

# State Securities and Stock Market Commission

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## REGULATION ON THE PROCEDURE, TERMS AND CONDITIONS OF THE SSMSC AUTHORITIES DELEGATION TO SELF-REGULATORY ORGANIZATIONS OF PROFESSIONAL STOCK MARKET PARTICIPANTS AS TO THE PRE-LICENSING WORK, TRAINING, RETRAINING AND PRELIMINARY CERTIFICATION OF STOCK MARKET SPECIALISTS

This Regulation on the procedure, terms and conditions of the certain powers of the State Securities and Stock Market Commission (hereinafter referred to as the "Commission") delegation to self-regulatory organizations of professional stock market participants (hereinafter referred to as the "SRO") as to pre-licensing, training, retraining and preliminary certification of stock market specialists (hereinafter – the "Regulation") has been developed in accordance with Laws of Ukraine "On State Regulation of the Securities Market in Ukraine" (448/96-VR), "On the Financial Services and State Regulation of Financial Services Market" (2664-14), and other normative documents regulating the establishment and activities of an SRO.

### 1. General requirements to an SRO to which the SSMSC delegates the certain powers

1.1. An SRO, which unites professional participants in a certain area of professional activity and which delegates certain regulatory powers by the SSMSC, shall capture not less than 60% of the total number of professional participants holding licenses to engage in a certain type of professional activity.

1.2. The minimal amount of assets of the SRO less its liabilities for the duration of the SRO performing its statutory activities shall be determined by the SSMSC depending on the responsibilities delegated to the SRO.

1.3. An SRO personnel shall meet the following requirements:

- the chairpersons and deputy chairpersons of the SRO executive body, commissions, committees, sections and legal service (department) shall not be employed by companies-members (participants) of the SRO;
- the chairperson, deputy chairpersons of the SRO executive body, and heads of structural units of the SRO shall hold a certificate in the form established by the SSMSC for the types of professional activities in the securities market performed by the SRO members (participants) and shall have a work record of at least three years in the securities market or in the relevant professional area in the State power executive bodies;
- the head of the SRO legal department shall have a university degree in law and have a work record in law of at least three years.

1.4. An SRO shall ensure proper work of its governing bodies, of its personnel and the necessary capacity to inform the SRO members (participants) that shall meet the following minimal requirements:

- availability of an Internet site with a continuous and weekly updated information on membership (participants); a list of SRO members (participants); names of members whose SRO membership has been terminated, with an indication of the reasons for the termination of their membership; other information on the SRO activities; the securities market monitoring; announcements; services and other general information (SRO requisites, logos, indexes) etc.;
- availability of the e-mail address;
- availability of at least one copier and one fax;

- availability of at least two telephone lines at the SRO;
- availability of at least three personal PCs to generate information about the SRO operations in the formats established by the SSMSC for professional market participants to file their reports;
- availability of an office space owned or leased by the SRO (an SRO shall not enter into an office space lease agreement with any professional securities market participants);
- availability of a protective alarm system (or of a round-the-clock security guards service) in the SRO office;
- availability of metal cabinets for personal files of SRO members (participants) that are defined as limited access (confidential) information.

1.5. An SRO's statutory documents shall state that a professional securities market participant willing to terminate its membership in the SRO shall notify the SRO within the period specified in the SRO's statutory documents indicating the reasons for terminating the SRO membership.

1.6. Within five days of receipt of an SRO member' application to terminate membership, the SRO shall inform the SSMSC of the fact indicating the reasons for the member terminating the SRO membership.

1.7. The SSMSC may establish additional requirements to the SRO depending on a kind of professional activities of its members and authorities that are to be transferred to the SRO.

## **2. Terms and conditions of delegating certain powers to an SRO as to the pre-licensing work, training and retraining and preliminary certification of stock market specialists**

2.1. The SSMSC shall delegate the powers as to the pre-licensing work, training and retraining and preliminary certification of stock market specialists solely to those SROs that comply with the effective legislation and meet the requirements for the SSMSC delegating responsibilities to SROs as specified in section \_\_\_ and \_\_\_ of this Regulation.

