

CAPITAL MARKETS

The presentation hereby has in view the legal provisions in force on the 31st of March 2004

Applicable legislation in this field

- Government Emergency Ordinance no. 25/2002 on approval of the National Securities Commission (N.S.C.), published in the Official Gazette no. 224/4th of April 2002, approved by the Law no. 514/12th of July 2002, published in the Official Gazette no. 539/24th of July 2002
- Government Emergency Ordinance no.28/2002 on securities, financial investment services and regulated markets, published in the Official Gazette no. 238/9th of April 2002, approved by the Law no. 525/2002, published in the Official Gazette no. 576/5th of August 2002
- Order of the president of N.S.C. no. 7/2003 for the approval of the Instructions no. 1/2003 on securities companies authorization as financial investment services companies, published in the Official Gazette no. 178/21st of March 2003
- Order of the president of N.S.C. no. 23/2003 for the approval of the Regulation no. 3/2003 on authorization and operation of investments managing companies, of the unit trusts, investments companies and trustees, published in the Official Gazette no. 437 bis/19th of June 2003
- Order of the president of N.S.C. no. 27/2003 for the approval of the Regulation no. 5/2003 on securities public offer and other financial instruments, published in the Official Gazette no. 571bis/8th of August 2003

I. General provisions

Capital market represents a specialized market where financial assets supply and demand on long and medium term is met and is freely regulated. It is a market on which securities are freely traded. According to the moment

in which the trade is performed, the capital market divides into two segments:

- **primary market** – is the market on which the newly issues of securities are negotiated for the first time;
- **secondary market** – the securities released on the primary market are then traded on the secondary market.

Establishment and operation of capital market and of the regulated markets in our country are regulated by the Government Emergency Ordinance no. 28/2002 on securities, financial investment services and regulated markets, as further amended and completed – replacing the Law no. 52/1994.

Management, enforcement as well as supervision and observance of legal provisions are performed by the National Securities Commission (N.S.C.), autonomous administrative authority, having legal personality, subordinated to the Parliament.

II. Regulated markets

Regulated market is the securities and other financial instruments market that:

- a) operates regularly and in an ordered manner;
- b) observes the rules issued or authorized by N.S.C., defining the conditions for access on the market, operation and admission to the official quota of certain securities or of other financial instruments;
- c) observes reporting and transparency requirements for the ensuring of the investors' protection.

1. Stock exchanges

According to Government Emergency Ordinance no. 28/2002, regulated markets under the form of stock exchanges are established and operate as public interest institutions, with legal personality, by the decision of setting up and authorization to operate issued by the N.S.C. In order for the N.S.C. to decide upon the establishment of a stock exchange it is necessary for at least 10 financial investments services companies to request and receive the authorization to trade at the stock exchange. N.S.C. decisions of establishment and operation of stock exchanges are published in the Romanian Official Gazette, Part I, date from which the stock exchange gets legal personality.

Investments services companies

Financial investments services companies (FISC) are Romanian legal persons, set up in the form of joint stock companies, issuers of nominal shares and operating according to the N.S.C. authorization and supervision.

In order to be authorized as FISC, a trade company has to fulfill the conditions stipulated under the Title V Chapter 1 from the Government Emergency Ordinance no. 28/2002 as further amended and completed, as well as those stipulated by the Regulation no. 3/2002 on FISC authorization and operation:

- a) to have as exclusive object of activity performing of financial investment services;
- b) to provide the proof of a minimum subscribed capital and entirely paid up;
- c) to fall within the risk coefficient regarding assets;
- d) at least 75% from the total assets held to be recognized as assets of the regulated markets;
- e) not to hold them, their significant shareholders or entities affiliated any kind of participation, of any kind, in another financial investments services company;
- f) the company to be managed by an Administrative Council formed from at least three members that have to fulfill the following conditions: not to have criminal and fiscal record, not to be under the interdiction of a sanction given by N.S.C., NBR, Insurances Supervision Commission regarding the prohibition of exercising any professional activity regulated by Government Emergency Ordinance no. 28/2002, as further amended and completed; at least one of the members to have passed a training course for the capital market, acknowledged by National Securities Commission;
- g) executive managers of FISC to have passed a training course on the capital market acknowledged by N.S.C. and to fulfill the other two conditions stipulated for the members of the Administrative Council;
- h) to have a space destined to the registered office whose surface not to be smaller than 70 mp. The space destined to the registered office cannot be placed at the basement of buildings;

- i) to have technical conditions appropriate for the performing of activity;
- j) to have at least two agents for financial investment services and at least one person employed within the internal control department, authorized by N.S.C.;
- k) to have contract with a financial auditor member of the Auditors Chamber from Romania and registered with the Auditors Registry held by N.S.C..

2. Forming, supervision, organizing and management of other regulated markets

Regulated markets, others than stock exchanges, are formed exclusively as joint stock companies. According to the Art.27 paragraph 3 from the Government Emergency Ordinance no. 28/2002 the regulated markets:

- shall not distribute dividends, the profit obtained being used for the improvement of the operating systems;
- shall not grant loans and guarantees.

