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**THE CENTRAL BANK OF ARMENIA
BOARD RESOLUTION
Number 300-N
December 24, 2013**

**ON APPROVAL OF REGULATION 10/13 ON “THE DOCUMENTS, SUBMITTED FOR
GETTING THE PRIOR CONSENT TO OUTSOURCE THE FUNCTIONS OF THE
INVESTMENT FUND MANAGER AND CUSTODIAN, THE PROCEDURE OF THEIR
SUBMISSION, THE PROCEDURE AND TERMS OF PROVIDING THE PRIOR
CONSENT”**

Taking into consideration that the investment fund manager may in its name outsource a part of its managerial functions to a third entity, and the custodian may outsource a part of its functions or all the functions of custody of a part of the fund’s assets to a third entity in order to increase the efficiency of its business procedures, for which the prior consent of the Central Bank of the Republic of Armenia is required,

Intending to provide a mechanism, which shall mitigate the risks, related to the outsourcing, taking into consideration the nature of the outsourced functions and their importance,

Pursuant to Articles 70(7), 70(9), 89(7) of the Law of the Republic of Armenia “On investment funds”,

In conformity with the provisions of point “e” of Article 20 of the Law of the Republic of Armenia “On the Central Bank of the Republic of Armenia”, Articles 16 and 70 of the Law of the Republic of Armenia “On legal acts”, the Board of the Central Bank of the Republic of Armenia

d e c i d e s:

1. to approve Regulation 10/13 on “The documents, submitted for getting the prior consent to outsource the functions of the investment fund manager and custodian,

the procedure of their submission, the procedure and terms of providing the prior consent”, in accordance with the Appendix (attached).

2. This Resolution shall come into force on the tenth day after its official publication.

**Chairman of the Central Bank
of the Republic of Armenia**

Arthur Javadyan

Appendix

Approved by
Resolution of the Board of the Central Bank
of the Republic of Armenia, number 300-N,
dated December 24, 2013

REGULATION 10/13

ON “THE DOCUMENTS, SUBMITTED FOR GETTING THE PRIOR CONSENT TO OUTSOURCE THE FUNCTIONS OF THE INVESTMENT FUND MANAGER AND CUSTODIAN, THE PROCEDURE OF THEIR SUBMISSION, THE PROCEDURE AND TERMS OF PROVIDING THE PRIOR CONSENT”

CHAPTER 1. GENERAL PROVISIONS

1. This Regulation defines:

- 1) the list and content of the documents and information, submitted to the Central Bank of the Republic of Armenia (hereinafter, Central Bank) for getting the prior consent to outsource the functions of the investment fund manager and custodian, the procedure and form of submission,
- 2) the procedure and terms of providing the prior consent to outsource the functions of the investment fund manager and custodian,
- 3) the maximum portion of assets of the investment fund (sub-fund), the function of investment management of which may be outsourced.

2. This Regulation applies to the investment fund managers, operating within the territory of the Republic of Armenia, the branches of foreign investment fund managers, established within the territory of the Republic of Armenia, investment fund custodians, as well as any other entity, which performs or intends to perform the functions, outsourced to it by the investment fund manager (custodian), based on the outsource (sub-custody) contract, signed with the latter.

3. The functions, which pursuant to legislation are subject to mandatory transfer to another entity (are conducted by another entity), are not the subject of this Regulation.

CHAPTER 2. THE MAIN CONCEPTS

4. The concepts, used in this Regulation, have the following meanings:

- 1) **“outsourcer”** – manager or custodian, which outsources a part of its functions (in case of custodian – also all of its functions of custody of a part of the fund assets) to a third entity (entities),
 - 2) **“counterparty”** – entity (sub-custodian), which has signed or intends to sign a contract with the manager (custodian) on outsourcing (sub-custody) of the functions,
 - 3) **“Law”** – the Law of the Republic of Armenia “On investment funds”.
5. The other concepts, used in this Regulation, have the meaning as in the laws of the Republic of Armenia “On investment funds” and “On the securities market”.

CHAPTER 3. THE DOCUMENTS, SUBMITTED FOR GETTING THE PRIOR CONSENT TO OUTSOURCE THE FUNCTIONS OF THE INVESTMENT FUND MANAGER (CUSTODIAN)

6. In order to get the prior consent to outsource the functions of the fund management, the manager submits the following documents to the Central Bank:

- 1) the petition for consent of the outsourcing, in accordance with Appendix 1 of this Regulation,
- 2) the copy of the draft of the outsourcing contract, which includes the terms, defined by Chapter 4 of this Regulation,
- 3) the justification of necessity to outsource the function, which should include at least the following provisions: optimization of functions and processes, cost saving, existence of experience of the counterparty in the certain market, possibility of entrance of the counterparty to the global trading markets, etc.,
- 4) the justification that the counterparty has sufficient organizational, technical, financial resources, professional quality, experience, good reputation of the employees (not being convicted, absence of judicial proceedings and (or) criminal/administrative sanctions, etc.) to conduct the outsourced functions,
- 5) the document (license) certifying the permission to conduct the given function, if according to the legislation (in case of the foreign counterparty – the legislation, regulating the activity of the foreign counterparty), the conduction of the given function requires the permission (license) of the competent body; otherwise – a statement, that no license or other special permission is required by legislation for conduction of the outsourced functions,
- 6) the justification, that as a result of outsourcing, the conduction of proper (efficient) supervision over the manager and the custodian is not becoming impossible,

