\*National language legislation will prevail over translated versions

ORDER No. 2245/2016 of September 16, 2016

approving the Framework Regulation on operations with State securities on the internal market

ISSUER: MINISTRY OF PUBLIC FINANCE

PUBLISHED IN: THE OFFICIAL GAZETTE NO. 729 of September 21, 2016

Pursuant to the provisions of art. 10 para. (4) in the Government Decision no. 34/2009 on the organization and operation of the Ministry of Public Finance, as subsequently amended and supplemented,

In accordance with the provisions of art. 3 para. (2) and art. 4 para. (6) in the Government Emergency Ordinance no. 64/2007 on public debt, approved as amended and supplemented through the Law no. 109/2008, as subsequently amended and supplemented,

**The Minister of Public Finance** issues the following order:

ART. 1

The Framework regulation on market operations with State securities on the internal market, as provided in the appendix which is an integral part of this order, is hereby approved.

ART. 2

On the date of entry into force of this order shall be repealed the Order of the minister of economy and finance no. 2.509/2008 approving the Regulation on operations with State securities issued in dematerialized form, published in the Official Gazette of Romania, Part I, no. 626 of August 28, 2008, as subsequently amended and supplemented.

ART. 3

(1) This order shall enter into force on the date of publication hereof in the Official Gazette of Romania, Part I.

(2) By way of exception from the provisions of para. (1), the provisions of art. 3, 13-14, 16, 19-25, 29-31 and 41-46 in the appendix to this order shall enter into force on January 1, 2017.

Minister of Public Finance,

**Anca Dana Dragu**

Bucharest, September 16, 2016.

No. 2.245.

APPENDIX

**FRAMEWORK REGULATION**

**on operations with State securities on the internal market**

CHAPTER I

**General provisions**

ART. 1

(1) This framework regulation sets:

a) the general terms and conditions for market operations with State securities carried out by the Ministry of Public Finance for the purpose of managing the government public debt and implementing the financing plan under efficient conditions;

b) the obligations of the entities authorized by the Ministry of Public Finance to manage the primary and/or secondary market of State securities;

c) the obligations of the entities authorized by the Ministry of Public Finance to manage the deposit and settlement systems of State securities;

d) the rights and obligations of primary dealers on the internal market of State securities.

(2) Within the meaning of this framework regulation, market operations with State securities comprise:

(i) the operation of placement of State securities issued by the Ministry of Public Finance on the internal market, in dematerialized form, in the national currency or in foreign currency;

(ii) operations of management of liabilities, and of redemption in advance or exchange of State securities;

(iii) operations of management of currency risk and interest risk, operations carried out in accordance with the provisions of Government Emergency Ordinance no. 64/2007 on public debt, approved as amended and supplemented through the Law no. 109/2008, as subsequently amended and supplemented, and of Government Decision no. 1.470/2007 approving the Methodological norms of enforcement of Government Emergency Ordinance no. 64/2007 on public debt, as subsequently amended and supplemented.

ART. 2

(1) For the monitoring and assessment of the activity of primary dealers on the domestic market of State securities administered by the National Bank of Romania shall be established the Assessment Committee made up of 2 representatives of the Ministry of Public Finance and 2 representatives of the National Bank of Romania.

(2) The members of the Assessment Committee shall be appointed as follows:

a) the representatives of the Ministry of Public Finance through order of the minister of public finance;

b) the representatives of the National Bank of Romania through order of the governor of the National Bank of Romania.

(3) The Assessment Committee has the following duties:

a) it analyzes the activity performed by the entities which expressed their interest to become primary dealers through the monitoring of the fulfillment of the obligations and requirements provided by this framework regulation, as well as those set by the regulations of market administrators;

b) it decides to grant the quality of primary dealer to the requesting entities specified by art. 17 on the basis of an application formulated in this respect and submitted to the National Bank of Romania;

c) it analyzes on continuous bases the activity of the existing primary dealers, for the purpose of:

(i) keeping/withdrawing the quality of primary dealer;

(ii) suspending the quality of primary dealer, as a result of a temporary failure to fulfill the requirements of access set by the market administrator;

(iii) the establishment of a classification in accordance with the performance of the activity carried out by the primary dealers.

d) it decides to sanction the primary dealers and settles the appeals on the basis of the provisions of the regulations in force applicable to the activity of primary dealers.

(4) The Assessment Committee is a permanent body, which meets at the request of at least 2 members and adopts all decisions by vote, the members from the Ministry of Public Finance having veto right.

ART. 3

(1) For the purpose of an efficient organization and operation of the activity of primary dealers on the quotation platform agreed by the Ministry of Public Finance shall be established the Market Committee made up of: one representative of every primary dealer, 3 representatives of the Ministry of Public Finance and 1 representative of the National Bank of Romania.

(2) The members of the Market Committee shall be appointed as follows:

a) the representative of every primary dealer will be appointed by the institution it represents through a letter addressed to the Ministry of Public Finance and the National Bank of Romania;

b) the representatives of the Ministry of Public Finance through order of the minister of public finance;

c) the representative of the National Bank of Romania through order of the governor of the National Bank of Romania.

(3) The Market Committee has the following duties:

a) it sets the quotation conditions on the electronic quotation and trading platform agreed with the Ministry of Public Finance;

b) it sets the series of State securities/the maturities for which the primary dealers will carry out specific activities of market makers, through the provision of firm sale/purchase quotations.

(4) The Market Committee is a permanent body, which meets at a frequency set through its own regulation and adopts all decisions by vote, the members from the Ministry of Public Finance having veto right.

ART. 4

(1) State securities are issued in accordance with an annual indicative program set and announced in December of every year by the Ministry of Public Finance. The program is detailed through periodical issuance announcements/prospectuses and can be amended in accordance with the evolutions of the financial markets and the financing needs.

