

FINANCIAL SUPERVISORY AUTHORITY

REGULATION

on the legal status of the shares traded on RASDAQ market or on the unquoted securities market

By virtue of the provisions of Art. 1 Para (2), Art. 2 Para (1) Letters a) and d), Art. 3 Para (1) Letter b), Art. 6 Paras (1) and (2), and of Art. 14 Government Emergency Ordinance No. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved as amended and supplemented by Law No. 113/2013, as subsequently amended and supplemented,

By virtue of Art. 9 Para (2) of Law No. 151/2014 on the clarification of the legal status of the shares traded on RASDAQ Market or on the unquoted securities market,

Further to the deliberations held in the meeting of the Financial Supervisory Authority's Board of 26 November 2014,

the Financial Supervisory Authority hereby issues this regulation

CHAPTER I

General Provisions

Art. 1. – This regulation lays down rules and procedures on the legal status of the shares traded on RASDAQ market or on the unquoted securities market, in accordance with the provisions of Law No. 151/2014 on the clarification of the legal status of the shares traded on RASDAQ Market or on the unquoted securities market, hereinafter referred to as *Law No. 151/2014*.

Art. 2. – The terms, abbreviations and expressions used herein shall have the meanings provided in Capital Market Law No. 297/2004, as subsequently amended and supplemented, hereinafter referred to as *Law No.297/2004*.

CHAPTER II

Rules on the admission to trading on a regulated market / alternative trading system

Art. 3. - (1) If the extraordinary general meeting of shareholders approves the initiation of the actions required for the admission to trading on a regulated market, the company the shares of which are traded on RASDAQ market or on the unquoted securities market shall submit to the Financial Supervisory Authority, hereinafter referred to as *FSA*, the request for approval of the prospectus for the admission to trading on a regulated market, within the term referred to in Art. 6 Para (1) of Law No. 151/2014 and in compliance with the provisions of Art. 89 Para (6) of NSC Regulation No. 1/2006 on

issuers and operations with securities, as subsequently amended and supplemented, hereinafter referred to as *NSC Regulation No. 1/2006*.

(2) The prospectus referred to in Para (1) shall be drawn up in accordance with the provisions of Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/CE of the European Parliament and of the Council as regards the information contained in prospectuses, as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements, as subsequently amended and supplemented, hereinafter referred to as *Regulation (EC) No 809/2004*. Information may be incorporated in the prospectus by reference to one or more documents previously or simultaneously published and approved by NSC/FSA or submitted to NSC/FSA, in accordance with the provisions of Art. 186 and Art. 211 Para (3) of Law No. 297/2004, and also with the provisions of Art. 28 of Regulation (EC) No 809/2004.

(3) The issuer shall submit to the market operator, together with the request sent to FSA for the approval of the prospectus, a request for admission to trading, in accordance with the provisions of Art. 94 Para (1) of NSC Regulation No. 1/2006.

(4) For the analysis of the request for approval of the prospectus by FSA, the person requesting admission to trading shall send FSA the decision of the market operator regarding the agreement in principle on the admission to trading of securities on the regulated market managed by such market operator, in accordance with Art. 89 Para (6¹) of NSC Regulation No. 1/2006 or shall send FSA the reasoned decision of the market operator on the refusal to give the agreement in principle, where applicable.

(5) Through its approval or refusal decision of the prospectus, FSA shall decide on the approval or refusal of the request for admission to trading, considering the agreement in principle or the decision of the market operator on the refusal of the agreement in principle. FSA may approve the admission to trading of the shares in accordance with Art. 214, and Art. 217 Para (3) of Law No. 297/2004.

Art. 4. - (1) If the extraordinary general meeting of shareholders approves the initiation of the actions required for trading the company's shares in an alternative trading system, the company the shares of which are traded on RASDAQ market on the unquoted securities market shall submit to FSA, within the term referred to in Art. 6 Para (1) of Law No. 151/2014, the request for trading in an alternative system together with the system operator's agreement in principle on the trading of the shares in the alternative system managed by it, or, by the reasoned decision on the refusal to give the agreement in principle, where applicable, regarding the trading of shares in the alternative system.

