



**MONTENEGRO
SECURITIES AND EXCHANGE COMMISSION**

GENERAL CONTROL PLAN FOR 2012

Podgorica, December 2011

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1. POWERS AND RESPONSIBILITIES OF THE SECURITIES AND EXCHANGE COMMISSION

Montenegro Securities and Exchange Commission (hereinafter referred to as: the Commission) is an independent regulatory body authorized under the Law on Securities ("Official Gazette of RMNE" nos. 59/00, 10/01, 43 / 05, 28/06, "Official Gazette of Montenegro", nos. 53/09, 73/10, 40/11) for regulation and supervision of the securities market. The Commission is responsible for regulation and supervision of all activities related to securities, including markets, authorized participants, investment funds, voluntary pension funds and issuers of securities.

The Commission is responsible for adoption of rules for implementation of the Law on Securities, Law on Investment Funds, Law on Voluntary Pension Funds and the Law on Takeover of Joint Stock Companies in cases where there is specific authorization contained in the law. The regulatory process is envisaged by the Law on Securities, which authorizes the Commission for creation and adoption of bylaws.

The Commission is responsible for supervising the enforcement of regulations. It carries out a preliminary oversight function for entry into the market and performs continuous supervision of market as well as exit the market.

Commission grants approvals for public issues of shares and long-term/short-term debt securities and for registration of all issues of securities which are not sold through public offering and approves the prospectus for public issuance of short-term debt securities, except treasury bills. It also issues licenses to capital market participants, i.e. authorized participants, management companies, investment funds, voluntary pension funds, stock exchanges, Central Depository Agency and custodian banks.

The Commission is authorized to exercise continuous supervision over persons and entities that professionally trade in securities, with the aim to promote and encourage high standards of investor protection and market integrity. The Commission continuously controls compliance with the operating standards established by the laws and regulations, which, inter alia, require from market participants to do the following in dealing in securities:

- to apply high standards of market conduct;
- to ask clients about information on their investment objectives and aims which might reasonably be expected to be important, and enable the licensee to fulfill responsibilities towards the client;
- to inform the client in a comprehensive manner, which allows the client to make investment decisions;

- to avoid conflict of interest with the client, while ensuring that clients' interests are ahead of those of the market participant;
- to provide for division and identification of client's assets for which they are responsible;
- to maintain adequate resources in order to operate regularly;
- to refrain from taking unnecessary risks;
- to organize and control internal operations in a responsible manner;
- to keep proper records;
- to ensure that all employees are competent, adequately skilled and properly controlled.

The Commission also oversees the process of the subject's exit of the market and makes a decision to revoke/suspend the license after obtaining evidence that such a revocation/suspension does not affect realization of transactions in securities concluded prior to the suspension, and that does not affect the rights, obligations or responsibilities arising from such transactions.

2. OBJECTIVES OF SUPERVISION OF CAPITAL MARKET PARTICIPANTS

An efficient surveillance system requires consultants to develop and maintain a thorough understanding of business operations of individual market participants, their groups and the market as a whole, focusing on the efficient functioning of the market, prevention of systemic risk, investors' protection, financial system stability, transparency and keeping professional secrecy, respecting the following principles:

- morality;
- fairness;
- professionalism;
- rationality;
- systematism;
- accuracy;
- legality;
- timeliness;
- accuracy in recognizing the legality and accuracy of describing for quality taking measures;
- addressing the same situations in the same way;
- impartiality;
- official literacy;
- unselfishness in working with working groups;
- being well informed about events in the market.

In general, the supervision of market participants aims to verify compliance with the relevant requirements, as the efficient performance and adaptation to the nature and scope of approval and compliance with prudential requirements as well as business requirements (accounting, solvency, liquidity, internal controls and risk, relationships with clients, prevention of conflicts of interest and abuse of practice). Supervision means the evaluation of relevant quantitative and qualitative aspects of market participants and their compliance with the regulatory framework - aimed to assess the existing legal profile and operational risk profiles and any possible events that could adversely affect business continuity.

3. TYPES OF CONTROL

In accordance with the Rules on control of operations with securities (“Official Gazette of RMNE”, No. 28/07). The Commission exercises direct and indirect control.

Indirect controls may be exercised by employees of the Commission, or may be exercised through the work of external experts. These controls endeavor to:

- provide independent verification that an adequate corporate governance (also including the management of risk and internal control systems) exists in individual subjects;
- establish that the information provided by subjects are reliable;
- determine compliance of the necessary records with the prescribed form;
- obtain additional information about the company and its associated companies, which are needed to assess the situation, a material risk and for identification of necessary corrective actions and monitoring activities, including enhanced indirect supervision, and
- monitor the conduct of capital market participants related to supervision issues.