2.2. SROs that intend to be delegated the respective powers shall develop and approve at the general meeting of its members bylaws on the pre-licensing work, on the work to train, re-train and to hold a pre-certification of stock market specialists in accordance with the professional activities area of members (participants) of the organization, and a bylaw on control of the SRO membership compliance with the effective law on the number of certified specialists required to perform securities market operations.

2.3. An SRO's bylaw on the pre-licensing work shall define:

- the circle of persons to whom this document applies;
- the method of accepting documents from the applicant;
- the list of documents to be submitted by the applicant;
- SRO bodies that review the above documents and approve a decision on the matter;
- the procedure and the timeline of documents review and consideration;
- the procedure of decision-making and its legalization;
- the procedure of informing the applicant of the decision approved in its case;
- the procedure of informing the SSMSC about the SRO decision;
- the procedure for the applicant to appeal against the SRO decision, as well as other procedural requirements.

2.4. An SRO internal regulation concerning the activities on training, retraining and preliminary certification of the stock market experts should contain:

- standard programs of experts training of a relevant type which should be SSMSC approved;
- examination tests on a relevant line of professional activities approved by the SSMSC;
- conditions of holding the competition among the educational institutions for training the experts on a relevant line of professional activities;
- agreement between SRO and competition winners of educational institutions;

- procedure of verification and preparation of documents which are required to be submitted to the SSMSC for obtaining the certificate of the stock market expert;
- procedure of appealing the results of qualification examination.

Besides, the SRO should preliminary agree with the SSMSC the list of SRO representatives in the examination boards.

2.5. An SRO internal regulations concerning control over its own participants compliance with the current legislation requirements regarding the number of certificated experts needed to perform professional activities in the securities market, should contain the following issues:

- on the continuous, at least once the quarter, control over the availability of certificated experts with the professional participant of securities market and enforcement of an adequate measure in case of failure by the stock market professional participant to meet the requirements of the current legislation with regard to availability of required number of experts;
- on the mechanism of informing the SSMSC on the breach of requirements of the current legislation with regard to the number of certificated experts with the professional participant of securities market.

### **3. The procedure of submitting documents for SSMSC approval to delegate the certain powers to an SRO**

3.1. The SRO, in case of approval by the high executive body of a decision to assume some regulatory powers over its members and with the aim of obtaining the consent of the SSMSC to delegate such powers, shall submit such documents to the SSMSC:

- the application as per form (Addition \_\_);
- the balance sheet for the previous year with the auditor's opinion and/or approved by an audit firm and the statement of its own capital;
- the information as per form (Addition \_\_) on the executives and staff of the self-regulatory organization;
- the information on the personnel structure of the self-regulatory organization;
- the information on the availability of office equipment, web-site and fulfillment of other requirements stipulated in Item \_\_ herewith;
- the information on the number of members;
- the internal regulations stipulated in items \_\_\_\_\_ herewith, depending on the authorities which the SRO requests to be transferred to the SRO.

3.2. The documents which are specified in Item \_\_ herewith can be sent by mail (recommended letter) or handed personally to the address of the SSMSC general office.

3.3. Each document specified in Item \_\_\_herewith, should be certified as applicable by the signature of the SRO chief and stamped, and those documents which take more than one sheet, should be bound and numerated.

3.4. An application for being granted an SRO status (Addendum \_\_) shall be written on the official SRO letterhead with the indication of the outgoing registration No. and date, signed by the SRO CEO and affixed with the SRO stamp.

### **4. The procedure of considering the documents for the approval to delegate the certain powers to an SRO in the Commission**

4.1. Upon receipt of the complete set of documents by the SSMSC, they are checked for authenticity of data specified in them and for conformity with the requirements of the current legislation of Ukraine.

With the aim of verification of data specified in the SRO documents, the SSMSC may request, for verification, additional documents and necessary information, under the content of the documents submitted to the SRO for obtaining the SSMSC consent.

4.2. By the results of consideration of the submitted documents the SSMSC makes a decision:

- on delegation of certain authorities to the self-regulatory organization;
- on refusal in delegation of certain authorities to the self-regulatory organization.