For the authorization of forming of a regulated market the fulfillment of the operation conditions established by the N.S.C. regulations is necessary, that shall refer, among others, to: organizing manner, management, resources, trading and conclusion of trades process, supervision and control of the operations performed on the respective market. Regarding the registered capital of a company representing a regulated market, at least two thirds from it has to be held by the financial investments services companies that thus become members of that market. A shareholder of a company representing a regulated market cannot hold directly or through affiliated persons more than 5% of its shares.

3. Access of the members and of the other participants on the regulated markets

On a regulated market, only participants authorized by N.S.C. perform operations that fulfill the specific conditions of that market. The maximum number of members and participants of a regulated market cannot be limited.

4. Admission and withdrawal of securities and of other financial instruments from the regulated markets

On a regulated market, only securities and other financial instruments registered with the Securities Record Office (SRO) are allowed and for which the equal access of investors to information is provided.

For the admission to trading, the applicant shall address an application for this purpose to the regulated market on which he wishes to trade. On the application for admission to trading the regulated market pronounces through a decision that is notified to the applicant within maximum 30 days from the reception of the application or, if the regulated market requests in the meantime additional information, within 30 days from the date of the filing by the applicant of those information.

An issuer whose securities are admitted on a regulated market has to comply with its requirements regarding the transparency obligations.

5. Introduction in stock exchange of publicly-held companies

The publicly-held company is a joint stock company established by public subscription or a company whose securities have made the object of a public offer promoted regularly and concluded successfully. In order to be introduced in the stock exchange the publicly-held companies have to fulfill the following minimum conditions:

- a) to have an anticipated exchange capitalization of at least one million euro, expressed in lei or a registered capital representing the equivalent of at least one million euro, to the extent in which the value of the exchange capitalization cannot be anticipated;
- b) to have been operating in the last 3 years prior to the listing and to have been published the annual financial statements for the same period;
- c) a minimum of 25% of the shares to be publicly-held.

However, stock exchanges, subject to N.S.C. approval, may admit at the official quota, securities issued by publicly-held companies that do not fulfill the above-mentioned requirements.

III. Operations on the market

1. Operations on regulated markets

Any operation of sale, purchase, exchange as well as other property translatative operation, any conversion or exercising of a right having as object securities or other financial instruments created in connection to securities issued by a publicly-held company shall take place only on the

regulated markets and through the mediation of the financial investments services companies or of other intermediaries authorized by N.S.C..

All the operations performed on a regulated market shall be obligatorily deducted through a discounting system authorized by N.S.C.

- a) Transfer of ownership on a security or on another financial instrument takes place at the registration of the acquiring person in the issuer's registry;
- b) Trading of rights shall be made on the same regulated market on which the securities they refer to are also traded;
- c) Financial investments services companies may grant loans to clients for the purpose of financing acquisitions of securities in margin. Financed operations have to be made through the mediation of that financial investments services company;
Margin means the guarantee established and maintained by the investor with a financial investments services company for the performing of acquisitions of securities or other financial instruments on credit or performing of operations with derivative financial instruments.
- d) In the case of the regulated markets, departments may function, dedicated to the financial instruments, other than securities. Thus, futures contracts, options contracts or other derivative financial instruments may be traded, as well as carry-forward contracts, with N.S.C. authorization, subject to observance of the banking legislation and currency operations regime.

2. Public offer

Any public offer of securities requires N.S.C. authorization, before the publishing of ad and/or its prospectus. Public offer made without authorization or with the non-observance of the conditions established by authorization in null de jure and involves for those in breach the enforcement of sanctions stipulated by law; the bidder shall be bound to investors in goods faith to the obligation of restitution and damages deriving from the nullity of the transactions contingently concluded on the basis of such an offer.

For the authorization of a public offer of securities the bidder shall submit to N.S.C. an authorization application accompanied by a notification and the prospectus of offer. N.S.C. shall pronounce itself regarding the authorization within 30 working days from the registration of the application

for the public offers to sale, respective 7 working days for the public offers to purchase and within 15 working days for public offers to takeover.

Through the decision of authorization, N.S.C. establishes the final form in which the offer may be published to the possible investors; through decision the N.S.C. shall also establish conditions, limitations or restrictions that will have to be observed during the promotion and progress of the public offer of securities.

If the public offer to sale is not initiated within 9 months from the date of the last financial reporting which are at the basis of the authorization, and the public offer to sale or to takeover, within 7 working days from the date of the authorization, the decision of authorization has no effect whatsoever. The offer becomes binding on the date of the publishing of the offer ad.

Offer validity

The validity term is the one stipulated in the ad and in the prospectus of offer but cannot exceed 6 months. When the validity of the public offer of securities expires, it becomes void.

Conditions to be observed at the carrying on of public offers

Public offers have to carry on in conditions ensuring the equality of treatment for all investors. Failing any other criterion of allocation provided in the prospectus and accepted by N.S.C. in case of over-subscription the securities shall be allocated proportional with the level of subscriptions. Any subscription performed within the public offer is revocable until the last day of validity of the offer.

