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## **LAW OF UKRAINE**

### **On the National Depository System And Special Features of Electronic Circulation of Securities in Ukraine**

*(Vidomosti Verkhovnoi Rady (VVR) (The Verkhovna Rada News) 1998, # 15, p. 67)*

This Law establishes legal norms for securities circulation within the National Depository System and special features of electronic circulation of securities in Ukraine.

#### **Section I. GENERAL PROVISIONS**

##### *Article 1. Definition of terms and notions*

For the purposes of this Law, the terms and notions herein are used in the meaning as follows:

non-documentary form of security – accounting entry made by a custodian, which confirms ownership rights to a security;

segregated form of securities' safe-keeping – form under which the securities custodian (hereinafter – custodian) shall be obliged to keep safe securities certificates and keep records thereof indicating their numbers or other specific features;

securities issuance – all securities by a given issuer with one registration number registered according to the defined procedures; they may have different terms of issue, but they render the same rights;

global certificate – a document covering an entire non-documentary securities' issuance, except for privatization papers which certifies the owner's right to receive free of charge a share of property of state enterprises, the State Housing Fund, and the Land Fund; global certificates confirm the right to perform operations with securities of this issuance within the National Depository System;

securities' depository (hereinafter – depository) – a legal entity which carries out exclusively depository activity and may perform clearing and settlement of securities transactions;

depository activity – rendering services associated with securities safekeeping regardless of the form of the issuance, opening and maintaining securities’ accounts, servicing operations on those accounts (including clearing and settlement of securities transactions), and servicing an issuer’s operations in securities it has issued;

depository agreement – an agreement between a custodian and a depository chosen by this custodian, under which the depository maintains for the custodian securities’ accounts reflecting operations with securities transferred by the custodian;

depository record-keeping – record-keeping of securities on securities owners’ accounts with a custodian, or record-keeping in connection with securities accounts carried out by a depository for custodians and issuers;

depositor – a legal or physical entity using the services of a custodian pursuant to an agreement on opening a securities account;

agreement on opening a securities account – an agreement between a securities’ owner and a custodian chosen by this owner regarding transferring securities by those securities owner to the custodian for subsequent depository activity;

agreement on clearing and settlement of securities transactions – an agreement between a stock exchange or participants of an organized over-the-counter trading system and a depository chosen by the stock exchange or participants on clearing and settlement of securities transactions;

agreement on servicing a securities issuance – an agreement between an issuer and a depository chosen by this issuer on servicing the issuer’s operations with securities issued by it;

documentary form of security – securities’ certificate (hereinafter – certificate) containing requisite elements of a relevant type of securities of a given issuance, data on the number of securities, and certifying all rights rendered by these securities;

electronic trading and information network – all software and hardware products used by a stock exchange or an organized over-the-counter trading system to provide for execution of securities transactions;

custodian – a commercial bank or a securities trader licensed to keep safe and service securities circulation and issuer’s operation with securities on securities’ accounts both with regard to securities owned by the custodian and those it keeps safe under an agreement on opening a securities account; the custodian shall not maintain the registry of owners of securities in which it performs transactions;

immobilization of securities – conversion of documentary securities into non-documentary securities through depositing certificates in a custodian’ and/or depository’

vaults in order to provide for their further circulation in the form of accounting entries in the accounts of the custodian and/or depository;

collective form of securities' safe-keeping – method under which the depository or custodian carries out depository record-keeping of securities with no reference to a security's number or any other identifying features;

clearing - the receipt, verification and updating of information, as well as preparation of accounting and record-keeping documents supporting execution of securities transactions, statements of mutual obligations, including netting, support and guaranty of settlements on securities transactions;

clearing depository – a depository licensed by the Securities Stock Market State Commission to perform clearing of securities transactions;

correspondent relations with regard to securities – contractual relations between the depositories, under which one depository carries out record-keeping of securities kept with the other depository;

