

**ORDINANCE No 40 of 27 February 2008**  
**on the listing of securities for trade at official markets**  
(promulgated, State Gazette, issue 27 of 11 March 2008)

Chapter One

GENERAL PROVISIONS

Art. 1. This Ordinance shall settle the requirements to be met by securities so that they shall be listed and trade at an official market, organised by a regulated market, located and functioning on the territory of the Republic of Bulgaria, as well as the order and method for their listing.

Art. 2. This Ordinance shall not apply to securities issued by the member states or their regional or local authorities.

Art. 3 (1) Securities may be listed at an official market if they meet the requirements of the Law on Financial Instrument Markets, the Law on Public Offering of Securities and the by-laws related to its implementation and a decision has been made by the respective competent authority at the regulated market for their listing for trade at an official market.

(2) The rules on the operations of the regulated market may envisage stricter or additional requirements to those envisaged in the Ordinance in respect of the securities, respectively additional requirements to their issuer, which shall apply to all or a specific category of issuers, as well as exceptions from these requirements.

(3) The additional or stricter requirements under para 2 in respect of the securities shall apply to issuers that have filed a request for listing of the securities for trade at an official market, only if these requirements have been published appropriately by the regulated market prior to the filing of the request.

(4) Listing for trade at an official market of securities issued by a party, having its domicile in another member state, cannot be done under the condition that the securities should be listed for trade at an official market, organised by a regulated market, located or operating in a member state.

Chapter Two

REQUIREMENTS FOR LISTING SHARES FOR TRADE AT AN OFFICIAL MARKET

Art. 4. (1) For the shares to be listed for trade at an official market the share issuer should meet the following requirements:

1. the legal status of the issuer should comply with the applicable legislation of the country of its domicile both in respect of the issuer's establishment, and in respect of the issuer's business in accordance with the issuer's articles of association;
2. the product of the number of shares which are requested to be listed for trade at an official market and their forecast market price, and if this price cannot be determined – the equity of the issuer, comprising the share capital, reserves and the profit or loss reported during the last financial year, should amount to no less than the Bulgarian lev equivalent of EUR 1 000 000;
3. the issuer should have published or filed its annual financial statements in accordance with the applicable legislation of the country of its domicile for the three financial years preceding its filing of request for listing for trade at an official market.

(2) Para 1, item 2 shall not apply for listing for trade at an official market of a subsequent issue of shares of the same class as those already listed for trade.

(3) The regulated market may list shares, which do not meet the requirement under para 1, item 2, for trade at an official market, if it shall be assessed that appropriate market for the respective shares

exists. The assessment under the first sentence shall be done based on criteria set out in the rules on the operation of the regulated market.

(4) The regulated market may list shares for trade at an official market without complying to the requirement of para 1, item 3, if the issuer has published at least one set of annual financial statements and the regulated market shall assess that it shall be in the best interest of the issuer and the investors, and that the investors shall have available the information required to make an informed decision regarding the issuer and the shares, which are requested to be listed for trade at an official market.

Art. 5. (1) The shares subject to the request for listing for trade at an official market should meet the requirements of the applicable legislative and regulatory acts in the country where they are issued.

(2) The shares should be freely transferable and fully paid-in.

(3) In the cases when for the acquisition of certain shares preliminary approval shall be required, their listing may be allowed for trade at an official market only if this requirement shall not impede the normal operation of the market.

(4) When listing of the shares for trade at an official market is preceded by initial public offering, the first day of trade may be determined only after expiry of the deadline for subscription.

Art. 6. (1) As at the date of listing for trade at an official market of an issue of shares, sufficient number of such shares should be distributed amongst the public in one or more member states in order to ensure liquidity.

(2) It shall be considered that sufficient number of shares is distributed amongst the public when:

1. at least 25 percent of the total number of the same class of shares – subject to listing for trade at an official market, are distributed amongst shareholders, holding directly not more than 2 percent of the total votes in the general assembly; or

2. having in mind the big number of shares of the same class and the level of their distribution amongst the public at the market, liquidity of the shares shall be secured by means of percentage lower than the one set out in item 1.

(3) Paragraph 1 shall not apply when the shares shall be distributed amongst the public through the regulated market. In this case the regulated market may decide to allow listing for trade at an official market, if sufficient number of shares shall be distributed through the regulated market over a short period of time.