(2) In order to permanently ensure a balance between the resources of the general current account of the State Treasury and the financing needs, the Ministry of Public Finance may announce other issuances of State securities, at the latest on the business day prior to the date of organization of the placement thereof.

(3) According to the financing needs and/or the yield level resulting from the auction, the Ministry of Public Finance reserves the right to increase, decrease or cancel the amount borrowed for a series.

(4) For the purpose of covering the specific risks of certain obligations of the type of existing and/or future Government debt, the Ministry of Public Finance may announce during the year other market operations having as support asset State securities, as they are mentioned under art. 1 para. (2) points (ii) and (iii).

ART. 5

Within the meaning of this framework regulation, the primary and secondary markets of State securities represent a framework of placement and trading of these financial instruments, with the following characteristics:

a) they operate regularly;

b) the regulations issued by the regulatory, authorization and supervision authorities or by the market administrator define the operation and access conditions on that market;

c) they observe the reporting and transparency requirements set through regulations, in order to ensure the investors’ protection.

ART. 6

The Ministry of Public Finance may issue regulations, it may act as market administrator and/or may mandate, either fully or partially, the activities specific to the primary and/or secondary market of State securities to one or several market administrators, in accordance with this framework regulation.

CHAPTER II

**Mandated market administrators**

ART. 7

For the purposes of this framework regulation, the market administrator is the entity mandated by the Ministry of Public Finance through convention or agreement to organize and coordinate the activity of placement and trading of State securities, to issue regulations for this purpose and other relevant documents.

ART. 8

Mandated market administrators issue and maintain, with the endorsement of the Ministry of Public Finance, transparent and nondiscriminatory regulations based on objective criteria with regard to the conditions of access of the participants and the methodology of performance of the operations with State securities on the markets in question, under observance of the legislation in force.

ART. 9

The administration of the primary/secondary market of State securities consists of:

a) the elaboration, implementation and application of the regulations related to the conditions and proceedings of access/admission, exclusion and suspension of the participants to/from the primary/secondary market of State securities;

b) setting the conditions, the trading proceedings and the related obligations;

c) monitoring the activity of the participants;

d) elaborating, implementing and applying the proceedings related to the manner of determination and publication of the prices and quotations, the types of agreements and operations allowed, contractual standards;

e) adopting the necessary measures for the regular and orderly operation, including in technical terms, of the primary/secondary market and verification of the observance of the rules thereof;

f) administration and dissemination to the public of the information related to the issuances of State securities;

g) elaboration and implementation of the security and control mechanisms of the information systems, for the protection of property rights and of confidential information;

h) ensuring that the stored data and information, the files and databases are safely kept, including in the case of natural calamities, disasters and other special events.

ART. 10

The mandated market administrator may ensure other related services, as follows:

a) services of investigation of the potential of the State securities market, of the behavior of the investors towards the trading thereof, interrogating the market with regard to the opportunity of developing new products, operations and instruments with the support of State securities, including statistical analysis of the results;

b) organization of round tables and symposiums for market development, organization of professional training and qualification courses for the staff active on this market;

c) editing and trading of materials in the field of the State securities market.

ART. 11

(1) The regulations issued by the mandated market administrators must comprise the main obligations of the participants arising from:

a) organization and administration of the State securities market;

b) the conditions and proceedings of access and the categories of participants;

c) the rules of placement and the transactions carried out on the market of State securities;

d) the professional standards imposed on the participants to these markets;

e) the conditions of access to the information systems of the market administrator, if applicable;

f) the disciplinary measures for the violation of the rules set by the market administrator.

(2) For the operations on the primary market carried out on the market regulated and administered by the Bucharest Stock Exchange, authorized and supervised by the Financial Supervisory Authority, the regulations specified under para. (1) also include rules issued by the Bucharest Stock Exchange for the implementation of this framework regulation, according to the specific framework of performance of operations on the primary market.

ART. 12

The mandated market administrators allow access to the participants who:

a) fulfill the requirements provided by this framework regulation and those provided by the regulations of the market administrator;

b) make proof of adequate technical equipment, as set by the market administrator;

c) have an organizational structure required through the regulations applicable to the internal market of State securities.

CHAPTER III

**The market of State securities administered by the National Bank of Romania**

SECTION 1

**The primary market of State securities, administered by the National Bank of Romania**

ART. 13

(1) The primary market of State securities includes the totality of operations related to the issuance by the Ministry of Public Finance of State securities and the placement thereof through the National Bank of Romania for the purpose of attracting available financial capitals on the short, medium or long term.

(2) The placement of State securities on the primary market administered by the National Bank of Romania is made through public subscription, auction, syndication or any other method established and agreed upon together with the National Bank of Romania, in its capacity as market administrator, in accordance with this framework regulation.

ART. 14

The primary market of State securities administered by the National Bank of Romania operates in accordance with this framework regulation and with the regulations issued by the National Bank of Romania in its capacity as market administrator.

ART. 15

The participants on the primary market of State securities administered by the National Bank of Romania are the primary dealers who may carry out operations in their own name and on their own account and/or in the name and on the account of their customers, who are private individuals and/or legal entities, either residents or non-residents.

ART. 16

(1) For the purpose of this section, primary dealer means any of the entities specified under art. 17 which was accepted by the Assessment Committee as a result of fulfilling the requirements provided by the legislation in force, in order to carry out operations with State securities on the internal market in a direct manner with the Ministry of Public Finance and which signed the bilateral agreement presented as model in the appendix which is an integral part of this framework regulation.

(2) The provisions of the agreement can be amended through the parties’ agreement, but the amendments thereof must not create a discriminatory treatment between the primary dealers the Ministry of Public Finance concluded such agreements with.