nominal holder – a depository or securities custodian registered in the registry of registered security owners as a legal entity to which these securities were transferred by the instruction of, and for the benefit of, the securities owners in order to perform operations within the National Depository System;

over-the-counter trading system – a non-profit securities traders association established with the objective of rendering services related to securities transactions;

securities accounts – accounts maintained by custodians for the benefit of securities' owners and by depositories for the benefit of custodians with regard to servicing securities operations;

registered securities owners registry – a list of registered securities owners and nominal holders generated by a registrar as of a specific date;

registrar – a legal entity – subject of entrepreneurial activity that obtained a permit to maintain a registry of registered securities owners;

settlement bank – a bank with which a depository has signed an agreement on cash settlements on securities transactions;

certificate – a blank form of a security issued to the security (securities) owner which contains the requisite elements and the type of a security (share, bond, etc.) defined by the law or bears the title “certificate of shares (bonds, etc)”, and certifies ownership right to a security (securities);

documentary securities quality certificate – a document certifying the technical protection parameters of documentary securities which is issued by the security certificate manufacturer to an issuer to allow for verification of their validity (authenticity) and compliance with international quality standards during the process of circulation;

participants of the National Depository System are as follows:

direct participants – depositories, custodians, registrars of registered securities owners; and

indirect participants – organizers of securities trade, banks, securities traders and issuers.

## *Article 2. Structure of the National Depository System*

1. The National Depository System has two levels.

The lower level is made up of custodians that hold accounts on behalf of securities owners, as well as registrars of registered securities owners.

The upper level is represented by the National Depository of Ukraine (hereinafter - the National Depository), as well as depositories which hold accounts of custodians and perform clearing and settlement of securities transactions.

Servicing of government securities circulation, including depository activity with regard to those securities, is carried out by the National Bank of Ukraine. Specific features of performing depository activity with regard to government securities shall be established by the Securities and Stock Market State Commission together with the National Bank of Ukraine. While carrying out this activity, the National Bank shall not be subject to the restrictions set forth by Paragraph 6, Article 1, and Section 1, Article 10 of this Law.

Should they obtain the required license, depositories and custodians may maintain registered securities owners registries.

Maintenance of registered securities owners registries is an exclusive activity of subjects of entrepreneurial activity and may not be combined with any other type of activity except for depository activity.

2. The National Depository System shall carry out the following activities:

bringing securities record keeping in compliance with international standards;

unifying circulation of documents related to securities operations and numbering Ukrainian securities pursuant to the international standards;

providing safekeeping of all types of securities, both documentary and non-documentary;

performing actual delivery of securities, or delivery from a securities account versus payment under customers' instructions;

accumulating earnings (dividends, interest, redemption payments, etc.) on securities served by the system and their distributing between accounts;

regulating and maintaining loan and pledge mechanisms with respect to securities which are serviced by the system;

offering services with regard to fulfillment of the obligations of a nominee holder of registered securities which are serviced by the system; and

developing, implementing, servicing and maintaining computerized systems for servicing securities accounts, and performing cash payments related to banking and/or other clearing systems on a daily or other regular basis.

In order to support operation of the integral system of depository record-keeping, the National Depository shall be established as an open joint stock company. The Securities and Stock Market State Commission shall be an authorized body that manages the state's stake in the statutory fund of the National Depository. When establishing the National Depository, the state shall take certain steps towards its establishment by assigning certain funds for that based on its financial resources. The state's stake in the statutory fund of the National Depository may be alienated to the other shareholders no earlier than in two years following the date of its establishment.

In addition to activities specified by Article 6 of this Law, the following matters shall fall within the competence of the National Depository:

to bring depository record-keeping in compliance with international standards;

to bring circulation of documents related to securities operations, as well as numbering (coding) of Ukrainian securities, in conformity with international standards;

to establish relations and cooperation with foreign depository institutions, conclude both bilateral and multilateral agreements on direct membership or correspondent relations regarding servicing of international operations with securities of the participants of the National Depository System, and oversee correspondent relations of the National Depository System participants with foreign depository institutions.

