

On Approval of Procedure for Control over Compliance with Licensing Requirements to the Professional Activity on the Securities Market

**Order of the State Committee of Ukraine on the Regulatory Policy and Entrepreneurship
of April 21, 2003 N 52**

**Registered with the Ministry of Justice of Ukraine
on May 12, 2003 N 358/7679**

In pursuance of the Law of Ukraine "On Licensing Certain Types of Commercial Activity", Decree of the President of Ukraine dated May 25, 2000 N 721 "Matters of the State Committee of Ukraine on the Regulatory Policy and Entrepreneurship" and Resolution of the Cabinet of Ministers of Ukraine dated November 14, 2000 N 1698 "On Approval of the List of Licensing Bodies" **ORDER** the following:

1. Approve the Procedure for control over compliance with the Licensing requirements to the professional activity on the securities market (Attached).
2. Control and Permits Department (O. P. Apatenko) in accordance with the established procedure shall ensure submission of this Order to the Ministry of Justice of Ukraine for the state registration.
3. Control over fulfillment of the present Order shall be vested with the Deputy Chair S.I. Tretiakov.

Chair

O. Kuzhel

On Approval of Procedure for Control over Compliance with Licensing Requirements to the Professional Activity on the Securities Market

**Resolution of the Securities and Stock Market State Commission
of April 17, 2003 N 162**

**Registered with the Ministry of Justice of Ukraine
on May 12, 2003 N 358/7679**

Pursuant to Article 8 of the Law of Ukraine "On Licensing Certain Types of Commercial Activity" and with the aim to ensure effective implementation of legislation in the licensing area the Securities and Stock Market State Commission hereby **RESOLVES**:

1. Approve the Procedure for control over compliance with the Licensing requirements to the professional activity on the securities market (Attached) taking into account the proposals of the State Committee of Ukraine on the Regulatory Policy and Entrepreneurship provided in Letter dated April 3, 2003 N 1982.
2. Supersede Resolution of the Securities and Stock Market State Commission of November 19, 2002 N 357 "On Approval of the Procedure for Control over Compliance with the Licensing Requirements to the Professional Activity on the Securities Market".
3. Resolution of the Securities and Stock Market State Commission of October 7, 1997 N 37 "On Approval of Rules of Conducting Inspections and Revisions of Issuers, Entities Performing Professional Activity on the Securities Market, Stock Exchanges and Self-Regulatory Organizations on Compliance with the Securities Legislation Requirements" shall be recognized as the one that lost effect with respect to conducting inspections of entities that perform their professional activity on the securities market and stock exchanges.
4. Enforcement Department (R. Matvienko) shall ensure the transfer of the Procedure for control over compliance with licensing requirements to the professional activity on the securities market to the State Committee of Ukraine on the Regulatory Policy and Entrepreneurship for approval.
5. Enforcement Department (R. Matvienko) and Legal Department (L. Volokhov) shall ensure state registration of the present Resolution with the Ministry of Justice of Ukraine.
6. Department of Organizational Provision of the Commission (N. Piskun) shall publish the resolution according to the effective legislation.
7. The Resolution shall come into effect in ten days after its state registration.
8. Control over fulfillment of this Resolution shall be vested with Commissioner M.O. Burmaka.

Commission Chairman

O.Mozgovyi

Protocol of Commission

Meeting No. 18 of April 17, 2003

APPROVED

by Order of the State Committee of
Ukraine on Regulatory Policy and
Entrepreneurship N 52 of April 21,
2003

Resolution of the Securities and Stock
Market State Commission N 162 of
April 17, 2003

Registered with the Ministry of Justice
of Ukraine on May 12, 2003 #358/7679

PROCEDURE

for

Control over Compliance with Licensing Requirements to the Professional Activity on the Securities Market

1. General Provisions

1.1. This Procedure was developed pursuant to the Laws of Ukraine "On Licensing Certain Types of Commercial Activity", "On State Regulation of the Securities Market in Ukraine", "On Securities and Stock Market", "On National Depository System and Specifics of Electronic Circulation of Securities in Ukraine", "On Enterprises in Ukraine", "On Business Associations", "On Collective Investment Institutions (Unit and Corporate Investment Funds)"; Edicts of the President of Ukraine of February 14, 1997 N 142/97 "On The Securities and Stock Market State Commission" (amended), of March 2, 1996 N 160/96 "On Amending Edict of the President of Ukraine of May 25, 1994 N 247", of May 25, 2000 N 721/2000 "Matters of the State Committee of Ukraine on Regulatory Policy and Entrepreneurship", of September 25, 2002 N 861/2002 "On Additional Actions to Improve the Activity of the Securities and Stock Market State Commission"; the Cabinet of Ministers Resolution of November 14, 2000 N 1698 "On Approval of the List of Licensing Bodies"; Licensing Requirements to Perform the Professional Activity on the Securities Market approved with the State Committee of Ukraine on Regulatory Policy and Entrepreneurship Order N 49 of March 14, 2001 and Resolution of the Securities and Stock Market State Commission N 60 of March 14, 2001 registered with the Ministry of Justice of Ukraine on April 6, 2001 N 318/5509 (with amendments).