ART. 17

Primary dealers can be:

a) credit institutions, as they are defined by art. 4 para. (1) point 1 in the Regulation (EU) no. 575/2013 of the European Parliament and of the Council of June 26, 2013 on prudential requirements for credit institutions and investment companies and amending the Regulation (EU) no. 648/2012, authorized in the Member States of the European Union and/or in the other States belonging to the European Economic Area;

b) financial investment services companies, such as they are defined by art. 6 in the Law no. 297/2004 on capital market, as subsequently amended and supplemented, which are authorized by the Financial Supervisory Authority;

c) institutions equivalent to those provided by letter b), authorized in the Member States of the European Union and/or in the other States belonging to the European Economic Area;

d) other entities, with the exception of those mentioned under letters a), b), and c), are accepted by the Ministry of Public Finance to carry out directly operations with State securities on the primary internal market, under observance of the legislation in force.

ART. 18

The entities which request to be given the quality of primary dealer must observe the criteria provided by the specific regulations issued by the market administrator.

SECTION 2

**Rights and obligations of the primary dealers**

ART. 19

Primary dealers have the following rights:

a) they can be a counterparts in the relationship with the Ministry of Public Finance, according to the criteria considered by the Ministry of Public Finance for every type of operation with State securities, as well as other criteria requested with respect to the performance of operations on the secondary market of State securities, redemption, exchange before due date, repo and reverse repo, collateralized placements, the security lending facility, of transactions with derived financial instruments, etc., when the procedural framework specific to public debt and corresponding to these operations provides and allows this, with regard to:

(i) direct participation to the public auctions and subscriptions of State securities organized on the primary market, by sending offers in their own name and on their own account and/or in the name and on the account of the customers;

(ii) direct participation to the sessions of non-competitive offers, by sending offers in their own name and on their own account, in accordance with the applicable legal provisions in force;

(iii) direct participation to the anticipated redemption operations and/or to exchanges of State securities organized by the Ministry of Public Finance, by sending offers in their own name and on their own account and/or in the name and on the account of their customers;

(iv) direct participation to the operations of administration of liquidities (repo and reverse repo transactions, collateralized placements) and use of the security lending facility and to the transactions with derived financial instruments (currency swap, swap on the interest rate) based on the ISDA documentation, when the procedural framework specific to public debt which corresponds to these operations provides and allows this;

b) to use the title of “Primary dealer on the internal market of State securities” or, as applicable, the title of “Best Romanian Primary Dealer”, as a result of holding the first place on the last assessment of performance of the activity on the market of State securities made in accordance with the provisions of art. 30 letter b) in this framework regulation, during the term of validity of the classification in question;

c) they can be counterparts in relation with the Ministry of Public Finance in the process of selection of the administrators or intermediaries for the issuances made on the external markets in accordance with the performance registered in the activity carried out on the primary and secondary market of State securities, with the existence of capabilities with regard to the performance of these operations, provided they are part of the list of dealers approved by the Ministry of Public Finance within the program of external issuances; under these circumstances, they may participate to promotional tours on the external markets, together with representatives of the Ministry of Public Finance and/or of the National Bank of Romania;

d) they may become counterparts of the Romanian State through the Ministry of Public Finance with regard to other types of loans contracted or guaranteed directly by the State, when the procedural framework specific to public debt provides and allows this;

e) to participate to the marketing activities related to the market of State securities among investors, together with representatives of the National Bank of Romania and/or of the Ministry of Public Finance;

f) to participate to consulting on topics related to the public debt management strategy or the policy of issuance of State securities of the Ministry of Public Finance;

g) to participate to the meetings of the Market Committee;

h) they may offer recommendations with regard to legislative amendments in the field of public debt.

ART. 20

Primary dealers have the following obligations, which must be fulfilled in a cumulative manner:

a) to adjudicate in their own name and/or in the name of their customers at least 3% of the total value adjudicated by the Ministry of Public Finance which corresponds to the issuances of State securities placed on the internal market during the assessed period, denominated in the national currency and/or in foreign currency; the calculation methodology and the assessed period shall be set in the regulation of the market administrator;

b) to adjudicate in their own name at least 2% of the total weighted value adjudicated by the Ministry of Public Finance which corresponds to the issuances of State securities placed on the internal market during the assessed period, denominated in the national currency and/or in foreign currency; the weighting coefficients, the calculation methodology, as well as the assessment period shall be set in the regulations of the market administrator;

c) to carry out in their own name on the secondary market transactions of sale and purchase with State securities issued on the internal market in the national currency or in foreign currency, with a weighted settlement value of at least 3% of the weighted total of the transactions with State securities carried out on the secondary market during the assessed period; the weighting coefficients, the calculation methodology, as well as the assessment period, shall be set in the regulation of the market administrator;

d) to cumulatively fulfill the minimum requirements of daily quotation in the electronic quotation and trading platform agreed with the Ministry of Public Finance, as specified under art. 24;

e) to keep in their own records custody accounts for the customers.

ART. 21

Primary dealers collaborate with the Ministry of Public Finance and fulfill duties as follows:

a) they offer consultancy to the Ministry of Public Finance, respectively they supply data and analyses on the market conditions, including opinions received from the customers, they ensure access to the analysis reports issued by their own research departments on subjects relevant for the market of State securities and the activity of public debt management, like: monetary policy, the macroeconomic and financial situation, the market of fixed-revenue instruments, strategies of allocation on classes of assets, etc., both at local level and at international level;

b) they supply monthly reports in the format requested by the Ministry of Public Finance which results after prior consultation of the primary dealers, as well as any other information and/or documents requested by it with regard to the activity performed on the State securities market;

c) they encourage the exchange of information and experience, on topics like: portfolio administration, risk management techniques, etc., and they offer specific recommendations regarding the legislative amendments in the field of public debt;

d) they supply at the request of the Ministry of Public Finance firm or indicative quotations for the transactions with State securities on the secondary market, the operations of redemption/exchanges of State securities before due date, reversible transactions, collateralized placements and they access the securities lending facility when the procedural framework specific to public debt provides and allows this;

e) they make efforts to extend and diversify the base of customers who invest in the State securities issued on the internal market in national currency or foreign currency, through activities of promotion, promotional meetings/tours of the type non-deal roadshow/telephone conferences organized with and for the investors and through accounts opened for new customers.