Procedure to perform cash settlements on securities operations within the National Depository shall be established by the National Bank of Ukraine upon consent of the Securities and Stock Market State Commission.

The words "national" or "central" may not be included in the name of any other depository.

### *Article 3. Legislation on the National Depository System*

Legislation on the National Depository System is comprised of this Law and other laws of Ukraine.

### *Article 4. Types of Securities Issuance*

1. Securities legally circulating in Ukraine and securities regulated by Ukrainian legislation may be issued in documentary or non-documentary forms.

2. The type of securities issuance shall be specified by the issuer, approved by Securities and Stock Market State Commission during registration of the issuance, and shall be the basis for their servicing by the National Depository System as registered documentary securities, bearer documentary securities, or non-documentary securities, with identification of their respective owners based on the registry of owners' accounts with the custodian.

3. Documentary securities issuance shall be carried out by the issuer through manufacturing certificates which shall be issued in compliance with the requirements of the Securities and Stock Market State Commission.

4. Should securities be issued in a non-documentary form (except for privatization papers which certify the owner's right to receive a share of property of state enterprises, the State Housing Fund, and the Land Fund free of charge in the privatization process), the issuer shall issue a global certificate corresponding to the total volume of the registered issuance and transfer it to a depository it chooses for safe-keeping.

For the period of subscription for a particular securities issue, the issuer shall issue a temporary global certificate that has to be either replaced with a permanent one upon state registration of that issue with the Securities and Stock Market State Commission or canceled if the issuance is recognized ineffective.

A global certificate issued upon state registration and recognition of the issue as effective shall be kept safe with the depository during the whole period of securities' existence in a non-documentary form.

The Securities and Stock Market State Commission shall establish the requirements for registration and record-keeping of global certificates and their requisite elements.

*Article 5. Transfer and Exercising of Securities Ownership Right Within the National Depository System*

1. Registered securities issued in a documentary form shall be transferred to a new owner through full endorsement (unless provided by the issue conditions that they are not subject to transfer).

Should immobilized registered securities be alienated, the ownership right shall be transferred to their new owner when the securities are entered into the new owner's account with the custodian.

The rights to participate in the management, receive income, etc. granted by registered securities may be exercised from the moment changes are made to the registered securities owners' registry.

2. Ownership right to bearer securities issued in a documentary form shall be transferred to a new owner upon completion of the transfer (delivery) of these securities.

In case of alienation of immobilized bearer securities, the ownership right to the securities shall be transferred to the new owner when the securities are entered into the owner's account with the custodian.

3. The ownership right to non-documentary securities shall be transferred to the new owner when the securities are entered into the owner's account with the custodian.

4. Ownership rights to securities shall be confirmed with a certificate or, should the securities be immobilized or issued in the non-documentary form, with an extract of the securities account which the custodian shall issue to the security owner.

The extract of the securities account shall not be the subject of an agreement that may result in transfer of ownership right to securities.

5. Securities transactions shall not be subject to certification by a notary unless otherwise envisaged by the law or agreed upon by the parties.

## Section II. DEPOSITORY ACTIVITY

*Article 6. Types of Depository Activity*

1. The list of securities serviced by the National Depository System shall be specified by the Securities and Stock Market State Commission.

2. Legal entities deemed participants of the National Depository System pursuant to this Law shall perform the following activities:

- safekeeping of securities and servicing circulation of securities on securities accounts and an issuer's operation with securities issued by it;
- clearing and settlement of securities transactions; and
- maintenance of registered securities owners registries.

*Article 7. Safekeeping and Servicing of Securities Circulation on Securities Accounts and Transactions Performed by the Issuer in Its Own Securities*

1. Activities related to safekeeping of securities and record-keeping of ownership rights to these securities shall be conducted under an agreement on opening a securities account executed by the security owner and the custodian of his choice, or under a depository contract between a custodian and a depository, or under an agreement on servicing securities issuance between an issuer and the depository of its choice.