1.2. This document shall establish a unified procedure for control over subjects' of professional activity on the securities market (hereinafter, licensees) compliance with the Licensing requirements to the following professional activities on the securities market:

activity on securities issuance and circulation (activity on securities issuance, securities commission activity and securities commercial activity), depository activity of the securities depository, depository activity of the securities custodian, settlement and clearing activity on securities contracts; activity to organize trade on the securities market, activity to maintain the register of the registered securities owners, activity to manage collective investment institutions assets (hereinafter, Licensing requirements), exercised by the Securities and Stock Market State Commission (its central body and regional offices) as a licensing body and the State Committee of Ukraine on Regulatory Policy and Entrepreneurship and its regional offices as a specially authorized body on licensing (hereinafter, controlling bodies) within their competence by means of conducting scheduled and unscheduled inspections.

2. Organization and Preparation for Inspections

2.1. Scheduled inspections of licensees' compliance with the Licensing requirements shall be carried out by a controlling body at most once a year.

2.2. Unscheduled inspections shall be carried out by the controlling bodies in the presence of circumstances provided for by the legislative acts of Ukraine.

2.3. Should an inspection be carried out by a specially authorized body on licensing, specialists of the licensing body may be involved into the Working Group and it should be informed about the inspection dates no later than five working days prior to the inspection's beginning.

2.3.1. To carry out an inspection the licensing body shall appoint the Working Group Leader and members and shall issue the Power of Attorney to carry out an inspection in two copies (Addendum 1).

Working Group of the licensing body shall carry out inspections on the basis of the written Power of Attorney.

2.3.2. To carry out an inspection a specially authorized body on licensing shall issue an instruction to appoint the Working Group Leader and members and a Letter of Authority to carry out an inspection (Addendum 2).

Working Group of a specially authorized body on licensing shall carry out inspections on the basis of Letter of Authority to carry out an inspection.

2.3.3. The minimum number of the Working Group members shall be two individuals.

2.4. Record of the issued written Powers of Attorney or Letters of Authority shall be kept at their place of issue and they shall be registered in the Powers of Attorney (Letters of Authority) logbook (Addendum 3).

2.5. Powers of Attorney or Letters of Authority to carry out inspections shall be issued for the terms that will ensure timeliness and proper quality of inspections, but no more than for 20 working days.

2.6. In the exceptional cases due to the specifics of the licensee's activity which is inspected and significant volume of work, inspections may be extended for another 10 working days by an entity that issued a Power of Attorney for inspection based on the substantiated written request from the Working Group Leader.

2.7. Licensee should be informed by the controlling body about a scheduled inspection in writing at least five working days prior to the inspection's beginning.

3. Rights, Obligations and Liability of the Working Group

3.1. The Working Group Leader and members when carrying out an inspection shall have the following rights:

Enter freely into the company office performing the professional activity on the securities market based on their employment ID;

Have access to documents and other materials that are necessary to carry out an inspection;

Require necessary documentation and other information for the check-up in connection with exercising their powers;

Seize the documents that testify to the infraction of the Licensing requirements for a term of up to three days;

Take explanations from licensee's officials upon their agreement.

3.2. When conducting an inspection the Working Group Leader and members shall be obliged to:

Hand the second copy of the Power of Attorney to carry out an inspection to the licensee's Chief Executive or to a person who is acting for him/her with this person putting a note on the first copy of the Power of Attorney about this. In case of licensee's representative refusal to put a note about receipt of the first copy of the Power of Attorney the Working Group Leader shall make a relevant statement that the licensee's representative has refused to sign and shall certify this statement with his/her signature;

Inform the licensee's Chief Executive or a person acting for him/her about the Working Group rights, obligations and powers, the reason and purpose of the inspection as well as the licensee's rights, obligations and liabilities. Make a list of the necessary documents and set the terms of their providing as well as coordinate other organizational matters of the inspection.