The Commission exercises direct control by inspection of registers, other records, business books and other documents relating to operations with securities, in the premises of controlled entity or other person where a reasonable expectation exists that can provide data and facts related to the control.

Indirect control is used as a means of:

- Regular monitoring and analyze of the financial condition of individual agents through operating reports, statistical reports and other relevant information, including publicly available information;
- monitoring issues that require further attention, assessment of a risk development, identification of priorities and scope of further work, and
- the preparatory phase for setting priorities and scope of direct control.

The Commission exercises a direct control by inspection of:

- daily reports;
- reports suggested necessary in order to obtain data for quality and timely treatment;
- periodic reports;
- annual report with appropriate financial statements;
- statements obtained on other grounds.

4. THE AIM OF ADOPTION OF THE GENERAL CONTROL PLAN

The main objective for adoption of the General control plan for 2012 is rational and efficient management of resources, primarily personnel and material, in order to achieve productive results and identification of specific topics for controls based on risks that may arise in the development of the overall economic market, and,, in particular securities market.

5. WORK RESULTS

The results of controls exercised by the Commission are primarily expressed through direct effects, i.e. the number of controls made and the quality and effect of measures taken during the control and application of legal regulations, their implementation and compliance.

In addition to direct effects, the controls exercised by the Commission also reflect through indirect effects, which are harder to measure and as such cannot be precisely quantified, but can be identified. Indirect effects are the increase of business discipline, investors' protection, improvement of transparency, contribution to the elimination of business barriers, bringing the time of control in required limits, without negative impact on the continuity of the operation of a controlled entity.

6. BASIS FOR THE INITIATION OF CONTROL

The Commission exercises control of operations of securities market participants as follows: on its own initiative or at the initiative of the Commission's member, at the request of securities holder or potential investor in securities, stock exchange, the licensee, the Central Depository Agency or at the request of another competent authority, organization or association.

The Commission may exercise control of operations of the capital market participant based also on the proposal of a foreign authority responsible for monitoring the securities market and is obliged to submit the findings of the control to a foreign authority responsible for supervision of the securities market, at whose request the control was exercised.

7. CONTROLLERS OF THE COMMISSION

For the exercise of control the Commission shall authorize a person - the controller. Controllers are, by their function, the members of the Commission, Secretary of the Commission and persons permanently employed at the Commission with adequate professional qualifications and, exceptionally, other persons appointed by the Commission.

8. CATEGORIES OF CAPITAL MARKET PARTICIPANTS

According to the General control plan for 2012, securities market participants are divided into the following categories:

- Authorized participants (broker-dealer companies and custodian banks);
- Stock Exchange;
- Central Depository Agency;
- Investment funds and investment funds' management companies;
- Voluntary pension funds and voluntary pension funds' management companies;
- Issuers of securities.

9. CONTROL OF OPERATIONS OF AUTHORIZED PARTICIPANTS (BROKER-DEALER COMPANIES AND CUSTODIAN BANKS)

In performance of authorized participants' operations, the Commission, within its jurisdiction, shall particularly exercise control of:

- application of laws, rules and guidelines of the Commission and rules and regulations of other authorized participants;
- dealing in securities in general or in individual securities;
- providing information and advice to clients about the price of securities and other circumstances that allow the client to make an investment decision
- dealing in securities held by the client in relation to the client's order;
- handling the clients' orders in accordance with the sequence of receipt of orders set by their rules;

- keeping order books and other required documentation;
- informing the client about the transaction made upon his order;
- avoiding of conflict of interest with the client;
- organization and internal operations;
- internal control;
- protection of clients' accounts from blockages;
- operations on margin;
- electronic (on-line) trading.

The Commission controls daily, periodic and annual reports, as well as reports upon request, on the complaint or in accordance with specific situations.

Periodic reports on operations of authorized participants are prepared for the following periods: January – March, January – June, January – September and January – December of the current year, and shall be submitted to the Commission within the period of no later than 30 days following the date of the expiry of the period the reports relate to.

The Commission shall exercise an indirect control of authorized participants through reports on operations at least five times a year.

10. CONTROL OF STOCK EXCHANGE OPERATIONS

In the performance of Stock Exchange operations, the Commission shall particularly exercise control of:

- the application of laws, rules and guidelines of the Commission and rules and other regulations of the Stock Exchange;
- compliance with submitted applications for admission and termination of the membership on the Stock Exchange;
- compliance with submitted applications for admission to stock exchange listing, admission of securities to official stock exchange listing and removal of listed securities from the stock exchange listing;
- manner of conducting any activities of stock exchange operation;
- organization and internal operations;
- Stock Exchange Electronic Trading System;
- electronic (on-line) trading;
- working hours and a calendar of holidays;
- assessment of certain transactions' legality.