SECTION 3

**The market maker activity**

ART. 22

(1) For the purpose of ensuring and increasing transparency in the formation of the price and of the liquidity of State securities, primary dealers will carry out specific activities of market makers for the series of State securities or the maturities set by the Market Committee, through the provision of firm quotations of sale and purchase on the electronic quotation and trading platform agreed by the Ministry of Public Finance, in accordance with the provisions of this framework regulation, under the conditions agreed by the Market Committee.

(2) The quotation activity carried out by the participants on the electronic platform agreed by the Ministry of Public Finance is not substituted to the activity of trading State securities.

ART. 23

(1) The activity of market maker will be analyzed and assessed by the Ministry of Public Finance in accordance with the calculation methodology provided in this section and represents one of the assessment criteria of the performance of the activity of primary dealers on the secondary market, a criterion which will be included in the regulations of the market administrator.

(2) The analysis and assessment of the market maker activity is carried out on a monthly basis, based on the activity reports supplied daily by the electronic platform agreed by the Ministry of Public Finance. The assessment period includes the business days of that month, with the adjustments provided by art. 25 para. (4) letter d).

(3) The quotation activity of the market makers is analyzed through the indicators mentioned under art. 24 and the related scores, through application of the calculation methodology presented under art. 25.

ART. 24

The minimum obligations of daily quotation on the electronic quotation and trading platform, which must be fulfilled in a cumulative manner, are the following:

a) to supply sale and purchase quotations for the series of State securities specified under letter d), for at least 3 hours on a daily basis, between 10 AM and 5.30 PM;

b) the maximum margin between the sale and purchase quotations should be of 25 base points;

c) the minimum volume for every series of State securities quoted should be of 5 million Lei, both for the sale quotation and for the purchase quotation;

d) the quotation of at least 4 series of State securities with maturities of 1, 3, 5, 7, 10 years, among those set periodically by the Market Committee, as follows: two series with residual maturity shorter than 5 years and two series with residual maturity longer than or equal to 5 years.

ART. 25

(1) The total score for the activity of market maker is of 15 points and will be allocated to every primary dealer, in accordance with the observance of the minimum quotation requirements for the assessment period, as per para. (2) and (3).

(2) Primary dealers who fulfill the minimum quotation obligations for every criterion presented under art. 24 on every business day of the assessment period shall be given 7.5 points, being eligible to receive a score for performances higher than the minimum quotation obligations as well. If one or several of the minimum quotation obligations is not fulfilled in any of the days that correspond to the assessment period, the score allocated in accordance with this paragraph is zero.

(3) Primary dealers who have performances higher than the minimum quotation obligations for every criterion presented under art. 24, within the limits of the provisions of para. (4) letter c), shall be allocated the difference of 7.5 points up to the total score, in a proportional manner, as follows:

(i) 2.5 points - the daily weighted average of the quotation margin, through firm quotation of the weighted average margin of sale-purchase smaller than 25 base points. The weighting in the case of every primary dealer shall be made with the effective quotation period on every series of State securities for which firm quotations are offered;

(ii) 2.0 points - the daily weighted average of the quoted securities volume, through firm quotation of a weighted average volume bigger than 5 million Lei. The weighting in the case of every primary dealer shall be made with the effective quotation period on every series of State securities for which firm quotations are offered;

(iii) 1.5 points - daily average of the quotation period, with a medium quotation time longer than 3 hours;

(iv) 1.0 points - the daily number of series of State securities with residual maturity equal to or longer than 5 years, through firm quotation of more than 2 series of State securities with a residual maturity equal to or longer than 5 years;

(v) 0.5 points - the daily number of series of State securities with residual maturity shorter than 5 years, through firm quotation of more than 2 series of State securities with a residual maturity shorter than 5 years.

(4) The calculation methodology applicable to para. (3) is the following:

a) for every criterion specified under art. 24, at the end of every quotation day shall be calculated the individual daily coefficients, according to the average values registered individually by every primary dealer relative to the reference values that correspond to the minimum quotation obligations, as follows:

(i) shall be determined the difference between the individual value registered by every primary dealer and the reference values, with the exception of the margin between the sale and purchase quotations where the difference is determined between the maximum margin (25 base points) and the average one made by the primary dealer. Within one criterion, if the individual value is equal to the reference value, the individual daily coefficient is equal to zero;

(ii) shall be determined the maximum value of the indicator calculated under point (i);

(iii) shall be determined the individual daily coefficients within every criterion, in accordance with the following formula:

Di

Cday = ----,

Mc

where:

Cday - the individual daily coefficient;

Di - the difference between the individual value and the reference value that corresponds to the minimum quotation obligations (in the case of the margin between the sale and purchase quotations shall be calculated the difference between the maximum margin of 25 base points and the average one realized by the primary dealer);

MC - the maximum between the Di values registered within the criterion by the primary dealers, if the primary dealer fulfills its minimum obligations of daily quotation for that criterion; if the primary dealer does not fulfill its minimum obligations of quotation for that criterion, MC shall be replaced with Vr;

Vr - the reference value - 25 base points for the sale-purchase margin, 5 million Lei for the quoted securities volume, 3 hours for the medium quotation time, 2 for the number of series quoted daily with residual maturity longer than or equal to 5 years and 2 for the number of series quoted daily with a residual maturity shorter than 5 years;

b) the score that corresponds to the assessment period shall be calculated by using the individual daily coefficients for every criterion. The calculation stages that correspond to the total score for the assessment period shall be made as follows:

(i) the monthly average of the individual daily coefficients shall be calculated for a certain criterion for every primary dealer;

(ii) the individual score for every criterion that corresponds to every primary dealer shall be calculated in accordance with the following formula:

Mli

Pic = -------- x Pc,

MaxMli

Pic - individual score for the criterion concerned;

Mli - monthly average of the individual daily coefficients for that criterion corresponding to every primary dealer;

MaxMli - the maximum value between Mli for the primary dealers within the criterion concerned;

PC - score of the criterion;

(iii) the score of every primary dealer that corresponds to the assessment period for the performances which exceed the minimum quotation obligations shall be obtained by adding up the values of Pic for every criterion;

(iv) the total score for the activity of market maker shall be obtained by adding up the score obtained in accordance with point (iii) with the score obtained under para. (2) and the classification of the assessment period shall be made on the basis thereof;

c) if a primary dealer does not fulfill all the minimum daily quotation obligations for every criterion during the assessment period:

(i) more than 5 business days, it shall not receive the score that corresponds to the activity of market maker for the assessment period, and the provisions of art. 42 para. (1) shall be applied;

(ii) at most 5 business days, it shall be calculated in accordance with para. (4) letter a) point (iii) the positive individual daily coefficients for the observed criteria and the negative ones for the unobserved criteria. The negative coefficients shall be calculated in the same manner as the individual daily coefficients, by replacing Mc with Vr.. The limit for the negative individual daily coefficients is of -1 in the case of primary dealers who have not quoted on that day or who registered quotation margins higher than the level of 50 base points;

d) if the minimum quotation obligations are not fulfilled on one day or several days by 5 or more primary dealers, the Market Committee shall assess the situation and may decide, in justified cases owed to extraordinary events, to eliminate the day or days in question from the assessment period.

SECTION 4

**The secondary market of State securities, administered by the National Bank of Romania**

ART. 26

The secondary market of State securities administered by the National Bank of Romania represents the totality of operations with State securities which are carried out between the holders of these financial instruments.

ART. 27

The transactions on the secondary market of State securities administered by the National Bank of Romania shall be carried out in accordance with the regulations issued in this respect by the National Bank of Romania.

ART. 28

Participant to the secondary market means the entity that was accepted by the National Bank of Romania to carry out operations with State securities on that market as a result of fulfilling the requirements of access set through the regulations issued by the Bank.

SECTION 5

**Assessment and monitoring of the activities of primary dealers on the market of State securities administered by the National Bank of Romania**

ART. 29

(1) The administrator of the primary and/or secondary markets of State securities shall establish and maintain efficient procedures for the permanent monitoring of the observance of this framework regulation and of its own regulations.

(2) The market administrator will monitor the activity carried out by the primary dealers to identify the violation of the rules of the primary or secondary markets (with the exception of the activity of market maker in accordance with section 3).

ART. 30

The assessment committee will analyze the activity of the primary dealers on continuous bases, every month, from two perspectives:

a) maintenance of the quality of primary dealer, seeking to cumulatively fulfill the obligations provided by art. 20;

B) the establishment of a classification according to the performance of the activity carried out by the primary dealers, referring to the following quantitative elements related to the activity performed on the primary and secondary market, as well as qualitative elements. The assessment criteria which lead to the establishment of a score that corresponds to the qualitative and quantitative elements will be provided in the regulations of the market administrator.

ART. 31

In the assessment of the activity of the primary dealer will be considered the activities performed in accordance with the provisions of this framework regulation and the regulations of the market administrator.

CHAPTER IV

**The market of State securities administered by the Bucharest Stock Exchange**

SECTION 1

**Primary market operations carried out on the regulated market administered by the Bucharest Stock Exchange, authorized and supervised by the Financial Supervisory Authority**

ART. 32

(1) The primary market of State securities includes the totality of operations related to the issuance by the Ministry of Public Finance of State securities and the placement thereof through the mechanisms of the Bucharest Stock Exchange for the purpose of attracting available financial capitals on the short, medium or long term.

(2) On the primary market administered by the Bucharest Stock Exchange regulated and supervised by the Financial Supervisory Authority, the Ministry of Public Finance can issue State securities for different categories of investors, like private individuals, or other categories of investors.

(3) The operations will be performed in accordance with the provisions of the convention concluded between the Ministry of Public Finance, the Financial Supervisory Authority, the Bucharest Stock Exchange, the Central Depository, as well as with the documents issued for its application, which can refer to other specific elements for the performance of primary market operations, like the period of allocation, the allocation method, the right of other participants to the Bucharest Stock Exchange to perform purchase operations and others.

(4) The sales method, the categories of investors, the characteristics of the issuances of State securities, as well as the intermediaries who will ensure the sale thereof shall be announced by the Ministry of Public Finance through an issuance prospectus.

(5) The intermediation activities provided by para. (4) shall be performed by the intermediaries who act as participants to the Bucharest Stock Exchange, in accordance with the regulations of the Exchange.

SECTION 2

**Secondary market operations carried out on the regulated market administered by the Bucharest Stock Exchange, authorized and supervised by the Financial Supervisory Authority**

ART. 33

The secondary market of State securities of the Bucharest Stock Exchange shall be organized and operates in accordance with the regulations issued in this respect by the Financial Supervisory Authority and the regulations of the Bucharest Stock Exchange approved by the Financial Supervisory Authority.

CHAPTER V

**The depositories of State securities**

ART. 34

(1) The deposit and settlement of the operations with State securities occur within the systems of deposit and settlement of State securities administered by the entities mandated by the Ministry of Public Finance in their capacity as depositories of the State securities, in accordance with the legal framework applicable to the systems concerned and with the rules thereof.