Should a licensee's Chief Executive or a person acting for him/her refuse to provide documents or properly certified copies of documents (excerpts from documents) upon the oral request from the Working Group members, prepare and submit a written request to the licensee's Chief Executive or a person acting for him/her indicating the deadline of providing necessary information (Addendum 4). In case of refusal to accept a written information request, give it to a person vested with responsibilities of registering the licensee's incoming correspondence or send the request to the licensee via mail by registered letter with a confirmation receipt.

If the Working Group of the controlling body is not allowed to conduct an inspection and is not provided with necessary documents for inspection, an Act of Licensee's Refusal to Be Inspected shall be drawn up (Addendum 5).

3.3. When conducting an inspection the Working Group Leader as well as its members shall be liable in accordance with effective legislation.

4. Rights, Obligations and Liability of Licensee and its Officials

4.1. During the inspection a licensee and its officials shall have the following rights:

4.1.1. Receive from the Working Group Leader the following information:

On the inspection procedure;

On the Working Group rights and obligations;

On the rights and obligations of the licensee's officials.

4.1.2. Receive from the Working Group the second copy of the Power of Attorney to carry out an inspection and put a mark on the first copy of the Power of Attorney about this.

4.1.3. Per Working Group's request provide written explanations.

4.2. During inspection a licensee and its officials shall be obliged to:

Confirm the authority of licensee's officials with corresponding documents;

Ensure proper conditions for the Working Group to conduct an inspection;

Provide the Working Group with full and accurate information regarding the licensee's activity in timely manner.

4.3. Licensee and its officials shall be liable for the failure to perform their obligations during the inspection.

5. Inspection Procedure and Documentation of Results

5.1. In the course of inspection the Working Group shall study in detail, analyze and assess all documentation relevant to licensee's professional activity. During inspection special attention shall be paid on the drawbacks in the licensee's professional activity on the securities market that may cause failure to meet its liabilities to the government, investors or other stock market participants.

5.2. Based on the inspection results, the Working Group shall issue an Inspection Act in two copies according to the established form (Addendum 6) that shall be signed by the Working Group Leader and its members no later than the Power of Attorney or the Letter of Authority expiration date with one copy handed to and signed by the licensee's Chief Executive or a person that acts for him/her and another copy remaining with the controlling body that carried out the inspection.

5.3. Documents (copies of documents) shall be attached to the controlling body's copy of the Inspection Act according to the List (specified in the Inspection Act).

5.4. It shall be inadmissible to set forth in the Inspection Act the data which are not proved by the inspection documents.

5.5. Should licensee eliminate violations and defects in its operation in the course of inspection, the relevant statement shall be made in the Act of Inspection.

5.6. Any corrections and supplements to the Act of Inspection after it was signed by the Working Group members must be attested with signatures of the Working Group members.

5.7. Should an inspected licensee fail to provide documents that were required for inspection, irrespectively of the reason (loss, absence of a corresponding officer, who is a stock market participant, refusal to provide, etc.), a note shall be made in the Inspection Act that the relevant documents were not provided with indication of reasons.

5.8. Should in the course of inspection according to the established procedure any documents that testify to the facts of the Licensing Requirements violation be seized, a Documentation Seizure Protocol shall be attached to the Inspection Act.

5.9. When drawing up an Inspection Act the discovered facts and data shall be described in an unbiased and exhaustive manner.

5.10. If one of the Working Group members does not agree with the contents of the Inspection Act, he/she has a right to set out in writing his/her argued opinion and attach it to the Inspection Act.

5.11. Should licensee's officials refuse to sign and receive a copy of Inspection Act the Working Group Leader shall make a relevant note about this in a place for signing the Inspection Act and send it within five working days to the licensee address via mail.

5.12. Licensee may provide its comments to the Inspection Act within three working days of signing the Inspection Act.

6. Procedure for Documents Seizure in the Course of Inspection and Handling Them

6.1. When carrying out an inspection the Working Group Leader shall have a right to seize documents testifying to the facts of the Licensing Requirements violation for a term up to three working days.

6.2. The documents seizure shall be executed according to the requirements of the effective legislation of Ukraine.

6.3. A copy of the Documentation Seizure Protocol shall be provided to a licensee representative against his/her signature with indication of the date of its provision.

6.4. Should a licensee representative refuse to sign a Documentation Seizure Protocol the Working Group Leader should make a relevant note about this in the Documentation Seizure Protocol.

6.5. Every correction, erasure, undecipherable entry, illegible stamp imprint on the documentation seized shall be reflected in the Documentation Seizure Protocol.

6.6. The Working Group Leader shall be liable for safekeeping in the Commission of the documents seized in the course of inspection and use for their intended purpose. Any actions that may cause damage to seized documentation or change their contents shall be prohibited.

