

REPUBLIC OF ARMENIA

CENTRAL BANK BOARD

RESOLUTION

September 28, 2018

No 171-N

ON APPROVAL OF REGULATION 10/31 "ADDITIONAL REQUIREMENTS FOR THE STRUCTURE AND ACTIVITIES OF INVESTMENT FUND CUSTODIAN" AND REPEAL OF THE REPUBLIC OF ARMENIA CENTRAL BANK BOARD RESOLUTION NO 333-N OF DECEMBER 27, 2013

With a view to protecting the interests of investment fund investors, reducing the significant risks in investment funds' depository functions;

on the basis of Article 69 (4) of the Law of the Republic of Armenia "On Investment Funds", Article 88 (3), Article 15 (1) (8) of the Law of the Republic of Armenia "On Funded Pensions";

pursuant to Article 20 (e) of the Law of the Republic of Armenia "On the Central Bank of the Republic of Armenia", the requirements of the Law of the Republic of Armenia "On Normative Legal Acts", the Board of the Republic of Armenia Central Bank, herewith,

Decides:

1. Approve Regulation 10/31 "Additional Requirements for the Structure and Activities of Investment Fund Custodian", pursuant to the Appendix to this Decision (attached).

2. Repeal the Republic of Armenia Central Bank Board Resolution No 333-N of December 27, 2013 "On Establishment of General Rules for Custody of Assets of Mandatory Pension Funds".

3. Within six months from the date of entry into force of this Resolution, investment funds (fund managers) and custodians of the funds shall be required to bring their activities into line with this Resolution.

4. This Resolution shall enter into force on the tenth day following its promulgation.

**Deputy Governor of the Republic of Armenia
Central Bank**

N. Yeritsyan

October 2, 2018
Yerevan

REGULATION 10/31

ADDITIONAL REQUIREMENTS FOR THE STRUCTURE AND ACTIVITIES OF INVESTMENT FUND CUSTODIAN

CHAPTER 1. GENERAL PROVISIONS

1. This Regulation establishes additional requirements for the structure and functioning of the custodian of the investment fund (hereinafter referred to as the fund), including the principles of custody of different types of assets and the principle of separation of assets by the custodian.

2. Concepts used in this Regulation have the meanings defined in the laws of the Republic of Armenia "On Investment Funds" and "On Securities Market".

CHAPTER 2. PRINCIPLES OF CUSTODY OF ASSETS

3. Fund assets shall be deposited with the custodian in accordance with the following principles:

1) securities and derivative financial instruments shall be deposited with the custodian, if they can be registered (recorded) in the respective accounts opened by the custodian;

2) for assets not included in sub-paragraph 1 of this paragraph, the custodian shall check and assure that the ultimate ownership of the asset belongs to the fund, and shall record notes on those assets (to which the ownership of the fund is approved). The ownership right provided for in this sub-paragraph shall be verified on the basis of the documents and information submitted by the fund manager and, where possible, on the basis of external (third parties) evidence.

4. For the purpose of this Regulation, the securities deposited in the fund assets, which are registered (registered) or can be directly or indirectly registered (recorded) in the securities account opened in the name of the custodian (sub-custodian), shall be considered as deposited to the custodian. Sub-paragraph 1 of Paragraph 3 of this Regulation shall not apply to securities and financial instruments which, according to the applicable legislation, are subject to registration by the Issuer or its registrar directly in the name of the fund (fund manager).

5. The custodian must:

1) maintain a separate accounting for assets held for use in accordance with this Regulation, as well as transactions and records with them (including separate accounts for each fund); which will allow separating the relevant assets of each fund (sub-fund) at any time from the assets of the custodian's other funds (sub-funds) or from the assets of other persons;

2) maintain the information and maintain records and accounts in a way that ensures their accuracy and compliance with the fund's assets;

3) periodically perform comparisons, adjustments between accounts, entries and information about the fund assets available to the custodian itself and other persons;

4) take the necessary organizational measures to minimize the risk of loss of fund assets or related rights as a result of unfair or unauthorized use of fund assets, fraud, defective recording or neglect;

5) in case of delivering custody functions, evaluate the risks in the asset custody chain (sub-custodians), keep track of them, and report substantial risks to the fund manager.

6. The custodian shall be obliged to provide updates of the records and information defined in subparagraph 2 of point 3 of this Regulation in accordance with its rules and (or) custodial agreement.

7. The custodian shall have access to any information required for the performance of the inspection and registration of property rights provided for in sub-paragraph 2 of Paragraph 3 of this Regulation. The fund manager shall provide the custodian and also ensure that the third parties provide the custodian with all information required for ensuring the custody and registration of the property rights pursuant to subparagraph 2 of Paragraph 3 of this Regulation.

8. The custodian shall take sufficient organizational measures and (or) introduce the necessary procedures to minimize the risk of the unauthorized disposal, exchange or transfer of assets provided for by sub-paragraph 2 of Paragraph 3 of this Regulation. The custodian shall have access to the documents and information relating to operations performed with each such asset. The fund manager shall ensure that the respective third parties provide the custodian with certificates or other documentary evidence in the case of disposal or acquisition of the assets referred to in this paragraph.