(4) When listing for trade at an official market shall be requested for subsequent issues of the same class of shares as those already listed, the regulated market may take into account the distribution amongst the public of all issued shares of this class, and not only the shares of the subsequent issue, when making the assessment as to whether sufficient number of shares are distributed amongst the shares.

(5) In the cases when shares shall be listed for trade at an official market in one or more third countries, the regulated market may allow listing for trade at an official market, if sufficient number of shares shall be distributed amongst the public in this country or countries.

Art. 7. The application for listing of shares for trade at an official market should refer to all shares of the same class issued.

Art. 8. (1) Available shares issued by an issuer having its seat in another member state shall be listed for trade at an official market if they meet the requirements applicable in this member state.

(2) When the available shares do not meet the requirements of the legislation of the Republic of Bulgaria, the regulated market at which the shares shall be listed for trade at an official market, shall make this information publically available.

(3) The available shares issued by third country issuers, which shall be listed for trade at an official market, should provide sufficient guarantees for investor protection.

Art. 9. Shares issued by an issuer having its seat in a third country, which shall not be listed for trade at an official market in the country of its seat or in the country, where the shares shall be predominantly distributed, shall not be allowed for listing for trade at an official market. The requirement under the first sentence shall not apply in the cases when the regulated market shall assess that the non-listing of the securities for trade at an official market in these countries is not due to the need to protect the interests of the investors.

Art. 10. Depository receipts representing shares may be listed for trading at an official market only if the issuer and the depository receipts shall meet the requirements under art. 4-8.

### Chapter Three

#### REQUIREMENTS FOR LISTING DEBT SECURITIES FOR TRADE AT AN OFFICIAL MARKET

Art. 11. (1) To allow listing of debt securities for trading at an official market the legal status of the issuer should comply with the applicable legislative and regulatory acts both in respect of its establishment, and in respect of its operations as per its articles of association.

(2) Debt securities shall be listed for trade at an official market if they shall meet the requirements of the applicable legislative and regulatory acts in the country where they are issued.

(3) Debt securities shall be allowed for listing for trade at an official market if they shall be freely transferable and fully paid-in.

(4) When admission of the debt securities for trade at an official market shall be preceded by an initial public offering, the first day of trade may be determined only following expiry of the deadline for subscription.

(5) The requirement under para 1 shall not apply to debt securities issued long-term or periodically, when no deadline for subscription has been set.

Art. 12. The request for listing of debt securities for trade at an official market should refer to all debt securities in one issue, which shall give equal right to a receivable.

Art. 13. (1) Available debt securities issued by an issuer having its seat in another member state shall be allowed for listing at an official market if they meet the requirements applicable in that member state.

(2) In the cases when the available debt securities do not meet the requirements of the legislation of the Republic of Bulgaria, the regulated market at which debt securities shall be listed for trade at the official market shall make this information publically available.

(3) Available debt securities issued by third country issuers, which shall be listed for trading at an official market, should provide sufficient guarantees as to investor protection.

Art. 14. (1) The total nominal value of the debt securities which shall be listed for trade at an official market, may not be less than the Bulgarian lev equivalent of EUR 200 000. The preceding sentence shall not apply to debt securities issued long-term or periodically, when the total amount of the debenture issue is not set.

(2) The regulated market may list for trade at an official market debt securities in respect of which the requirement under para 1 shall not be met, if the market shall assess that there is suitable market for the respective debt securities. The assessment under the first sentence shall be made on the basis of criteria set out in the rules on the regulated market.

Art. 15. (1) Convertible debt securities and debt securities with warrants may be listed for trade at an official market, only if the shares linked to them are already trade at that market or at an official market organised by another regulated market, operating regularly, recognised and publically accessible, or are listed for trade at these market simultaneously.

(2) The requirement under para 1 shall not apply if the regulated market shall assess that the holders of convertible debt securities or debt securities with warrants have available all the information required to evaluate the shares, which these debt securities are linked to.

Art. 16. The provisions of art. 11, para 3 and 4, art. 12, and art. 13, para 3 shall apply to debt securities issued by third countries, their regional and local authorities and public international institutions, respectively.

Art. 17. The exceptions under art. 3, para 2, art. 4, para 3 and 4, art. 5, para 3, art. 6, para 4 and 5, art. 9, art. 14, para 2, art. 15, para 2 shall apply in general to all issuers when the circumstances giving rise to their application shall be similar.