2. Agreements on opening securities accounts, depository contracts and agreements on servicing a securities issuance shall meet the requirements of standard agreements approved by the Securities and Stock Market State Commission.

3. An agreement on opening a documentary securities account shall specify the form of securities safekeeping (collective or segregated).

Registered securities collectively kept in the owners' accounts with the custodian and not recorded on the custodian's accounts with the depository shall be subject to mandatory entry into the registered security owners registry in the name of the custodian as a nominal holder.

Registered securities collectively kept in securities accounts of custodians with a depository shall be subject to mandatory entry into the registered securities owners registry in the name of the depository as a nominal holder.

The terms of maintaining accounts of securities owners, procedures to perform an issuer's operations, procedures to file accounting and financial information by the custodian, as well as conditions of payment for the custodian's services shall be stipulated in the agreement on opening the securities account.

4. A depository agreement shall provide for the following: the custodian's right to transfer to the depository only the securities that are collectively kept; procedures for performing operations by the depository; conditions of accounts maintenance; procedures for performing an issuer's operations, procedures for disclosing accounting and financial

information by the depository; terms and conditions of payment for depository's services; etc.

Neither depositories nor custodians shall be empowered to perform transactions in securities owned by a depositor and kept in securities accounts with them, for their benefit or for the benefit of third parties without an appropriate instruction.

Conclusion of an agreement on opening a securities account or a depository agreement shall not be the result of a depositor's waiver of any right granted by the security.

5. An agreement on servicing a securities issuance concluded between an issuer or its authorized person and the depository in the issuer's choice shall stipulate the procedures for acceptance and servicing of the securities issuance and operations performed by the issuer in own securities at the depository, and procedures for converting documentary securities into non-documentary ones, etc.

In the event of placement of documentary securities in custody pursuant to an agreement on servicing a securities issuance, the issuer or the custodian that transfers such issuance to the depository shall also provide a documentary certificate of the securities quality.

6. A custodian may not use services offered by any other custodian in connection with fulfillment of his duties arising from safekeeping of certificates and record-keeping of ownership rights to securities of its depositors.

Should a depository receive from a custodian securities with respect to which it has not signed an agreement on servicing the securities issuance with the issuer, such depository shall transfer the securities to the depository with which the issuer has concluded such an agreement, if there are no correspondent relations with regard to securities between the depositories.

7. To keep records of securities deposited by the owner pursuant to an agreement on opening a securities account, a custodian shall open a securities account in the depositor's name in order to keep records of ownership rights to the securities owned by the depositor, as well as restrictions applicable to the depositor's securities.

In order to keep records of the securities transferred by a custodian to a depository under a depository contract, the depository shall open a securities account in the custodian's name where it performs record-keeping of the deposited securities. Securities deposited by an issuer under an agreement on servicing a securities issuance shall be entered in the issuer's securities account. Securities deposited by other depositories through correspondent relations with regard to securities under the respective agreements shall be entered in special securities accounts opened by each depository.

8. Circulation of securities entered in a securities account pursuant to a depository agreement shall be serviced exclusively by way of transferring them to a respective securities account with the depository. When performing clearing and settlements of securities transactions between the custodians, and also performing operations of the issuer, changes in both securities accounts and cash accounts shall be made simultaneously.

9. Depositories shall have the right to receive from the issuer earnings on securities directly in their accounts for further transfer thereof to custodians. The custodian shall be obliged to charge the specified earnings to the cash accounts of the security owners within the term specified by the agreement. Such earnings shall not be deemed earnings of the depository and shall not be subject to taxation as income of the depository. Depositories and custodians shall not be obliged to provide security owners with documents (certificates, coupons) to exercise the relevant ownership rights while performing operations with securities by the issuer unless otherwise stipulated by the agreement.