(2) FSA's decision for admission to trading or refusal of the request for admission to trading in an alternative trading system shall be made based on the delivery to the company of the proof of delivery to the system operator of the documents required through the regulations of the alternative trading system.

CHAPTER III

Rules on the shareholders' right of withdrawal

Art. 5. – (1) The identification date of the shareholders having the right to withdraw from the company in the situation referred to in Art. 3 Para (1) of Law No. 151/2014 shall be the date of registration established by the extraordinary meeting of shareholders.

(2) The identification date of the shareholders having the right to withdraw from the company in the situations referred to in Art. 4 Para (1) letters a) and b) of Law No. 151/2014 shall be the fifth working day following the date of the extraordinary general meeting of shareholders.

(3) The identification date of the shareholders having the right to withdraw from the company in the situation referred to in Art. 4 Para (1) letter c) of Law No. 151/2014 shall be the fifth working day following the expiry of the term established in Art. 2 Para (1) of Law No. 151/2014.

(4) The identification date of the shareholders having the right to withdraw from the company in the situation referred to in Art. 7 Para (3), and Para (4) of Law No. 151/2014 shall be the fifth working day following the publication in FSA's Bulletin of the decision refusing the request for admission to trading.

Art. 6. – (1) So as to establish the price to be paid by the company the shares of which are traded on RASDAQ market for the shares held by the shareholders having exercised their right to withdraw from the company in the situations provided by Law No. 151/2014, the board of administration/executive board shall request the office of the trade register to appoint an independent authorised expert within maximum 5 working days following the receipt by the company of the first request for withdrawal from the company.

(2) The independent authorised expert appointed in accordance with Para (1) shall take all necessary steps to finalise the report on the price within maximum 30 working days after appointment.

(3) The shareholders that submitted requests for the withdrawal from the company, in accordance with the provisions of Law No. 151/2014, prior to the preparation of the current report referred to in Art. 8 Letter d), shall have the right to withdraw their requests within 10 working days following the date of such report.

Art. 7. – (1) The company the shares of which are traded on RASDAQ market shall pay the counter value of the shares held by the shareholders having exercised the right of withdrawal from the company in the situations provided by Law No. 151/2014, within maximum 30 working days calculated as of the date:

a) of expiry of the term referred to in Art. 6 Para (2), for the requests filed until the date of preparation by the company of the current report referred to in Art. 8 Letter d);

b) of submission of the request, for the requests filed after the company had drafted the current report referred to in Art. 8 Letter d).

(2) The company must, within 24 hours after receipt of a request for withdrawal from the company filed by a shareholder, request the central depository to take all necessary steps to block the shares of that shareholder. The payment referred to in Para (1) shall be made by the company based on the acknowledgement received from the central depository regarding the blocking of shares.

(3) The provisions referring to the direct transfer shall apply accordingly also in the case of the transfer of the ownership right from the shareholders having exercised their withdrawal right from the company in accordance with Law No. 151/2014. The company must request the central depository to register the direct transfer within 3 working days after payment is made to the shareholder.

Art. 8. – If the right of withdrawal from the company is exercised by the shareholders of a company the shares of which are traded on RASDAQ market subject to the conditions provided by Law No. 151/2014, the company shall inform FSA and the Bucharest Stock Exchange (BSE), through the submission of current reports, within maximum 24 hours as of:

- a) the registration of the first request for withdrawal;
- b) the initiation of the actions with the office of the trade register for the appointment of the independent authorised expert;
- c) the appointment by the office of the trade register of the independent authorised expert. The report shall also include the name of the independent authorised expert;
- d) the establishment by the independent authorised expert appointed by the office of the trade register of the price for the shares to be paid to the shareholders requesting the withdrawal from the company. The report shall also include the modalities whereby the shareholders may consult the report drafted by the appointed expert, and also the price established by the appointed expert for a share;
- e) the expiry of the deadline for submission of the requests for withdrawal from the company. The report shall also include details on the number of shareholders and the number of shares for which the right of withdrawal from the company was exercised;
- f) the expiry of the deadline for withdrawal of the shareholders' requests for withdrawal from the company. The report shall also include the number of shareholders and the number of shares for which the right of withdrawal of the requests was exercised;
- g) the expiry of the deadline for paying to the shareholders withdrawn from the company the counter value of the shares held, and of the completion of the procedure for withdrawal of the shareholders from the company.

Art. 9. – The shares traded on RASDAQ market shall be withdrawn from trading and deregistered from FSA's records subsequent to the transmission by the company of the current report in accordance with Art. 8 Letter g), and also of the acknowledgement received from the central depository in connection with the transfer of the ownership right in accordance with Art. 7 Para (3), as follows:

- a) in the case of the companies which did not take the actions necessary for holding the extraordinary general meetings of shareholders within the 120 days' term established at Art. 2 Para (1) of Law No. 151/2014 and which conducted the procedure for withdrawal of the shareholders from the company;
- b) in the case of the companies which did not hold the extraordinary general meeting of shareholders due to the failure to fulfil the legal quorum obligations and which conducted the procedure for withdrawal of the shareholders from the company;
- c) in the case of the companies which did not adopt any decision in the extraordinary general meeting of shareholders due to the failure to fulfil the legal majority obligations and which conducted the procedure for withdrawal of the shareholders from the company;
- d) in the case of the companies which adopted in the extraordinary general meeting of shareholders the decision that the company takes no legal actions necessary for the admission to trading of the shares issued by the company on the regulated market or trading thereof in an alternative trading system and which conducted the procedure for withdrawal of the shareholders from the company;

e) companies whose request for admission of the shares issued by it on a regulated market/alternative trading system was rejected by FSA and which conducted the procedure for withdrawal of the shareholders from the company if such right of withdrawal is granted in accordance with the provisions of Law No. 151/2014.

CHAPTER IV

Transitional and Final Provisions

Art. 10. – Upon the expiry of the term referred to in Art. 9 Para (1) of Law No. 151/2014, the shares traded on RASDAQ market shall be withdrawn from trading and deregistered from FSA's records, in the case of the company which did not receive requests from the shareholders for withdrawal from the company, and which is in any of the following situations:

a) it did not carry out the actions necessary to hold the extraordinary general meeting of shareholders within the 120 days' term referred to in Art. 2 Para (1) of Law No. 151/2014;

b) it did not hold the extraordinary general meeting of shareholders due to the failure to fulfil the legal quorum conditions;

c) it did not make any decision in the extraordinary general meeting of shareholders due to the failure to fulfil the legal majority conditions;

d) it adopted in the extraordinary general meeting of shareholders the decision that the company takes no legal actions necessary for the admission to trading of the shares issued by the company on a regulated market or trading thereof in an alternative trading system;

e) FSA refused the request for admission to trading of the shares issued by it on a regulated market/alternative trading system.

Art. 11. – Until the date of cessation of the activity of RASDAQ market and of the unquoted securities market through withdrawal from trading of the shares as provided by Arts. 9 and 10, the provisions of Arts. 12 – 18 shall apply accordingly.

Art. 12. – The trading and settlement regime of the transactions carried out on RASDAQ market and on the unquoted securities market existing upon the entry into force of this regulation shall be maintained until the expiry of the 12 months referred to in Art. 9 Para (1) of Law No. 151/2014.

Art. 13. – The reporting obligations referred to in Art. 14 – 16 shall be applicable until the date of withdrawal of the shares from trading on RASDAQ market or on the unquoted securities market.

