inadmissible.

(3) Each member of the Management Board, who has voted against a decision adopted, shall submit the reasoning for so voting in writing within three days after the holding of the meeting.

(4) By way of exception, pursuant to a motion by the Chairperson, the Management Board may act without meeting if the members thereof state in writing the consent thereof to the decision moved. In such case, the decision shall be adopted unanimously.

Article 12. (1) Minutes shall be taken of the proceedings at each meeting of the Management Board, and all members present shall sign the said minutes.

(2) The names of those present at the meeting, the items of the agenda discussed, the statements of those present and the decisions adopted shall be recorded in the minutes. The minutes shall expressly specify the majority by which each decision has been carried and the names of the members of the Management Board who have voted against.

(3) The minutes of proceedings shall be prepared within two working days after the closure of the meeting.

(4) Where necessary, an abridged abstract of the minutes shall be prepared and signed by the Chairperson and by an employee of the administration of the Fund designated by the Management Board.

Article 13. (1) Each member of the Management Board shall be obligated to disclose in writing to the Management Board where the said member is required to participate in the consideration of any matter in respect of which the said member has a direct or indirect interest raising a reasonable doubt as to the impartiality of the said member, and where this may lead to undue performance of the functions thereof.

(2) The minutes referred to in Article 12 (1) herein shall expressly state the existence of a conflict of interest in the cases referred to in Paragraph (1), the person in respect of which the said conflict exists, and the specific matter subject to consideration.

(3) The members of the Management Board shall not participate in the discussion and in the voting of decisions on any matters in respect of which a conflict of interest exists for them.

Article 14. (1) The Chairperson of the Management Board shall:

1. represent the Fund in Bulgaria and abroad;
2. organize, direct and coordinate the day-to-day work of the Fund;
3. determine the agenda, convene and preside over the meetings of the Management Board;
4. endorse the job descriptions of the employees of the administration of the Fund;
5. conclude, modify and terminate the contracts of employment with the employees of the administration of the Fund;

6. organize the preparation of the budget of the Fund and lay the said budget before the Management Board for adoption;

7. organize and control the implementation of the budget of the Fund for the relevant year as approved;

8. authorize business trips of the members of the Management Board and the employees of the administration of the Fund in Bulgaria and abroad;

9. perform the factual and the legal acts in connection with the investment of the financial resources of the Fund in accordance with the decisions of the Management Board and in conformity with the requirements of the law;

10. exercise other powers related to the operation of the Fund as specified in a statutory instrument or in a decision of the Management Board of the Fund.

(2) In the exercise of the powers vested therein, the Chairperson shall issue orders, conclude contracts, sign documents and perform other acts admissible under the law, arising from the objects of the Fund.

(3) The Deputy Chairperson of the Management Board shall assist the Chairperson in the performance of the functions thereof.

Article 15. (1) The Chairperson of the Management Board may delegate some of the powers thereof to a member of the Management Board for a fixed period of time by an express order. All powers *in toto* may not be delegated.

(2) In the absence of the Chairperson, the powers thereof shall be exercised by the Deputy Chairperson or by another member of the Management Board designated by an order of the Chairperson for each particular case.

Article 16. (1) In the operation thereof, the Management Board of the Fund shall be assisted by an administration.

(2) The employees of the administration of the Fund shall be appointed under a contract of employment.

(3) The labour remunerations shall be fixed based on wage rules for the Fund, adopted by the Management Board thereof and endorsed by the Commission.

Article 17. (1) Part-time help may be recruited for the fulfilment of specific tasks related to the core activities of the Fund.

(2) The rights and duties of the persons referred to in Paragraph (1) shall be determined in a contract concluded therewith by the Chairperson.

(3) The persons referred to in Paragraph (1) may not disclose, whether personally or through another person, any information constituting a bank secret, a trade secret or another secret protected by law which has come to the knowledge thereof in the course of performance of the functions thereof.

Article 18. The employees of the administration of the Fund shall fulfil the tasks assigned thereto and shall be responsible for the performance of the work in conformity with the job descriptions thereof.

Section III

Financial Resources of Fund

Article 19. (1) The financial resources of the Fund shall be raised from the following sources:

1. entrance contributions from investment intermediaries referred to in Article 77m (1) of the Public Offering of Securities Act;

2. annual contributions from investment intermediaries referred to in Article 77m (2) of the Public Offering of Securities Act;
3. proceeds from investment of the financial resources raised in the Fund;
4. amounts recovered under Article 77t (5) of the Public Offering of Securities Act;
5. interest on overdue receivables;
6. other sources.