The Commission controls daily, periodic and annual reports, as well as reports upon request, on the complaint or in accordance with specific situations.

Periodic reports on operations of the stock exchange are prepared for the following periods: January – March, January – June, January – September and January – December of the current year, and shall be submitted to the Commission within the period of no later than 30 days following the date of the expiry of the period the reports relate to.

The Commission shall exercise an indirect control of Stock Exchange through reports on operations at least five times a year.

11. CONTROL OF CENTRAL DEPOSITORY AGENCY OPERATIONS

In performance of Central Depository Agency's operations, the Commission shall particularly exercise the control of:

- the application of laws, rules and guidelines of the Commission and rules and regulations of the Central Depository Agency;
- opening a securities account;
- registration of securities;
- clearing and settlement of transactions in securities;
- transfer of ownership over securities;
- compliance with submitted applications for admission and termination of membership in the Central Depository Agency;
- performance of other operations with dematerialized securities;
- calculation and payment of commissions and other fees;
- organization and internal operations;
- software solutions within the information system
- keeping and updating business records;

The Commission controls periodic and annual reports, and reports upon request.

Periodic reports on operations of the Central Depository Agency are prepared for the following periods: January – March, January – June, January – September and January – December of the current year, and shall be submitted to the Commission within the period of no later than 30 days following the date of the expiry of the period the reports relate to.

The Commission shall exercise an indirect control of the Central Depository Agency through reports on operations at least five times a year.

12. CONTROL OF OPERATIONS OF OPEN-END AND CLOSED-END INVESTMENT FUNDS

Through the control of management companies of the investment funds, open-end funds, closed-end funds and depository banks, the Commission shall set out in particular:

- legality of management companies' operations, operations of open-end funds and closed-end funds;
- fulfillment of the conditions for the establishment and operation of management companies, open-end funds, closed-end funds and the establishment and operation of the depository;
- accuracy of financial reports that are submitted to the Commission;
- accuracy of data on operations of management companies, open-end funds, closed-end funds;
- monitoring the activities of safeguarding the assets of open-end funds, closed-end funds and settlements and ownership over securities;
- monitoring the fulfillment of conditions for operations of the depository over the assets of open-end funds and closed-end funds;
- monitoring selection and change of a custodian;
- monitoring contractual obligations between a custodian and a management company;
- monitoring connection between a custodian and a management company and responsible persons of management companies;
- monitoring reporting the public on accounting unit value of open-end funds;
- monitoring reporting on open-end funds' yields;
- monitoring maintenance of open-end fund's members personal accounts;
- accuracy and the method of calculation of the closed-end funds' assets value, calculation of closed-end funds' net asset value, and value of assets per closed-end fund's share;
- accuracy and the method of calculation of the open-end fund's assets, calculation of net asset value, accounting unit value and open-end fund's yields;
- accuracy of calculation of all fees;
- compliance with prescribed restrictions on investments of the open-end fund's assets;
- monitoring execution of transactions and verification of the date of acquisition and sale of securities;
- monitoring change of the business name, registered office, the company's articles of association, business names of open-end funds and names of closed-end funds;
- monitoring unauthorized use of the business name of management companies;
- supervision of the cessation of activities of management companies;
- monitoring the performance of the management company's operations subject;

- monitoring fulfillment of the conditions of management companies for having a license for operations of open-end funds and closed-end funds;
- monitoring the status and changes in the ownership structure of the management company;
- monitoring purchase of shares from another management company for the merger and acquisition or takeover of management companies;
- monitoring the management company's staff capacity in accordance with the law;
- monitoring transformation program;
- monitoring publication of closed-end funds' Supervisory Boards reports;
- other facts regarding financial operations of management companies, open-end funds, closed-end funds and a depository whose control is deemed necessary.

The management company shall submit to the Commission monthly report on holding financial assets, within the period of 5 days following the end of the month to which the report relates.

The management company shall submit to the Commission monthly reports on the management company's operations and monthly reports on operations of the funds it manages, within the period of 5 days following the end of the month to which the report relates.

The Supervisory Board of the closed-end fund shall submit to the Commission monthly reports on its operations within the period of 5 days following the end of the month to which the report relates.

The management company shall submit to the Commission an annual report on the management company's operations and the annual report on operations of the funds it manages not later than 30/04 of the current year for the previous year.