4.3. No later than within 30 calendar days of receipt of an application from an SRO and of the other documents indicated in Item 3.1. herewith, the Securities and Stock Market State Commission makes a decision on the delegation or refusal to delegate such authorities to the self-regulatory organization.

4.4. The grounds for refusal to delegate certain authorities to a self-regulatory organization shall be as follows:

- incompliance of the submitted documents with the requirements of the effective legislation;
- the presence of unreliable data in the documents submitted;
- submission of and incomplete list of documents stipulated by item 3.1 herewith;
- finding, during the consideration of the applicant's documents, of facts of violation of the requirements of the effective legislation by the applicant with regard to the SRO bylaws and activities.

4.5. In cases stipulated in Paragraph 4 of Item \_\_\_ herewith, the submitted documents shall not be admitted and shall be returned to the SRO with the cover letter in which the reasons of the refusal to admit the application shall be provided.

4.6. The decision on the refusal to delegate such authorities to an SRO shall contain the specific reasons for the given decision.

4.7. The notification on the decision made by the SSMSC as to the consent or refusal in transfer of a part of authorities is sent to the SRO in writing within five days from the date of decision-making.

4.8. The SRO which has been refused the delegation of such authorities shall have the right to appeal in conformity with the effective legislation.

4.9. A refusal to delegate said authorities shall not preclude such delegation when considering a re-application of the SRO after it eliminates the causes which were given as grounds for the original refusal.

## **5. Authorities of the Securities and Stock Market State Commission as to the exercise of regulation and control over activity of the self-regulatory organization**

5.1 The SSMSC exercises regulation and control over activity of the self-regulatory organization within the limits specified by the legislation.

5.2 The SSMSC shall have the right to:

- assign the representative for participation in the general meeting of the self-regulatory organization;
- assign the representative for participation in the SRO board meetings, who participates in the meeting with the right of deliberative vote;
- bring the question, at the general meeting of the SRO members, on dismissal of the SRO chiefs from their posts in case of revealing the personal interest in their activities when solving the questions which belong to the SRO competence, and with the aim of protection of SRO members, their clients, participants of the stock market;
- demand the submission of information specified by Item \_ herewith;

- consider the complaints of professional participants of the stock market on the refusal of acceptance into the structure of the self-regulatory organization;
- consider complaints of members (participants) of the self-regulatory organization as to the sanctions applied to them by the organization;
- under an approved legal procedure, initiate the question of cancellation of the self-regulatory organization's State registration;
- perform, independently or together with other eligible agencies, the scheduled checks and audits of financial and economic activity of the self-regulatory organization;

5.3. An SRO shall file on a quarterly basis, by the 15th day of the month following the end of the reporting quarter, the following information in writing with the SSMSC:

- on the inspections of members (participants) with the indication of the found out breaches of the SRO rules, regulations during an accounting period;
- on the initiation and conduct of arbitration and disciplinary cases with the indication of parties, substance of dispute or violation, decision made by an economic court or the SRO disciplinary bodies on the results of consideration of case, information on the revision of the earlier made decisions;
- information on the amount and structure of the SRO assets, certified by the chief accountant and the head and affixed with the legal person's stamp;
- changes to the list of executives (data on the head and deputy heads of an executive body, commissions, committees, sections, legal service and the SRO detached subdivision (branch and so forth), as well as changes to the list of the SRO board members (Addition 2).

5.4. An SRO shall file with the SSMSC a report on the results of the SRO activity for a year. The above annual report shall be displayed on the SRO web-site.

5.5. An SRO shall file an annual report with the SSMSC if approved by the general meeting and a complete list of members of the organization as a whole as of the date of approval of this report.

5.6. The SRO shall file information, on a regular basis, with the SSMSC on dates of holding the SRO general meetings, seminars, presentations on stock market matters conducted by the SRO.

5.7. Within three days from the date of revealing the violation of the current securities legislation by the SRO members (participants) the organization's executive body is obliged to submit the information on the found out violation to the SSMSC.

5.8. Within three days the SRO submits to the SSMSC the information concerning the acceptance by its eligible body of a decision on the SRO reorganization or liquidation.