(2) The annual contribution from non-resident investment intermediaries, which participate in the Fund by offering supplementary cover to the customers thereof in Bulgaria, shall be fixed as a percentage of the total amount of clients' assets in Bulgaria in proportion to the supplementary cover provided by the Fund.

Article 20. The financial resources of the Fund shall be invested, by decision of the Management Board, in the assets covered under Article 77p (2) of the Public Offering of Securities Act.

Article 21. (1) The financial resources of the Fund shall be disbursed on:

1. payment of compensation to clients of an investment intermediary in the cases covered under Article 2 (3) herein, as well as of supplementary cover in the cases referred to in Article 2 (4) herein;
2. interest payments and principal repayments on loans contracted by the Fund in connection with the operation implemented thereby;
3. payment of administrative and other expenses connected to the operation of the Fund.

(2) The administrative and other expenses connected to the operation of the Fund shall be covered by the revenue referred to in Items 3 and 6 of Article 19 (1) herein.

Article 22. (1) Should the financial resources be insufficient to cover the liabilities of the Fund under the Public Offering of Securities Act, the Management Board shall notify the Commission within seven days after the ascertainment of the said deficit.

(2) Within fourteen days after ascertainment of the deficit referred to in Paragraph (1), the Management Board shall adopt a decision proposing a manner to cover the said deficit according to Article 77q (1) of the Public Offering of Securities Act and shall submit the said decision to the Commission for approval.

(3) The decision of the Management Board must fix a time limit where within the investment intermediaries must remit the annual contribution in the cases referred to in Items 1 and 2 of Article 77q (1) of the Public Offering of Securities Act.

(4) The Commission shall pronounce within one month after receipt of the decision referred to in Paragraph (2).

(5) In the event of a failure to pay the contribution within the time limit referred to in Paragraph (3), legal interest shall be recoverable for the period of delay from the investment intermediaries.

(6) The Management Board shall promulgate in the *State Gazette* and shall post on the Internet site of the Fund the decision to cover a deficit under Article 77q (1) to (3) [of the Public Offering of Securities Act] as approved by the Commission.

Article 23. (1) The draft of a budget of the Fund shall be adopted by the Management Board of the Fund and shall be submitted to the Commission for approval not later than the 31st day of October of the last preceding year.

(2) The Commission shall pronounce within one month after submission of the draft referred to in Paragraph (1).

(3) The Commission shall approve the draft of the budget or shall refer the said draft back *in toto* for revision, giving the relevant directions.

(4) The Fund shall be obligated to comply with the directions given according to the procedure established by Paragraph (3) and to submit a new draft of a budget to the Commission within fourteen days after receipt of the directions.

(5) The Commission shall pronounce within fourteen days after submission of the revised draft. Where the directions have not been complied with, The Commission shall revise the draft on its own and shall endorse the draft in this form.

(6) The budget shall be subject to implementation after being approved by a decision of the Commission.

Article 24. Should, during the relevant year, there arise a need to effect extraordinary expenses, unforeseen in the budget, or to disburse financial resources from any source other than such covered under Article 21 (2) herein, the Management Board shall have the right to effect the said expenses and to disburse the said resources after obtaining an authorization from the Agency.

Article 25. (1) The Fund shall prepare an annual financial statement and shall submit the said statement to the National Audit Office not later than the 30th day of May of the next succeeding year.

(2) The annual financial statement of the Fund shall be subject to independent financial audit and certification by a registered auditor.

(3) Upon ascertainment of any breaches, the Commission or the Deputy Chairperson of the Commission, as the case may be, shall take appropriate measures according to the Public Offering of Securities Act.

Section IV Interaction with Public Authorities, Institutions and Persons

Article 26. (1) The Fund shall interact with the Commission, the Bulgarian National Bank, with the other public authorities and institutions of State, as well as with non-governmental organizations in the exchange of information and other forms of cooperation.

(2) The Fund shall conclude bilateral agreements with the compensation institutions for investors in securities in the other States in connection with the participation in the said institutions of branches of [resident] investment intermediaries abroad and with the participation of non-resident investment intermediaries in the Fund.

(3) The agreements referred to in Paragraph (2) shall regulate:

1. the procedure and manner for exchange of information;
2. the procedures upon ascertainment that a specific investment intermediary is unable to meet the obligations thereof to the clients;
3. the manners, procedure and time limits for payment of compensation to the clients of an investment intermediary, including the conditions for set-off;
4. the procedures applicable upon failure of an investment intermediary to fulfil the obligation thereof to pay contributions;
5. other rights and obligations.