13. CONTROL OF VOLUNTARY PENSION FUNDS

Through control of voluntary pension funds, voluntary pension funds management companies and custodian banks regarding activities of voluntary pension funds, the Commission shall set out in particular:

- legality of operations of management companies and pension funds;
- fulfillment of the conditions for the establishment and operation of management companies, establishment of pension funds and the establishment and operation of the custodian regarding operations of the pension fund;

- accuracy of financial reports submitted to the Commission;
- accuracy of data on operations of a management company and a pension fund;
- monitoring tasks of keeping the pension fund's assets, settlement and ownership over securities;
- monitoring the fulfillment of the conditions for operations of the custodian over the assets of the pension fund;
- monitoring selection and change of a custodian;
- monitoring contractual obligations between a custodian and a management company;
- monitoring connection between a custodian and a management company and responsible persons of management companies;
- monitoring reporting the public on accounting unit value;
- monitoring reporting on pension funds' yield;
- monitoring maintenance of pension fund's members personal accounts ;
- accuracy and the method of calculation of the pension fund's assets, calculation of net asset value, accounting unit value of pension fund's yields;
- accuracy of calculation of all fees;
- compliance with prescribed restrictions on investments of the pension fund's assets;
- monitoring execution of transactions and verification of the date of acquisition and sale of securities;
- monitoring change of the business name, registered office, the company's articles of association and pension fund's business name;
- unauthorized use of the business name of the pension fund's management company;
- supervision of the cessation of activities of the management company;
- monitoring the performance of the management company's operations subject;
- monitoring fulfillment of the conditions of the management company for having the license to operate pension funds;
- monitoring the status and changes in the ownership structure of the management company;
- monitoring the number of pension funds' members;
- monitoring purchase of shares from another management company for the merger and acquisition or takeover of the management company;
- monitoring the management company's staff capacity in accordance with the law;
- monitoring publication of information brochure;
- other facts regarding financial operations of the management company, pension fund and a custodian related to pension fund's operations whose control is deemed necessary.

Daily reports on net asset value of the fund (NAV) shall be submitted to the Commission by the custodian on a daily basis, up to 13 p.m. of the current day for the previous day, in electronic form.

The custodian shall submit weekly reports on NAV in paper form, no later than Tuesday of the current week for the previous week.

Voluntary pension fund management company shall submit to the Commission a monthly report on holding financial assets within five days following the end of the month to which the report relates.

Pension fund management company shall submit to the Commission the annual report on operations of the pension fund management company and the annual report of the voluntary pension fund no later than 30/04 of the current year for the previous year.

Pension funds management company shall submit to the Commission quarterly reports on operations of the pension funds management company and quarterly reports of the voluntary pension fund no later than 30 days after the expiration of the period to which the report relates.

Voluntary pension fund shall submit to the Commission the Information brochure, latest by 31/03/2012.

Voluntary pension fund management company shall submit monthly reports on the rate of return of the voluntary pension fund, no later than three days following the end of the month to which the report relates.

14. CONTROL OF SUBMISSION OF SECURITIES ISSUERS' FINANCIAL REPORTS

Issuers of securities prepare and submit to the Commission quarterly and annual reports, in written or in electronic form, on the forms determined by the Commission and published on the Commission's website.

Reports, the issuers of securities are obliged to submit, are as follows:

- Quarterly report (for the period 01/01-31/03 of the current year)
- Semi-annual report (for the period 01/01-30/06 of the current year)
- Nine-month report (for the period 01/01-30/09 of the current year)
- Annual report and audit findings (for the period from 01/01 to 31/12)

Quarterly, semi-annual and nine-month reports shall be submitted to the Commission within the period of 30 days following the date of the expiry of the period to which the report relates.

Annual reports shall be submitted to the Commission the latest on 31 March of the current year for the previous year.

Independent auditor's report shall be submitted to the Commission latest on 30 June of the current year for the previous year.

The Commission shall control the submission of the above mentioned reports at least five times a year.

15. REPORTING ON CONTROLS

Creating reports on exercised control is an integral part of the control process and represents the basis for adoption of conclusions of the control. Reports are prepared for each control individually and elaborated on the session of the Commission. This method of operations enables efficient monitoring of exercised controls in accordance with the General control plan.

16. FINDINGS OF THE CONTROL AS A STARTING POINT FOR EXERCISING CONTROL ACTIVITIES IN THE FOLLOWING YEAR

General control plan was designed in a way to help development of the control function of the Commission, based on the principle of the efficient use of resources, thorough market coverage and an adequate control. The General plan represents a starting point for planning controls and defining controlled areas, and as such, represents a dynamic tool that is updated and adapted to changing and developing circumstances in which the Commission exercises its control function.

In exercising its functions, controllers of the Commission have a proactive attitude in monitoring and recording any potential improvements in the process of exercising the control, which may form the basis for updating the General control plan for the following year.