(2) The systems of deposit and settlement of State securities ensure the function of depository for these instruments and are organized on the basis of the system of direct and/or indirect holdings, the system of indirect holdings being characterized by the existence of one or several levels of intermediaries between the depository of State securities and the final holder of the State securities.

(3) For the purposes of this chapter, intermediary means the entity which keeps in custody and administers the State securities for its customers, in accordance with the regulations in force.

(4) The ownership over the State securities for the participants to the deposit and settlement system is acquired through registration of the State securities into the accounts in one’s own name opened in the records of the depository. In all the other cases, according to the holding system, the ownership is acquired through registration into the accounts opened in the name of the customers in the intermediaries’ records, subject to the existence of the State securities in the records of the depository, in the case of the system of indirect holdings, or through registration into the individual accounts opened by the participants in the depository’s system, in the case of the system of direct holdings.

(5) The ownership over the State securities, as well as the establishment of the opposability, the content, the extent and the effects on the State securities established as guarantee are governed by the law of the State where the rights were validly registered, in accordance with the provisions of art. 10 in the Law no. 253/2004 on the definitive nature of the settlement in the systems of payments and the systems of settlement of operations with financial instruments, as subsequently amended and supplemented, and of art. 13 in the Government Ordinance no. 9/2004 on certain financial guarantee agreements, approved as amended and supplemented through the Law no. 222/2004, as subsequently amended and supplemented.

(6) The operations with State securities shall be processed in the systems of storage and settlement of the transactions with State securities in accordance with the regulations issued by the depositories of State securities.

ART. 35

The intermediaries will register the holdings of their customers separately from their own holdings.

ART. 36

(1) The settlement of the transactions with State securities within the systems of deposit and settlement shall be made under observance of the principle “delivery versus payment” (the DvP principle), according to which the delivery of financial instruments is made if and only if the corresponding money funds are paid. Transfers without payment can be made within the deposit and settlement systems only for those operations with financial instruments which do not require a corresponding transfer of funds, under observance of the rules of those systems.

(2) The depository of the State securities is not responsible for the transfer of the ownership into the accounts opened in the records of the intermediaries.

(3) The intermediaries of the market of State securities are directly responsible for assuring the observance of the DvP principles for the settlement of the transactions carried out in the name of their customers, including in the name of other participants for which they act as settlement agent in the system, in accordance with the regulations issued by the depository of the State securities.

(4) In the case of State securities admitted for trading on the regulated market administered by the Bucharest Stock Exchange, authorized and supervised by the Financial Supervisory Authority, the transfer of ownership over the State securities shall be made in accordance with the legal framework applicable to capital markets.

ART. 37

The systems of deposit and settlement of State securities manage differently the guarantee agreements, as they are subject, as the case may be, to the provisions of Government Ordinance no. 9/2004 on certain financial guarantee agreements, approved as amended and supplemented through Law no. 222/2004, as subsequently amended and supplemented, or of Law no. 287/2009 on the Civil Code, as republished, as subsequently amended.

ART. 38

The registration of mortgages on movable property and any encumbrances on the State securities shall be made under observance of the regulations issued by the depositories of the State securities and in accordance with the applicable legal provisions.

ART. 39

The settlement of the funds that correspond to the operations with State securities shall be made under observance of the regulations in the field and of the rules of the systems where the settlement of the funds is made.

ART. 40

On the days declared by the Government of Romania to be non-business days but which are bank days, the payment events of the type of coupon/interest, partial/total redemption, which correspond to the issuances of State securities due on those days, will be postponed for the following business day, with no payment of moratorium interest.

CHAPTER VI

**Sanctions**

ART. 41

The sanctions for breaching the provisions of this framework regulation shall be applied by the Ministry of Public Finance, the Assessment Committee, the Bucharest Stock Exchange and the Financial Supervisory Authority, in accordance with the provisions of this chapter and of the legislation in force.

ART. 42

(1) For the failure to observe the obligations that correspond to the activity of market maker provided by art. 20 letter d) under the conditions set by art. 25 letter d), the Ministry of Public Finance shall apply to the primary dealers sanctions which may consist of the partial or total suspension of the rights of primary dealers provided by art. 19.

(2) The sanction set shall be communicated by the Ministry of Public Finance through a notification sent to the primary dealer, with mentioning of the date and period of application.

(3) Primary dealers may formulate an appeal against the sanctions applied, through registration thereof at the seat of the Ministry of Public Finance within 30 calendar days as of the date of communication of the sanction.

(4) The settlement of the appeal shall be communicated by the Ministry of Public Finance within 30 calendar days as of the date of registration of the appeal’s receipt.

ART. 43

(1) For the primary dealers’ failure to observe the obligations provided by art. 20 letters a) - c) and letter e), the Assessment Committee shall apply sanctions which consist of written warning.

(2) The written warning shall be communicated by the Assessment Committee through a notification sent to the primary dealer.

(3) The primary dealer may formulate an appeal against the sanctions applied in accordance with para. (1) by sending it to the Assessment Committee within 15 calendar days as of receipt of the notification. If the last day of the term of submission of the appeal is a non-business day, the term shall be extended until the following business day.

(4) The settlement of the appeal shall be communicated by the Assessment Committee within 30 calendar days as of the date of registration of the appeal. If the last day of the term of communication of the appeal is a non-business day, the term shall be extended until the following business day.

ART. 44

(1) The accumulation of three sanctions applied in accordance with the provisions of art. 42 para. (1) and art. 43 para. (1) during a term of 12 consecutive months automatically leads to the withdrawal of the quality of primary dealer.