## Chapter Four

### ORDER AND MANNER FOR LISTING FOR TRADE AT AN OFFICIAL MARKET. SUPERVISION AND COOPERATION

Art. 18. (1) The request for listing of an issue of securities for trade at an official market should state whether a request for listing of the same securities to an official market in another member state is filed simultaneously or has been filed, as well as whether a request for listing of the securities to such market in another member state shall be filed.

(2) In the cases under para 1, when the request for listing for trade at an official market of the same securities is filed simultaneously or within a short period of time at an official market, organised by a regulated market in another member state, or when the request refers to securities which have already been listed for trade at the official market, organised by a regulated market in another member state, the regulated market shall notify the competent authority in the respective member state as to the request received and shall undertake the necessary steps to accelerate the procedure and to reduce formalities and additional requirements for the listing of the securities.

(3) When the request for the listing of the securities shall refer to depository receipts, representing shares, the request shall be considered only if the issuer of the receipts shall offer appropriate investor protection measures.

(4) The regulated market may pose specific requirements to allow listing of the securities for trade at an official market, when this shall be required, in order to ensure the investor interests. In this case the regulated market shall notify the applicant forthwith.

Art. 19. (1) The regulated market may refuse listing for trade at an official market if it shall assess that due to the issuer's circumstances the investor interests may be damaged.

(2) The regulated market may refuse listing for trade at an official market for securities, which have already been listed for trading at an official market, organised by the regulated market located and operating on the territory of another member state, when the issuer shall not comply with the obligations resulting from the listing of the securities for trade at the official market of the respective member state.

(3) The refusal for listing securities for trade at an official market may be appealed against before the Arbitration Court of the regulated market within 14 days as of pronouncement of the decision.

Art. 20. (1) To protect ensure protection for the investors and stability at the market in relation to the trade at an official market, the regulated market may:

1. require the issuer to provide certain information;
2. oblige the issuer to publish certain information in a format and within deadlines set out by the regulated market;
3. publish certain information at its own initiative and following presentation of an explanation by the issuer in the cases when the issuer has not complied with its obligation under item 2;
4. cease trade with the issuer's securities;

5. cancel trade with the securities when it shall assess that given the circumstances normal trade shall not be possible.

(2) The regulated market may disclose any measure taken and any sanction imposed for infringement of the issuer's obligations related to the listing of the securities for trade at the official market.

## Chapter Five

### ADMINISTRATIVE PENAL PROVISION

Art. 21. (1) The persons who have violated the provisions of the Ordinance, as well as persons, who have allowed commitment of such violations, shall be penalised in accordance with art. 127 of the Law on Financial Instrument Markets.

(2) The acts on the established violations of the Ordinance shall be drafted by officials authorised by the Deputy Chair, Head of Supervision of Investment Activities Division, and penal pronouncement shall be issued by the Deputy Chair, Head of Supervision of Investment Activities Division.

(3) Findings of violations, issue, appeal and enforcement of the penal pronouncements shall be made as provided for under the Law on Administrative Violations and Sanctions.

### MISCELLANEOUS PROVISIONS

§ 1. Under this Ordinance:

1. "Official market" shall be a separate portion of the regulated market where stricter and / or additional provisions shall be applied compared to the general requirements for listing securities for trade at the regulated market.
2. "Issuer" shall be a commercial entity, legal entity and any other entity, the securities of which shall be subject to a request for listing for trade at an official market organised by a regulated market.
3. "Competent authority in the respective member state" shall be the competent authority within the member state responsible for the listing of securities for trade at an official market and which shall be defined as such in accordance with Directive 2001/34/EC regarding listing securities for trade at an official regulated market and the information published in respect of such securities.
4. "Depositary receipts, representing shares" shall be securities issued on the basis of shares of an issuer or issuers, giving the right to their holder to exercise the rights related to the shares on the basis of which they have been issued.

§ 2. This Ordinance shall introduce the provisions of Directive 2001/34/EC regarding listing securities for trade at an official regulated market and the information published in respect of such securities.

### TRANSITIONAL AND CONCLUDING PROVISIONS

§ 3. (1) The regulated market shall bring its operations in line with the requirements of the Ordinance within 3 months as of its entering into force.

(2) The regulated market shall undertake the steps required to delist from trade at an official market of securities not meeting the requirements of this Ordinance within 1 month as of expiry of the deadline under para 1.

§ 4. This Ordinance shall be passed on the grounds of § 25 in relation to art. 90, para 3 of the Law on Financial Instrument Markets and has been passed by virtue of Decision No 96-N of 27 February 2008 of the Financial Supervision Commission.