Article 26a. (New – SG 2/2007) (1) When the Fund shall conclude the bilateral agreements under art. 26, para 2, it shall have the right to apply the provisions of the applicable to its activity legislative acts in relation to the obligations of the investment intermediaries both domestic and foreign. The Fund may require providing of relevant information and it shall have the right to check this information at the competent authorities of the Member State in which the registered office of the said foreign investment intermediary is situated.

(2) The Fund shall meet demands for claims for additional compensation of clients of a foreign financial intermediary's branch after it has been notified about the circumstances under art. 77b, para 1 of the Public Offering of Securities Act by the competent authorities of the home Member State of the said foreign investment intermediary is situated. Before paying the additional compensation, the Fund shall reserve all of its rights to conduct an examination for determining the investor's rights in accordance with the applicable legislative provisions, standards and procedures.

(3) The fund and the compensation scheme of the home Member State of the foreign investment intermediary shall be in full collaboration, so that the investors shall receive compensation quickly and in the exact amounts. In particular cases they agree on the way, in which the counterclaims which may lead to offsetting under one of the schemes, shall reflect on the compensation, paid to the investor from every scheme.

(4) The fund shall have the right to pay additional compensation to clients of every branch of a foreign investment intermediary, when the size and the scope, including the percentage of the compensation, envisaged in the Law of Public Offering of Securities, shall exceed the size, covered in the home Member State of the investment intermediary, which shall provide services in the Republic of Bulgaria through a branch. In this case, the fund guarantees compensation for the difference, exceeding the compensation, provided by the compensation system of the investors in securities in accordance with the seat of the investment intermediary, no matter if this system shall actually pay compensation for the claims of the investors on the territory of the Republic of Bulgaria.

Article 27. The investment intermediaries, as well as the liquidator, the conservator and the trustee in bankruptcy of the investment intermediary, shall be obligated to cooperate and to provide the Fund with the entire information as may be needed in connection with the performance of the functions thereof.

Section V

Supervision over the Operation of the Fund

Article 28. (1) The Commission shall exercise supervision as to legal conformity over the operation of the Fund and shall see to the legally conforming and appropriate disbursement of the financial resources on administrative and other expenses.

(2) The Commission may prescribe the effecting of changes in the documents referred to in Items 16 and 17 of Article (1) herein, where the said documents provide for any acts leading to an unwarranted increase in the administrative expenses of the Fund or where the rights of the clients of the investment intermediaries are prejudiced by the said documents.

Article 29. (1) The Management Board of the Fund shall submit to the Commission:

1. an annual report on the operation thereof and a report on the state of the financial resources of the Fund: not later than the 30th day of May of the next succeeding year;
2. quarterly reference briefs not later than the end of the month next succeeding the quarter, regarding:
 - (a) a report on the implementation of the budget;
 - (b) the income and expenditures of the Fund;
 - (c) the claims for receipt of compensation as entered;
 - (d) the decisions adopted to pay compensation and to refuse to pay compensation;
 - (e) the acts taken to collect the receivables referred to in Article 77t (5) of the Public Offering of Securities Act;

(f) the financial resources of the Fund as invested.

(2) The information covered under Item 2 (c) to (f) of Paragraph (1) shall furthermore be submitted on an annual basis not later than the 30th day of May of the next succeeding year.

(3) The Fund shall keep the documents related to payment of compensation to clients of an investment intermediary for a period of ten years.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. The Management Fund of the Compensation Fund may modify these Regulations on a motion for Investors in Securities.

§ 2. The draft of a budget of the Compensation Fund for Investors in Securities for the financial year 2005 shall be submitted for approval within three months after the entry of these regulations into force.

§ 3. Within six months after the entry of these Regulations into force, the Management Fund of the Compensation Fund for Investors in Securities shall adopt and submit to the Financial Supervision Commission certified copies of the documents referred to in Items 16 and 17 of Article 5 (1) herein.

§ 4. (New – SG 97/2005; amend. – SG 2/2007) The Fund may use the financial resources, received by the raised payments, for covering the administrative costs for 2005, 2006 and 2007.

§ 5. (Prev. § 4 – SG 97/2005) These Regulations are issued in pursuance of Article 77e (3) of the Public Offering of Securities Act and were adopted by Decision No. 40-P dated 10 August 2005 of the Financial Supervision Commission.