(2) The withdrawal of the quality of primary dealer shall be communicated by the Assessment Committee through a notification sent to it, which will mention the date as of which the sanction of withdrawal of the quality of primary dealer becomes applicable.

(3) The primary dealer may formulate an appeal against the sanctions applied in accordance with para. (1) by sending it to the Assessment Committee within 15 calendar days as of receipt of the notification. If the last day of the term of submission of the appeal is a non-business day, the term shall be extended until the following business day.

(4) The settlement of the appeal shall be communicated by the Assessment Committee within 30 calendar days as of the date of receipt of the appeal. If the last day of the term of communication of the appeal is a non-business day, the term shall be extended until the following business day.

(5) During the term of settlement of the appeal, the application of the sanction of withdrawal of the quality of primary dealer shall be suspended.

ART. 45

The sanctions applied to primary dealers can be made public by the Ministry of Public Finance.

ART. 46

Market administrators may withdraw the right of access of a participant if he/she no longer observes the conditions of access provided in the regulations of the market administrators. The withdrawal of the right of access for a non-resident participant shall be notified to the supervisory/competent authority from the country of origin.

CHAPTER VII

**Final provisions**

ART. 47

(1) Primary dealers, as well as the employees thereof, may incorporate professional associations with the purpose of raising the professional standards, setting and imposing rules of conduct and professional ethics in the performance of operations on the market of State securities from Romania.

(2) The execution of the bilateral agreements between the Ministry of Public Finance and every primary dealer authorized on the date of publication of this regulation shall be made before the date of January 1, 2017 and shall produce effects as of January 1, 2017.

APPENDIX

to the framework agreement

**Model of bilateral agreement between the primary dealer and the Ministry of Public Finance**

Between

The Ministry of Public Finance (MPF), seated in Bucharest, 17 Apolodor Street, district 5, tax code/sole registration code 8609468, acting as issuer of the State securities, represented by..................., holding the position of minister of public finance,

and

.................................., seated in............................, tax code/sole registration code............................., acting as primary dealer, represented by......................, holding the position of........................,

the present agreement is hereby concluded.

**1. Object of the agreement**

The object of this agreement is to formalize the relationships between the issuer and the primary dealer with regard to the rights and obligations of the primary dealer for the purpose of promoting an efficient organization and operation of the internal market of State securities, in accordance with the provisions of the Framework regulation on market operations with State securities on the internal market, approved through Order of the minister of public finance no. 2.245/2016, hereinafter referred to as the Framework agreement.

**2. Rights and obligations of the primary dealer**

2.1. The primary dealer has the following rights:

a) it can be a counterpart in the relationship with the Ministry of Public Finance, according to the criteria considered by the issuer for every type of operation with State securities, as well as other criteria requested with respect to the performance of operations on the secondary market of State securities, redemption, exchange before due date, repo and reverse repo, collateralized placements, the security lending facility, of transactions with derived financial instruments, etc., when the procedural framework specific to public debt and corresponding to these operations provides and allows this, with regard to:

(i) direct participation to the public auctions and subscriptions of State securities organized on the primary market, by sending offers in their own name and on their own account and/or in the name and on the account of the customers;

(ii) direct participation to the sessions of non-competitive offers, by sending offers in their own name and on their own account, in accordance with the applicable legal provisions in force;

(iii) direct participation to the advance redemption operations and/or to exchanges of State securities organized by the Ministry of Public Finance, by sending offers in their own name and on their own account and/or in the name and on the account of their customers;

(iv) direct participation to the operations of administration of liquidities (repo and reverse repo transactions, collateralized placements) and use of the security lending facility and to the transactions with derived financial instruments (currency swap, swap on the interest rate) based on the ISDA documentation;

b) to use the title of “Primary dealer on the internal market of State securities” or, as applicable, the title of “Best Romanian Primary Dealer”, as a result of holding the first place on the last assessment of performance of the activity on the market of State securities made in accordance with the provisions of art. 30 letter b) in the Regulation, during the term of validity of the classification in question;

c) it can be a counterpart in relation with the Ministry of Public Finance in the process of selection of the administrators or intermediaries for the issuances made on the external markets in accordance with the performance registered in the activity carried out on the primary and secondary market of State securities, with the existence of capabilities with regard to the performance of these operations, provided it is part of the list of dealers approved by the Ministry of Public Finance within the program of external issuances; under these circumstances, it may participate to promotional tours on the external markets, together with representatives of the Ministry of Public Finance and/or of the National Bank of Romania;

d) it may become a counterpart of the Romanian State through the Ministry of Public Finance with regard to other types of loans contracted or guaranteed directly by the State;

e) to participate to the marketing activities related to the market of State securities among investors, together with representatives of the National Bank of Romania and/or of the Ministry of Public Finance;

f) to participate to consulting on topics related to the public debt management strategy or the policy of issuance of State securities of the Ministry of Public Finance;

g) to participate to the meetings of the Market Committee;

h) it may offer recommendations with regard to legislative amendments in the field of public debt.

2.2. The primary dealer has the following obligations, which must be fulfilled in a cumulative manner:

a) to adjudicate in its own name and/or in the name of its customers at least 3% of the total value adjudicated by the Ministry of Public Finance which corresponds to the issuances of State securities placed on the internal market during the assessed period, denominated in the national currency and/or in foreign currency; the calculation methodology and the assessed period shall be set in the regulation of the market administrator;

b) to adjudicate in its own name at least 2% of the total weighted value adjudicated by the Ministry of Public Finance which corresponds to the issuances of State securities placed on the internal market during the assessed period, denominated in the national currency and/or in foreign currency; the weighting coefficients, the calculation methodology, as well as the assessment period shall be set in the regulations of the market administrator;

c) to carry out in its own name on the secondary market transactions of sale and purchase with State securities issued on the internal market in the national currency or in foreign currency, with a weighted settlement value of at least 3% of the weighted total of the transactions with State securities carried out on the secondary market during the assessed period; the weighting coefficients, the calculation methodology, as well as the assessment period, shall be set in the regulation of the market administrator;

d) to cumulatively fulfill the minimum requirements of daily quotation in the electronic quotation and trading platform agreed with the Ministry of Public Finance, as specified under art. 24 in the Framework Regulation;

e) to keep in their own records custody accounts for the customers.