#### *Article 8. Clearing and Settlements of Securities Transactions*

1. Clearing and settlements of securities transactions shall be performed solely by depositories which ensure delivery of securities to custodians' accounts with the depository against cash payment from custodians' accounts. A depository shall be authorized to perform clearing and settlements of securities transactions only upon obtaining the relevant license.

2. Mutual settlements on securities transactions shall be performed on the basis of settlement documents furnished by the parties pursuant to the agreements which provide for the transfer of ownership rights to securities, or the information provided by stock exchanges and OTC trading systems.

3. In order to perform cash settlements on securities transactions, the clearing depository shall employ services rendered by settlement banks under the relevant agreement, the standard form of which is subject to the approval by the Securities and Stock Market State Commission and the National Bank of Ukraine.

Requirements to such a settlement bank shall be established in a regulation subject to approval by the Securities and Stock Market State Commission and the National Bank of Ukraine.

Rules and operational standards of clearing and settlements of securities transactions shall be subject to approval by the Securities and Stock Market State Commission of Ukraine. Rules and operational standards of cash clearing and settlements of securities transactions shall be subject to approval by the Securities and Stock Market State Commission with the consent of the National Bank of Ukraine and the Ministry of Finance of Ukraine.

*Article 9. Maintenance of a Registered Securities Holder Registry*

1. An issuer or registrar shall be authorized to maintain a securities registry. Should the number of registered security holders exceed the maximum number specified by the Securities and Stock Market State Commission for independent maintenance of a registry by an issuer, an issuer shall delegate the power to maintain the registry to a registrar pursuant to the relevant agreement.

A registry agreement shall be signed between the issuer and only one registrar. In such a case, delegation of powers by the issuer shall not relieve it from the responsibilities associated with securities agreements.

2. The decision to transfer the registered securities holder registry shall be made exclusively by the General Shareholder Meeting.

The General Shareholder Meeting or JSC Supervisory Board shall approve the terms of the agreement on maintenance of registered securities holders registry pursuant to the procedure established by the JSC charter. If the agreement is not executed within 30 calendar days, the Securities and Stock Market State Commission shall issue a warning to the JSC on the necessity of such execution. If such order is not fulfilled within the next 15 calendar days, the SSMSC shall make the JSC officials answerable pursuant to the Law of Ukraine "On State Regulation of the Securities Market in Ukraine" (448/96-VR).

The decision to transfer the temporary shareholder registry prior to the first General Meeting by a privatized enterprise, and prior to the placement of at least 60 percent of the shares of the enterprise being privatized, shall be made by the Management Board of the privatized enterprise.

3. The Securities and Stock Market State Commission or any other governmental agency, as well as legal entities and individuals, may not pass any resolutions or recommendations with regard to the maintenance, support to the maintenance, or segregation of shareholder registries should such decisions conflict with the procedures specified by Item 2 of this Article.

4. Maintenance of registered securities holders registries entails record-keeping and safekeeping of information on security holders and operations, including the updating of the registered security holder registry.

Documents which confirm the transfer of ownership rights to securities shall be the grounds for updating the registered security owners' registry.

Registrar is obliged to make changes to the registry of the registered securities owners, or provide a grounded refusal to make such changes, within 3 work days as of the date of accepting the documents according to the procedure defined by the Securities

and Stock Market State Commission. (Amended by Law of Ukraine #1839/IV as of June 22, 2004)

5. A registrar shall provide an extract from the registered security holder registry upon request of the owner of the securities, or his appointed representative, or the nominee security holder. No security holder or nominee security holder may require that information be included in this extract that is beyond the cognizance of the registrar, including information on other security holders and the respective quantity of shares held by them.

6. Data on the nominee security holder shall be entered in the registered security owners registry on the basis of relevant order, should no right to act as the nominee security holder be granted to the custodian or depository either under an agreement on opening a securities account or through a depository agreement.

The entry of the nominee security holder in the registered security owners registry as well as re-registration of ownership rights to another nominee security holder shall not be deemed equivalent to transfer of the ownership rights to the securities to the nominee security holder.