6.7. The Working Group Leader when working with seized documentation shall have the following rights:

Make copies of seized documents;

If needed invite other specialists of the controlling body to work with seized documentation or specialists from other institutions upon their agreement.

6.8. Three days term of documentation seizure shall be counted from the day following the day of seizure.

6.9. Licensee representative shall make a relevant note about return of seized documents in the Seizure Protocol.

6.10. Should a representative of inspected licensee refuse to accept seized documents in time, the Working Group Leader shall draw up an Act on Refuse to Accept Seized Documentation and shall send seized documents to the licensee by registered mail.

6.11. If a seized document is returned with damages or corrections that were not reflected in the Documentation Seizure Protocol, the Working Group Leader and a licensee representative, whose document was seized, shall draw up and sign an Act on damages and corrections discovered in the returned documentation with indication of all damages and corrections discovered.

7. Sanctions for Licensee's Failure to Comply with the Licensing Requirements to Professional Activity on the Securities Market

Sanctions for licensee's failure to comply with the Licensing Requirements to professional activity on the securities market shall be applied in accordance with the effective legislation of Ukraine.

**Director, Control and Permits Department
of the State Committee of Ukraine on the
Regulatory Policy and Entrepreneurship**

**Head, Enforcement Department of the
Securities and Stock Market State
Commission of Ukraine**

O. P. Apatenko

R. P. Matvienko

Addendum 1

(On the letterhead)

_____ copy

POWER OF ATTORNEY N ____ - ____

To conduct an inspection of _____
(Full Name of Licensee)

I, an authorized person of the Securities and Stock Market State Commission
_____,
(Position, Full Name)

based on Article 9 of the Law of Ukraine "On State Regulation of the Securities Market of Ukraine" and Article 20 of the Law of Ukraine "On Licensing Certain Types of Commercial Activity"

CHARGE the following individuals:

- 1. _____ - Leader of the Working Group
(position, full name)
- 2. _____ - Member of the Working Group
(position, full name)

With carrying out an inspection _____
(of compliance with the Licensing Requirements, of fulfilling the instruction to eliminate violations of the Licensing Requirements)

Based on this Power of Attorney the aforementioned authorized persons of the Commission will have the following rights:

Enter freely into offices of companies, institutions and organizations based on their employment ID and have access to documentation and other materials necessary to carry out an inspection;

Require necessary documents and other information for the check-up in connection with exercising their powers;

Seize the documents that testify to the infraction of the Licensing requirements for a term up to three days;

(other powers according to the effective legislation)

Authorities under this Power of Attorney may not be transferred to other persons.

The Power of Attorney is valid till _____ 200_.

The Power of Attorney Validity is extended till _____ 200_.

Signature Stamp

Authorized person of the Commission _____
signature Stamp Last Name

A copy of the Power of Attorney received on _____ 200_ _____
Position Last Name Signature

**Director, Control and Permits Department of the
State Committee of Ukraine on the Regulatory
Policy and Entrepreneurship**

O. P. Apatenko

**Head, Enforcement Department of the Securities
and Stock Market State Commission of Ukraine**

R. P. Matvienko

Addendum 2

(on the Letterhead)

Dated _____ 200_

N _____

LETTER OF AUTHORITY

Issued to the Leader of the Working Group _____
(Last Name and Initials)

And the following members of the Working Group: _____
_____ (Last Name and Initials)

To carry out an inspection of business entity _____
_____ (name of licensee)
of compliance with the Licensing Requirements to perform _____
_____ (type of commercial activity that is licensed)

For the period from _____ 200_ to _____ 200_

In the period from _____ 200_ to _____ 200_

(Issuing Authority Position) (Signature) _____
(Initials, Last Name)

Stamp

Extended till _____ 200_

(Issuing Authority Position) (Signature) _____
(Last Name, Initials)

Stamp

**Director, Control and Permits Department of
the State Committee of Ukraine on the
Regulatory Policy and Entrepreneurship**

O. P. Apatenko

**Head, Enforcement Department of the
Securities and Stock Market State
Commission of Ukraine**

R. P. Matvienko

Addendum 3

**POWER OF ATTORNEY (LETTERS OF AUTHORITY)
LOGBOOK**

Power of Attorney (Letter of Authority) # and Issue Date	Licensee's Name and Requisites	Inspection Grounds	Inspection Term	Working Group Composition	Violations Discovered	Sanctions Based on Inspection Results	Inspection Materials were Sent to
1	2	3	4	5	6	7	8