2.3. In case of failure to observe the settlement term specified in the launching documents of the mission, the amounts that correspond to the operations of placement of State securities and the results of the redemption operations before due date or exchange of the State securities made by the Ministry of Public Finance through the National Bank of Romania in its capacity as market administrator, the primary dealer will pay a penalty interest for every day of delay, the level of which will be set by the market administrator in its own regulations.

**3. Collaboration with the Ministry of Public Finance**

The primary dealer collaborates with the Ministry of Public Finance and fulfills duties as follows:

a) it offers consultancy to the Ministry of Public Finance, respectively it supplies data and analyses on the market conditions, including opinions received from the customers, it ensures access to the analysis reports issued by its own research departments on subjects relevant for the market of State securities and the activity of public debt management, like: monetary policy, the macroeconomic and financial situation, the market of fixed-revenue instruments, strategies of allocation on classes of assets, etc., both at local level and at international level;

b) it supplies monthly reports in the format requested by the Ministry of Public Finance which results after prior consultation of the primary dealers, as well as any other information and/or documents requested by it with regard to the activity performed on the State securities market;

c) it encourages the exchange of information and experience, on topics like: portfolio administration, risk management techniques, etc., and it offers specific recommendations regarding the legislative amendments in the field of public debt;

d) it supplies at the request of the Ministry of Public Finance firm or indicative quotations for the transactions with State securities on the secondary market, the operations of redemption/exchanges of State securities before due date, reversible transactions, collateralized placements and it accesses the securities lending facility when the procedural framework specific to public debt provides and allows this;

e) it makes efforts to extend and diversify the base of customers who invest in the State securities issued on the internal market in national currency or foreign currency, through activities of promotion, promotional meetings/tours of the type non-deal roadshow/telephone conferences organized with and for the investors.

**4. Activity of market maker on the electronic quotation and trading platform agreed by the Ministry of Public Finance**

4.1. For the purpose of ensuring and increasing transparency in the formation of the price and of the liquidity of State securities, the primary dealer will carry out specific activities of market maker for the series of State securities or the maturities set by the Market Committee, through the provision of firm quotations of sale/purchase on the electronic quotation and trading platform agreed by the Ministry of Public Finance, in accordance with the provisions of chapter III section 3 in the Framework regulation, under the conditions agreed by the Market Committee.

4.2. The activity of market maker will be analyzed and assessed by the Ministry of Public Finance in accordance with the calculation methodology provided under art. 25 of the Framework Regulation and represents one of the assessment criteria of the performance of the activity of primary dealers on the secondary market which will be included in the regulations of the market administrator.

**5. Assessment of the primary dealer**

The assessment committee will analyze the activity of the primary dealer on continuous bases, every month, from two perspectives:

a) maintenance of the quality of primary dealer, seeking to cumulatively fulfill the obligations provided by point 2.2;

b) the establishment of a classification according to the performance of the activity carried out by the primary dealers, referring to the following quantitative elements related to the activity performed on the primary and secondary market, as well as qualitative elements. The assessment criteria which lead to the establishment of a score that corresponds to the qualitative and quantitative elements will be provided in the regulations of the market administrator.

**6. Term of the agreement**

6.1. The primary dealer agreement is valid throughout the term of holding the quality of primary dealer obtained in accordance with the provisions of the regulations in force.

6.2. The parties may request the termination of this agreement through a prior written notification of 30 days which will provide the arguments that form the basis of the decision. If the notification comes from the primary dealer, it losses its quality as primary dealer upon expiry of the term of 30 days.

**7. Amendments**

7.1. The provisions of this agreement can be amended through the parties’ agreement, but the amendments thereof must not create a discriminatory treatment between the primary dealers the issuer concluded such agreements with.

7.2. The technical aspects related to quotation and trading on the electronic platform agreed by the issuer can be amended at the proposal of the Market Committee, through amendment of the Framework Regulation.

**8. Sanctions**

If the primary dealer does not fulfill the provisions of this agreement, the sanctions provided by chapter VI in the Framework Regulation shall be applied.

**9. Confidentiality**

9.1. The parties will ensure the confidentiality of all information, of the data (including personal data), of the documents they have access to, as a result of the performance of this agreement and undertake to refrain from disclosing and using this information, these data, these confidential documents, either in total or in part, for their own interests or for any other purpose, also after the termination hereof, in the absence of the prior consent of the other party. The information, data (including personal data), the confidential documents the parties have access to as a result of the performance of this agreement will be used and/or processed by the parties only for the purpose of executing the agreement.

9.2. By way of exception, the information, data, documents obtained as a result of the performance of this agreement may be disclosed under the same conditions that are applicable to the primary dealer to any entities of the group of companies the primary dealer is part of.

**10. Final provisions**

10.1. The primary dealer undertakes to observe the provisions of the applicable legislation in force with regard to the rights, responsibilities and obligations thereof and the related proceedings.

10.2. If there are discrepancies between the provisions of this agreement and the legislation in force, the legal provisions in force shall apply.

10.3. This agreement shall produce effects as of....................\*)

10.4. This agreement was signed on............, in Bucharest, in two original counterparts, both with equal judicial value, of which one counterpart for the issuer and one counterpart for the primary dealer.

Issuer Primary dealer,

...................... ......................

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\*) The date as of which this agreement produces legal effects cannot be earlier than January 1, 2017.

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