Securities transactions between depositors with the same nominee security holder shall not be reflected in the registered security owner registry.

To prepare the registered securities owners registry as of a specified date in order to fulfill the responsibilities of the issuer, a nominee security holder shall provide a list of all security holders to the registrar.

### **Section III. PARTICIPANTS TO THE NATIONAL DEPOSITORY SYSTEM**

#### *Article 10. Depositories*

1. A depository is a legal entity established as an open joint stock company with the participation of at least ten custodians which solely conducts depository activities. The respective stake of any participant in the statutory fund of the depository shall not exceed 25 percent of the statutory fund.

2. Any stock exchange or OTC trading system participants may act as a founder of the depository.

3. The following shall be customers of a depository: any custodian which concluded the relevant depository agreement with a depository; issuers, when it involves accounts on securities issued by them and opened under agreements on servicing securities issuance; and other depositories that concluded agreements on correspondent relations with the depository.

4. Payment for depository services shall be carried out pursuant to fee levels established by the depository. Maximum fees shall be established by the SSMSC with the consent of the Anti-Monopoly Committee of Ukraine.

*Article 11. Custodians*

1. Commercial banks which obtained a license for issuing and trading securities may act as custodians, perform operations on deposited securities according to customer orders, and perform other depository operations related to circulation of securities with the exception of clearance and settlement.

In the statutory fund of a custodian a stake of another custodian, securities trader, investment company and other professional stock market participants may not exceed 5 per cent. A stake of an institutional investor, which is not a professional stock market participant (insurance company, non-state pension fund and other) in the statutory fund of a custodian may not exceed 20 per cent, if it is not provided for otherwise by the law. (Amended by Law of Ukraine #1840-IV as of June 22, 2004)

2. A custodian shall keep securities and service circulation of the securities and operations in securities performed by the issuer, for securities accounts of security holders (which may include the custodian itself).

Should a licensed custodian maintain a registered security owners registry, the custodian shall not be allowed to perform any operations in the securities owned by the security owners with the exception of registrar operations under the relevant agreement with the issuer. A custodian may not be the investment manager of a depositor deemed an institutional investor.

3. Fees for services provided by a custodian shall be set by each custodian. Maximum fee levels shall be set by the Securities and Stock Market State Commission with the consent of the Antimonopoly Committee of Ukraine.

*Article 12. Registrars of Registered Securities Owners*

1. Any legal entity may obtain a license for maintenance of a registered security owners registry should such activity be stipulated by its Charter. No government bodies shall be founders or participants of a registrar. Centers for Certificate Auctions or their legal successors may not handle registries or be the founders or participants of a registrar.

The respective stake of an issuer in the statutory fund of a registrar may not exceed 10 percent of the statutory fund.

An issuer may independently handle its own registry if the number of security holders does not exceed the number specified by the State Securities and Stock Market State Commission.

2. A registrar shall maintain a registered security owners registry in compliance with the agreement concluded with the securities issuer.

The standard form of the agreement shall be subject to approval by the Securities and Stock Market State Commission.

3. Payment for registrar services shall be carried out pursuant to fees set by the registrar. The maximum fee levels shall be set by the Securities and Stock Market State Commission with the consent of the Anti-monopoly Committee of Ukraine.

## Section IV. SPECIAL FEATURES OF ELECTRONIC CIRCULATION OF SECURITIES

### *Article 13. Entries to Electronically Stored Securities Accounts*

1. Documentary securities may be transformed into non-documentary securities and electronically stored by way of securities immobilization.

Servicing of transactions in non-documentary securities shall be exclusively performed by National Depository System participants.

2. In order to conclude securities agreements on a stock exchange or OTC trading system transactions with non-documentary securities, the securities shall be dematerialized in the depository that services them.