**Director, Control and Permits Department
of the State Committee of Ukraine on the
Regulatory Policy and Entrepreneurship**

O. P. Apatenko

**Head, Enforcement Department of the
Securities and Stock Market State
Commission of Ukraine**

R. P. Matvienko

SECURITIES AND STOCK MARKET STATE COMMISSION

INFORMATION REQUEST

To Chief Executive of _____

Address _____

I, _____, a Working Group Leader for
(Full Name)
an inspection _____ to perform
(of compliance with the Licensing Requirements, of fulfilling the instruction
on elimination of violations of Licensing Requirements)
the professional activity on the securities market _____
(Licensee's Name)
_____, based on the Power of Attorney to conduct an inspection,

Issued _____ By the authorized person of _____
(Date, #) the Commission (Position, Full Name)

_____,
As an authorized person of the Commission based on Item 4.2 of the Procedure for Control over
Compliance with the Licensing Requirements to Professional Activity on the Securities Market
require to provide properly certified copies of the following documents by _(time)_____
_____ 200_ to be attached to the Inspection Act materials:

Authorized Person of the Commission _____
Signature Stamp Last Name and Initials

**Director, Control and Permits Department of
the State Committee of Ukraine on the
Regulatory Policy and Entrepreneurship**

O. P. Apatenko

**Head, Enforcement Department of the
Securities and Stock Market State
Commission of Ukraine**

R. P. Matvienko

SECURITIES AND STOCK MARKET STATE COMMISSION

Act

Of Licensee's Refusal to Be Inspected

(Licensee's Name)

City/town _____ 200_

According to the Power of Attorney issued by _____
(Position, Full Name of who issued the Power of Attorney)

_____ dated _____ 200__ to the Working Group consisting of:

1. The Leader - _____
Position Last Name

2. Members - _____
Position Last Name

It is necessary to conduct inspection of _____
(compliance with the Licensing Requirements, fulfillment of the
instruction to eliminate violations of the Licensing Requirements)

to the professional activity on the securities market. On the Licensee's site it has been found:

(brief resume of the reasons of licensee's refusal to be inspected)

Signatures of the Working Group members:

1. _____
Signature Last Name

2. _____
Signature Last Name

**Director, Control and Permits Department of
the State Committee of Ukraine on the
Regulatory Policy and Entrepreneurship**

O. P. Apatenko

**Head, Enforcement Department of the
Securities and Stock Market State
Commission of Ukraine**

R. P. Matvienko

Addendum 6

_____ copy

ACT

Of Conducting _____ Inspection _____
(a Scheduled/Unscheduled) (of Compliance with the Licensing Requirements, of Fulfilling the Instruction to Eliminate Violations of the Licensing Requirements)

To Professional Activity on the Securities Market

(Licensee's Full Name)

City/town _____ 200_ _____
(Date of Signing the Inspection Act)

Inspection Date from _____ 200__ to _____ 200__.

Address _____
(Postal Code, Town, Rayon, Oblast, Street, House Number)

YEDRPOU Code _____

Bank Requisites _____

Contact details _____
(area code, phone number, fax number)

Inspection was carried out by the Working Group consisting of:

The Leader _____ (Full Name) _____ (Position)

Member _____ (Full Name) _____ (Position)

Inspection was Carried Out in the Presence of the Following Licensee Officials:

_____ (Full Name) _____ (Position)

_____ (Full Name) _____ (Position)

Inspection Ground _____

Reason of Inspection _____

Period of Licensee's Activity that was Inspected From _____ 200_ to _____ 200_.

List of issues that were inspected:

1	
2	
...	

Licensee's State Registration Data _____
(Date, Certificate Number, Issuing Authority, Specified Types of Activity)

License Data _____
(Date, Number, Types of professional Activity on the Securities Market, Period of Validity)

List of Licensee's Certified Persons:

N	Full Name	Certificate Requisites
1		
...		

Licensee's Authorized Fund Amount _____

Paid-in Authorized Fund _____

Licensee Participants Owning More than 5% of the Authorized Fund:

N	Natural Person's Full Name or Legal Entity's Requisites	Contribution to the Authorized Fund, UAH.	Share in the Authorized Fund, %
1			
...			

Information about Licensee's Subsidiary and/or Stand-Alone Offices: _____

Information about Licensee's Securities Issue and their Registration:

(Date, Registration Number, Volume of Issue, who registered, nominal value of share)

Amending Constituent Documents and their Registration: _____

(Date, Registration Number, Registration Authority)

Narrative Part

List of Documents Provided by Licensee for Inspection:

N	Document Name	Document Requisites
1		
...		