Art. 14. – (1) The companies the shares of which are traded on RASDAQ market or unquoted securities market shall have the reporting obligations referred to in Art. 113 Letter A Para (1) Letters a)-c), j), k) and Letter E of NSC Regulation No. 1/2006.

(2) In the case of the companies referred to in Para (1), the preparation of the reports referred to in Art. 225 of Law No. 297/2004 and of Art. 113 Letter G Paras (3)-(6) of NSC Regulation No. 1/2006 shall not be mandatory.

(3) The provisions of Art. 259 of Law No. 297/2004 shall apply in the case of the companies the shares of which are traded on RASDAQ market or unquoted securities market, if such companies have the obligation to audit their financial statements in accordance with the applicable regulations.

Art. 15. – Until the date of withdrawal of the shares from trading, the financial auditors of the companies the shares of which are traded on RASDAQ market or unquoted securities market and which, in accordance with the applicable regulations, have the auditing obligations, must comply with the provisions of Art.113 Letter F of NSC Regulation No. 1/2006. For the compliance by the financial auditors of the obligations incumbent upon them, the administrators of the companies concerned shall have the obligation to send the necessary documents to the financial auditors, in accordance with Art.113 Letter F Para (2) of NSC Regulation No. 1/2006.

Art. 16. – The provisions of Art.116 of NSC Regulation No.1/2006 shall also apply to the companies the securities of which are traded on RASDAQ market or unquoted securities market.

Art. 17. – The companies the shares of which are traded on RASDAQ market and unquoted securities market which called, prior to the entry into force of this regulation, an extraordinary general meeting of shareholders for withdrawal from trading based on Executive Order No. 8/2006¹ may carry out the initial procedure in accordance with its provisions. As of the date of entry into force of this regulation, the provisions of Executive Order No. 8/2006 shall no longer apply to the companies the shares of which are traded on RASDAQ market or on the unquoted securities market, and no extraordinary general meetings of shareholders may be called based thereon.

Art. 18. - (1) The provisions of FSA Regulation No. 6/2009 on the exercise of certain rights of the shareholders in the general meeting of shareholders of trading companies, as subsequently amended and supplemented, shall apply accordingly also in the case of the companies the shares of which are traded on RASDAQ market or unquoted securities market, in accordance with the reporting obligations of those companies, established by this regulation.

(2) By way of exception from the provisions of Para (1), the companies the shares of which are traded on RASDAQ market or unquoted securities market shall not have the obligation to call a general meeting of shareholders or provide the shareholders with the information referred to in Art. 6 Para (1) of Regulation No. 6/2009, as subsequently amended and supplemented, in the English language. If the company does not have its own web page, the documents and/or information provided to shareholders in accordance with Regulation No. 6/2009, as subsequently amended and supplemented shall be provided to shareholders at least at the company's headquarters.

¹ Executive Order No. 8/2006 was not published in the Official Journal of Romania.

Art. 19. – The shares traded on the unquoted securities market shall be withdrawn from trading and deregistered from FSA's records as of the date of expiry of the 12 months' term referred to in Art. 9 Para (1) of Law No. 151/2014.

Art. 20. – This regulation shall be published in the Official Journal of Romania, Part I and shall enter into force on the date of its publication.

Art. 21. – Upon the entry into force of this regulation, the following acts² shall be repealed:

1. Executive Order No. 7/2005 of the National Securities Commission;
2. Decision No. 1603/09.12.2010;
3. Decision No. 75/18.01.2010;
4. Para (4) of Art. 20 of NSC Regulation No. 6/2009, as subsequently amended and supplemented;
5. Arts. 154, 155 and 157 of NSC Regulation No. 1/2006, as subsequently amended and supplemented;
6. any other provisions to the contrary.

President of the Supervisory Authority

Mișu Negrițoiu

Bucharest, 28 November 2014

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² The acts referred to in Art. 21 Items 1-3 were not published in the Official Journal of Romania.