### *Article 14. Information Exchange Procedure and Standardization of Procedures Within the National Depository System*

1. An information exchange procedure subject to guaranteed confidentiality between participants of the National Depository System, and creation of standard procedures for performance of transactions in securities issued in non-documentary form and dematerialized securities, shall be specified by the Securities and Stock Market State Commission in compliance with relevant international standards and international securities enumeration system.

2. Participants of the National Depository System shall guarantee the confidentiality of information related to securities accounts and circulation of securities. All employees of the participants shall be obliged to meet the confidentiality requirements applicable to information related to securities accounts and circulation of securities.

Norms related to the technical protection of information shall be in compliance with the applicable laws of Ukraine and regulations issued by the Securities and Stock Market State Commission with the consent of the State Committee for State Secrets and Technical Protection of Information.

Data on transactions and accounts shall be disclosed only to depositors or, upon their written request, to other persons, as well as in other cases specified by the applicable laws of Ukraine.

## Section V. REGULATION OF NATIONAL DEPOSITORY SYSTEM ACTIVITIES

### *Article 15. Issuance of Licenses for Depository Activity*

1. Procedures and terms of performance of depository activity by participants of the National Depository System shall be established by the Securities and Stock Market State Commission.

2. In order to perform any depository activity, a National Depository System participant shall be required to obtain the respective license from the Securities and Stock Market State Commission.

To perform clearance and settlement activities, a depository shall be required to obtain the respective license from the Securities and Stock Market State Commission. The procedure for issuance of licenses shall be subject to approval by the Securities and Stock Market State Commission.

3. The license to conduct depository activity by commercial banks shall be issued by the Securities and Stock Market State Commission with the consent of the National Bank of Ukraine.

*Article 16. Securities Record-Keeping Within the National Depository System*

Securities records in the National Depository System shall be kept in compliance with the applicable rules and standards of securities record-keeping approved by the Securities and Stock Market State Commission with the consent of the Ministry of Finance of Ukraine and the National Bank of Ukraine; securities records in commercial banks shall be kept in compliance with the applicable rules and standards of securities record-keeping approved by the Securities and Stock Market State Commission as well as the National Bank of Ukraine. The rules and standards of securities-keeping with respect to both the National Depository System and commercial banks must be registered with the Ministry of Justice.

*Article 17. Regulation of the National Depository System*

Regulation National Depository System activities shall be exercised by the Securities and Stock Market State Commission, along with the National Bank of Ukraine, Ministry of Finance of Ukraine, and other government bodies within their respective jurisdictions.

*Article 18. Restrictions on Participation of Employees of Direct Participants in the National Depository System and Government Bodies regulate Activities Conducted by the National Depository System in the Securities Market*

Employees of direct participants of the National Depository System and government bodies which exercise regulation of activities conducted by the National Depository System shall not be allowed to carry out any professional activity in securities market, or be founders or participants of legal entities which carry out professional activities in the securities market, or provide paid services to such entities with the exception of teaching services.

Employees of direct participants of the National Depository System as well as government bodies which regulate activities of the National Depository System may not use available information on securities to perform securities transactions for their own benefit.

The Securities and Stock Market State Commission shall be authorized to specify a special procedure for registration of securities transactions should a party thereto be an employee of direct participant of the National Depository System or of a government body which regulates activities of the National Depository System, or a family member of the aforementioned.

A list of positions held and work performed by employees (who must file annual data on securities owned by them and their families with the SSMSC) of direct participants of the National Depository System and its government regulators shall be subject to approval by the Securities and Stock Market State Commission.

Should any unfair disclosure of information that is available to a participant of the National Depository System be discovered, any securities transaction made on the basis of such information shall be recognized as legally void.

#### *Article 19. Arbitration of Disputes*

Disputes which result from the compliance with the requirements specified in this Law shall be legally arbitrated.

#### *Article 20. Liability for Breaking of this Law*

Any violator of this Law shall bear legal responsibility in compliance with Ukrainian legislation.

### **Section VI. FINAL PROVISIONS**

1. The Law of Ukraine "On the National Depository System and Special Features of Electronic Circulation of Securities in Ukraine" shall be effective as of the date of its enactment.