- 7) the justification that no conflict of interest will emerge between the counterparty and the outsourcer, fund or participants of the fund,
- 8) the list of employees of the outsourcer, contacts and organizational subdivisions, which will be responsible for the cooperation with the counterparty and conduction of supervision over the counterparty; the detailed description of authorities and liabilities of those persons,
- 9) the significant changes in the activity of the outsourcer as a result of outsourcing.

7. The Central Bank may require other information in order to assess the reliability of the information, mentioned in point 6 of this Regulation.

8. If any of the documents, specified by point 6 of this Regulation, has been submitted to the Central Bank for any function outsourced before, then afterwards those documents might not be submitted to the Central Bank for outsourcing of another function (if the information, contained in the given documents, has not been changed).

9. If after submission of the documents, required by point 6 of this Regulation, and till the moment the Central Bank has made the decision to grant the prior consent or to reject the granting of the prior consent to sign the respective outsourcing contract, any changes have been made in the submitted documents, then the outsourcer submits the changed documents to the Central Bank within 3 working days after being informed about the respective changes, but not later, than before the moment the Central Bank has made the decision to grant the prior consent or to reject the granting of the prior consent to sign the respective outsourcing contract. After making the decision to grant the prior consent to the outsourcing, the outsourcer submits the changes of the information, mentioned in sub-point 8 of point 6 of this Regulation, to the Central Bank in case of each change, within 3 working days after the day of being informed about the change.

10. The requirements, set by this Chapter, apply to the procedure of prior consent to sign the sub-custody contract for outsourcing the functions by the custodian (if applicable).

CHAPTER 4. THE SIGNIFICANT TERMS OF THE OUTSOURCING (SUB-CUSTODY) CONTRACT

11. The outsourcing (sub-custody) contract is being signed in a written form, which in addition to the terms, specified by part 5 of Article 70 of the Law, also includes the following terms:

- 1) the period of outsourcing of the function,

- 2) the authorities and liabilities of the outsourcer and the counterparty (the authority of the outsourcer to conduct inspections over the counterparty, to have access to the registry, to enter the facility and other authorities),
- 3) the counterparty's liability, specified by the legislation of the Republic of Armenia, to ensure the secrecy of the information about the outsourcer,
- 4) the counterparty's liability to ensure the security of the outsourcer's information systems (if it is required by the outsourced function),
- 5) the provision about the liability of the counterparty, according to which the counterparty should immediately inform the outsourcer about those cases, which can have significant impact on the ability to conduct the outsourced functions efficiently and in accordance with the requirements of the legislation,
- 6) the cases, serving as the basis to terminate the outsourcing contract (in case of insolvency, liquidation or bankruptcy of the counterparty, change of owners, not meeting the requirements over conduction of the outsourced functions, not good performance of the outsourced functions and other cases),
- 7) the procedure and terms of entering into force of the termination of the outsourcing contract and returning of the data about the participants of the fund,
- 8) the mechanisms of disputes resolution, including the topic on whether the legislation of which country should apply to the court proceeding, if the counterparty is a foreign organization,
- 9) in case of outsourcing of the function of investment management of the fund assets – the provision that the management of the fund by the counterparty should comply with the investment policy, defined by the fund rules (statute) and (or) prospectus, as well as by the rules of activity of the manager; as well as the provision about the right of the outsourcer to give directions to the counterparty on implementation of the given policy,
- 10) the provision, according to which the outsourcer and the counterparty are obliged to keep the requirements, set by this Regulation and the Law, during the whole period of the outsourcing,
- 11) if the outsourcing contract is being signed with a foreign counterparty, then it is being mentioned in the outsourcing contract, whether the legislation of which country should apply to the parties of the outsourcing contract in case of bearing a legal responsibility.

12. In addition to the information, specified by the Law and in sub-points 1-6, 8, 10, 11 of point 11 of this Regulation, the sub-custody contract should include the following provisions:

- 1) the terms of segregation of the fund assets, in case of which it will be possible at each moment to differentiate them from the own assets of the counterparty and the participants of the fund (if this provision is applicable to the outsourced function),
- 2) the period between entering into force of the termination of the outsourcing contract and returning of the fund assets, and its procedure (if this provision is applicable to the outsourced function).

CHAPTER 5. THE TERMS OF OUTSOURCING OF FUNCTIONS BY THE OUTSOURCER

13. The function of oversight over the activity of the counterparty may not be outsourced.

14. The outsourcer should ensure the continuity of conduction of the outsourced functions, including in the cases of termination of the outsourcing contract or outsourcing of the given function to a third party.