9. The fund manager shall ensure that all instructions and information relating to the fund's assets are sent to the custodian of the fund so that the latter has the opportunity to carry out independent reviews and/or comparisons.

CHAPTER 3. REQUIREMENTS FOR SUPERVISORY FUNCTIONS OF THE CUSTODIAN

10. Within the framework of the supervisory functions provided for in Clauses 1 to 5 of Paragraph 3 of Article 87 of the Law of the Republic of Armenia "On Investment Funds" the fund custodian shall: «

1) introduce supervisory procedures for mitigation of in accordance with the fund's nature, investment policy, and the organizational structure of the fund manager;

2) carry out inspections of relevant procedures under the responsibility of the fund manager (or designated other persons);

3) periodically perform checks and comparisons between accounts, information, records of fund assets available to the custodian, fund manager and other persons;

4) define the actions to be taken by the custodian in case of inaccuracies or violations that occurred during the execution of supervisory functions;

11. The fund manager shall provide the custodian with all information necessary for the custodian to carry out the functions and obligations provided for in paragraph 10 of this Regulation.

CHAPTER 4. SUPERVISION OF CASH FLOWS OF THE FUND

12. Funds' resources can be deposited in one or several banks or cash accounts opened with the custodian. If the cash account of the fund is opened in the name of the fund manager or custodian in the bank operating in the territory of the Republic of Armenia, it shall be nominal holder account provided for in Article 928.4 of the Civil Code of the Republic of Armenia.

13. The fund manager shall notify the custodian of any cash accounts opened in the name of the fund or for the fund, at the time of the custodian's appointment, as well as in case of opening a new fund account.

14. The custodian shall perform supervision of the cash flows of the fund. To this end, the Custodian shall at least make the following:

- 1) Introduce effective procedures for the fund cash flow analysis and comparisons and implement them on a daily basis, and in case of non-frequent flows, for each such flow;
 - 2) introduce procedures that you to identify suspicious cash flows or those that may not be suitable for fund operations or fund rates;
 - 3) periodically and regularly (at least once a year) review the adequacy of the procedures provided for in subparagraphs 1 and 2 of this paragraph;
 - 4) check the correspondence of the custodian's and the fund manager's records on fund balances.
15. The fund manager shall ensure that the custodian is provided with all information about each cash account of the fund (including the instructions) necessary for the custodian to control the cash flows of the fund, including conduction of independent checking and (or) comparisons.

CHAPTER 5. GENERAL REQUIREMENTS FOR THE RECORDS OF THE CUSTODIAN

16. The custodian shall record the fund's assets so as to be able to have full information about the composition and the number of the fund's assets (volume, nominal value) at any time. The custodian shall provide information to the fund (fund manager) in the manner and frequency specified by the contract.
17. The custodian shall record the fund assets and transactions with them in such a way as to satisfy the following conditions:
- 1) At the request of the Central Bank of the Republic of Armenia (hereinafter referred to as the Central Bank) these records shall be made accessible to the Central Bank and it shall be possible to have the breakdown of each phase of each conducted transaction;
 - 2) where changes or additions to these records are made, they shall be introduced in such a way as to identify the original contents of those registrations and any modifications or additions thereof; and
 - 3) unauthorized access to these records for third parties should be excluded.
18. The Custodian shall carry out the integrated recording of the fund's assets in accordance with this Regulation electronically.
19. In case of changing the custodian, the latter shall ensure uninterrupted transfer of all available information about the fund's assets to the new custodian.
20. Information about the fund assets recorded by the custodian shall be maintained by the custodian during and after the custody of the fund assets for at least seven years.

CHAPTER 6. PECULIARITIES OF CUSTODIAN'S FUNCTIONS

21. The custodian shall ensure the functional and organizational separation of the fund custody functions from or other services provided to the fund or the fund manager and ensure that all possible conflicts of interest are identified/disclosed, managed and controlled.

CHAPTER 7. REQUIREMENTS FOR CUSTODY CONTRACT

22. The custody contract shall contain at least:
- 1) description of services provided by the custodian and fund custody functions (including accounting, property checking and accounting, control), by types of assets and geography of fund investments;
 - 2) the rules of registration of operations with fund assets;
 - 3) information required to carry out the functions and obligations set forth by the custodian, the law, the normative legal acts adopted thereon and the procedure for their receiving (exchange), including the procedures ensuring provision of information to the custodian from third parties;

4) information provided by the custodian to the fund manager and the procedure of providing such information, which is necessary for the manager to fulfill the responsibilities relating to the fund;

5) the procedure of outsourcing of custodian functions;

6) the term of the custody agreement, grounds and procedure for termination, the order of transferring the information to the new custodian in case of termination of the custody contract;

7) the order of alerting the fund manager or the Central Bank in case of inaccuracies or violations.

23. If the provisions of paragraph 22 of this Regulation are defined by the custodian's custody rules, they may be specified in the custody contract as references to such rules.