Those who have issued securities prior to the effective date of the Law of Ukraine "On the National Depository System and Special Features of Electronic Circulation of Securities in Ukraine" shall bring already completed forms of securities issuances into compliance with the standards specified in this Law within six months of the date of its promulgation. The Securities and Stock Market State Commission shall establish standards for securities certificates issued in documentary form.

It is hereby resolved that no state fees related to issues registration shall be levied upon issuers in connection with bringing securities issuances into compliance with the

standards specified in this Law, except for cases, associated with an increase of the statutory fund. Within a year of the enactment of this Law, the immobilization of non-documentary securities, issued without a global certificate and registered in the custodian's name, shall be carried out on the basis of extracts from the registered security owner registry issued in the custodians' name and marked "for deposit", with the mandatory registration with the registered security owner registry of the custodian as nominal holder of immobilized securities.

The Cabinet of Ministers of Ukraine shall:

prepare and submit the following draft laws to the Parliament, in cooperation with the SSMSC and taking into consideration this Law's provisions: "On Amendments to the Law of Ukraine 'On Securities and the Stock Exchange' " and "On Investment Companies and Investment Funds" within six months of the effective date of this Law;

render organizational assistance and provide the necessary financial and other resources to support the efforts of the Securities and Stock Market State Commission towards the establishment of the National Depository System, as well as the other components of the Ukrainian stock market's infrastructure;

provide funds from the state budget of Ukraine for the current and the following fiscal year the allocations for the establishment and maintenance of the components of the National Depository System and stock market monitoring system prior to their sustainability;

grant within two months following the effective date of this Law, the premises for a National Depository in the City of Kyiv.

3. Legal entities which perform depository activities on the basis of respective licenses issued by the Securities and Stock Market State Commission pursuant to the Decree of the President of Ukraine # 160/96 dated March 2, 1996, shall bring their charter documents into compliance with the standards specified in the Law of Ukraine "On the National Depository System and Special Features of Electronic Circulation of Securities in Ukraine" within six months following the effective date of this Law.

4. Commercial banks performing depository functions for investment funds and investment companies shall bring their activities associated with obtaining a securities custodian license into compliance with the standards specified in the Law of Ukraine "On the National Depository System and Special Features of Electronic Circulation of Securities in Ukraine" within six months of the effective date of this Law.

5. The Securities and Stock Market State Commission shall:

within six months of the effective date of this Law, re-register depository licenses granted to National Depository System participants which have brought their charter documents into compliance with the Law of Ukraine "On National Depository System

and Special Features of Electronic Circulation of Securities in Ukraine," without levying re-registration fees;

together with the State Committee of Ukraine for State Secrets and Technical Protection of Information of Ukraine and the Committee of the Parliament of Ukraine on Issues of Economic Policies and Management of the National Economy, develop a detailed National Program for the technical protection of information on securities that will comprise the legal and normative base for manufacturing by Ukrainian enterprises and trading in the Ukrainian securities market of documentary securities according to existing international standards, as well as for technical protection of confidential and commercial information on electronic circulation of securities in the Ukrainian securities market.

6. It is proposed that President of Ukraine bring the following Presidential Decrees into compliance with the Ukrainian Constitution (254k/96-VR) and this Law:

Decree # 55/94 "On Investment Funds and Investment Companies" dated February 19, 1994;

Decree # 247/94 "On Record-Keeping of Ownership Rights to Registered Securities and Depository Activities" (version of the Law of the Presidential Decree # 160/96 dated March 2, 1996).

7. The Laws and normative acts of Ukraine adopted prior to the effective date of this Law shall be valid in the part that does not contradict this Law.

8. During 1997, the State Property Fund shall transfer to the Securities and Stock Market State Commission the national network of certificate auctions centers.

L. Kuchma,

President of Ukraine

The City of Kyiv, 10 December 1997, # 710/97-VR