15. Within a reasonable term, the outsourcer should submit to the Central Bank the information about any breach of the law or other legal acts or the rules (statute) of the fund by the counterparty.

16. If for the purpose of protection of the investors' rights it is necessary to terminate the outsourcing contract by the outsourcer, then the outsourcing is being ceased by termination of the contract, and the outsourced functions are immediately being returned to the outsourcer or other person, mentioned by the outsourcer, if there is an outsourcing contract between the latter and the outsourcer.

17. In case the outsourcer terminates the outsourcing contract with the counterparty, the outsourcer notifies the Central Bank about it within 3 working days after the termination of the contract.

18. In addition to the terms, specified by points 13-17 of this Regulation, in case of outsourcing of the custodian function.

- 1) a minimum capital requirement is being set and applied to the counterparty by the legislation,
- 2) if the outsourcing contract is being signed with a foreign counterparty, then the home country of the counterparty should not be considered as a cooperating country by means of combating the money laundering and financing of terrorism or no any statement has been published for the given country by the FATF or other international body, having a similar activity,

about the non-compliance of the system of money-laundering and financing of terrorism.

CHAPTER 6. THE PROCEDURE OF GRANTING THE PRIOR CONSENT TO THE OUTSOURCING OF FUNCTIONS

19. After submission of the documents, specified by point 6 of this Regulation, the Central Bank provides its prior consent to outsource the functions or rejects the providing of the consent:

- 1) within 30 working days, in case of the services, specified by point 1, paragraphs “c”, “d” of point 2 of part 1 of Article 51 of the Law, as well as a part of the functions of the custodian or all the functions of custody of a part of the fund’s assets,
- 2) within 10 working days, in case of the functions, specified by paragraphs “a”, “b”, “e”, “f”, “g” and “h” of point 2 and the point 3 of part 1 of Article 51 of the Law.

20. The Central Bank allows the outsourcing of the functions of the investment fund manager and custodian, if the grounds, specified by part 8 of Article 70 of the Law are not in place, and the submitted documents are not false and (or) incomplete, or they do not reflect inaccurate and (or) false data.

CHAPTER 7. THE PROCEDURE OF SUBMISSION OF THE DOCUMENTS (INFORMATION), REQUIRED BY THIS REGULATION

21. All the documents, information (their amendments), required by this Regulation, are being submitted to the Central Bank in Armenian, with a registered mail, in electronic form via the CBA-Net system, and in case it is impossible - by electronic drivers. The copies of the documents, submitted in hard copy, are being signed by the competent person of the manager or the custodian and being submitted with the “Corresponds to the original” note.

CHAPTER 8. THE MAXIMUM PORTION OF THE ASSETS OF THE FUND (SUB-FUND), THE FUNCTION OF INVESTMENT MANAGEMENT OF WHICH MAY BE OUTSOURCED

22. The manager may outsource the management of such maximum portion of the assets of the fund (sub-fund), subject to management, as a result of which, by the day of signing of the outsourcing contract, the total portion of the outsourced assets does not significantly exceed the portion of the assets of the fund (sub-fund), managed by the

manager after the outsourcing. Furthermore, to determine the portion of the assets of the fund (sub-fund), subject to outsourcing and staying within the management of the manager after the outsourcing, not only the volume of the assets of the fund (sub-fund), subject to outsourcing and staying within the management of the manager after the outsourcing, is being taken into consideration, but also the following qualitative criteria of the assets of the given funds (sub-funds):

- 1) the investment policy of the fund (sub-fund), the level of its riskiness,
- 2) the importance of the assets of the fund (sub-fund) from perspective of reaching the fund's investment objectives,
- 3) the geographical and sectoral distribution of investment of the fund's assets,
- 4) the regions of activity of the manager and the counterparty,
- 5) the structure of the manager and the counterparty, including whether the manager and the counterparty are included in the same group or not.

of Regulation 10/13 on
“The procedure of providing the prior consent to outsource
the functions of the fund management and custody”

PETITION
ABOUT OUTSOURCING OF THE FUNCTIONS

Mr. _____
Chairman of the Central Bank of the RA

Dear Mr. _____,

(full name of the organization, submitting the petition)
has made a decision to outsource the function (functions) of

(type (types) of the outsourcing function (functions))

In accordance with the laws and other legal acts of the Republic of Armenia, we submit the attached documents and their list, necessary for getting the consent of outsourcing (attached, ____ pages).

We would like to assure you that we have reviewed in detail the information, included in each of the document, attached to the petition.

We would like to assure you, that the provided information is reliable and comprehensive, furthermore we realize that submission of a false document or information will lead to responsibility, defined by law, and rejection of the petition.

We would like to ask you to allow outsourcing the mentioned function (functions), pursuant to the legislation of the Republic of Armenia.

The person, submitting the petition

(name, surname, signature of the competent person of the manager (custodian))

(contacts, location)