The following persons are liable for the non-observance of the legal provisions regarding the truthfulness, accuracy and reliability of the information from the prospectus and ad, as the case may be: the bidder, members of the bidders' administrative board, issuer, members of the issuers' administrative board, organizers, in case of public subscription, censors or the financial auditor who has certified the financial statements whose information have been taken over in the prospectus, financial investments services companies that have mediated the offer, any other entity who has accepted in the prospectus the liability for any information, study or evaluation inserted or mentioned.

The right to compensation has to be exercised within maximum 6 months from the date of the acknowledgment of the deficiency of the prospectus, but no later than 2 years from the closure of the offer.

If a public offer is made concurrently or in a short period of time in Romania and in another state, the offer shall be subjected to the regulations stipulated in the Government Emergency Ordinance no. 28/2002, as further amended and completed, if the issuer's headquarter is in Romania.

Those previously stipulated regarding the public offer do not apply to the issue of participation securities to unit trusts

2.1 Public sale offer

The public sale offer shall be made through a financial investment services company; the offer may be primary and secondary, according as it has as object securities proposed by the issuer for subscription on the date of the issuance, in order to be placed on the market (*primary public offer*), or a package of securities issued as a preliminary (*secondary public offer*).

2.2 Public offer to purchase or takeover

In the case of an offer to takeover the bidder shall transmit a preliminary ad to N.S.C., to the company subject of taking over and to the market for trading of the respective securities and shall publish it in at least two central newspapers and a local one, from the issuer's headquarter.

Within 5 days from the reception of the preliminary ad for offer the administrative board of the company subject of taking over shall transmit to N.S.C., to the bidder and to the regulated market for trading of the respective securities its position regarding the appropriateness of taking over.

The transmission of the preliminary ad for offer obliges the bidder to launch, in maximum 20 days, a public offer to take over in terms not less favorable than those from the preliminary ad. From the moment of the reception of the preliminary ad and until the closing of the offer the administrative council of the company subject of taking over shall inform N.S.C. and the regulated market about all the operations performed by its members and by the general manager regarding those securities.

From the moment of the reception of the preliminary ad the administrative council of the company subject of taking over can no longer conclude acts and take any measure that may affect substantially the patrimonial situation or the objectives of the taking over, except the acts of current management.

2.3 International public offers

The public offers made on the Romanian territory regarding securities issued by the non-residents are subject to the following conditions:

- a) the securities must fulfill the conditions stipulated by the Government Emergency Ordinance no 28/2002, as further amended and completed;
- b) the issuer to make the proof that he has observed regulations of the state of registration of respective securities;
- c) the offer shall comply with the legal provisions regarding the investors' protection.

If the public offer of securities is performed outside the Romanian territory by residents, it shall be notified to N.S.C.

IV. Investors' protection

1. Publicly-held companies

Publicly-held companies are those joint-stock companies established by public subscription or those companies whose securities have made the object of a public offer promoted regularly and concluded successfully.

Management and administration of publicly-held companies shall be made according to the provisions of the Law no. 31/1990 as republished and further amended.

Owning of securities issued by the publicly-held companies is investment for the purpose of obtaining profit.

Within one month from the acquiring of status of publicly-held company any such company is obliged to request to a regulated market the introduction for trading on this market of the issued securities.

To publicly-held company any trade company that has made a public offer of securities or other financial instruments, different from those of the nature of shares, assimilates. This assimilation refers exclusively to the rules regarding investors' protection in those securities or other financial instruments.

Publicly-held companies are obliged to register with S.R.O. and to observe the reporting requirements established by the N.S.C. regulations and those of the regulated markets on which the securities issued by them are traded.

V. Market transparency and investors' equality

1. Market transparency

It is mandatory for the administrators of the publicly-held companies to present to N.S.C. current reports that shall be published in the N.S.C. Gazette, in which they shall declare any legal document concluded by the company with the administrators, employees, majority shareholder of the

company or with the persons involved or with persons affiliated to them, whose cumulated value represents at least the equivalent in lei of Euro 50,000.

If the company concludes legal documents with the previously mentioned persons, their interests in relation to offers of the same type existing on the market shall be observed.

Publicly-held companies shall draw up and transmit to N.S.C. current reports, half-yearly and annually. NSC shall issue regulations regarding the minimum content of these reports and the mandatory publicity to be made on the company's expenses. These information are considered privileged until their publication.

Publicly-held companies may request for grounded reasons to NSC for certain information not to be published, but to be treated as confidential information.

2. Prohibition of market manipulation and transactions based on privileged information

Market manipulation means:

- performing of transactions or launching of orders for trading giving or being able to give false or deceiving indications regarding the supply, demand or the price of the financial instruments or maintaining, through the action of one or many persons, the price of the financial instruments to an artificial level or using other fictitious means or other forms of trading breaching the honest practices;
- dissemination of information by any means giving or being able to give false or deceiving indications regarding the supply, demand or the price of the financial instruments, including dissemination of false or deceiving rumors or news.