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HELLENIC REPUBLIC

HELLENIC CAPITAL MARKET COMMISSION

A Legal Entity Governed by Public Law

DECISION

1C/944/31.1.2022
Of the Board of Directors

Subject: Amendment of the Regulation for Clearing Derivatives Transactions

THE BOARD OF DIRECTORS
OF THE HELLENIC CAPITAL MARKET COMMISSION

Having considered:

1. Regulation (EU) 648/2012 of the European Parliament and the Council of 4th July 2012 on over-the-counter derivatives, central counterparties and trade repositories, as well as the Regulations issued in authorization thereof.
2. The provisions of Article 73 of L. 3606/2007 “Markets in financial instruments and other provisions” (Gov. Gaz. A 195/17.08.2007).
3. Decision 1/704/22.01.2015 (Gov. Gaz. B 237/17.02.2015) by the Board of Directors of the Hellenic Capital Market Commission “Granting an operation license to the ‘Athens Exchange Clearing House Société Anonyme’ “.
4. Decision 1/871/28.2.2020 (Gov. Gaz. B 1568/24.4.2020) by the Board of Directors of the Hellenic Capital Market Commission “Extension of the operation license of the ‘Athens Exchange Clearing House Société Anonyme’ and amendment of the Regulation for Clearing Derivatives Transactions”.
5. Paragraph 2 of art. 13 of L. 2166/1993 (Gov. Gaz. A 137), as amended by par. 3 of art. 18 of L. 2198/1994 (Gov. Gaz. A 43) and replaced by par. 6 of art. 39 of L. 2324/1995 (Gov. Gaz. A 146).
6. The extract of the minutes of meeting 214/28.1.2022 of the BoD of the Athens Exchange Clearing House Société Anonyme.
7. The letter with protocol No. E.K. 1087/31.1.2022 by the Athens Exchange Clearing House Société Anonyme.
8. The proposal dated 31.1.2017 by the Directorate of Capital Market Intermediaries.
9. Article 90 of P. D. 63/2005 (Gov. Gaz. 98/22.4.2005) “Codification of legislation regarding Government and Government bodies”.

UNANIMOUSLY DECIDES

Article 1

To approve the following amendment of the “Regulation for Clearing Derivatives Transactions” (hereinafter “Regulation”) as referred to in the Appendix of the minutes of meeting no. 214 of the BoD of the S.A. named ‘Athens Exchange Clearing House Société Anonyme’ dated 28/1/2022:

A. Amended provisions of the Regulation for Clearing Transactions on Derivatives

- 1. A) In part 1 <<Definitions>> of Section I of the Regulation, new definitions are introduced <<Securities>>, <<ATHEXCSD>>, <<Own Securities Account>>, <<Omnibus Securities Account>>, <<Client Securities Account>>, <<System Administrator Share>> and <<ATHEXCSD Participant>> as follows:**

<<Securities: The Securities negotiated in a Market pursuant to the Market Regulation governing it and the clearance transactions of ATHEXClear pursuant to the provisions hereof or which are the object of security provided pursuant to the provisions hereof, as the case may be.>>

<<ATHEXCSD: the Société Anonyme named “Greek Central Securities Depository SA” which operates as the Central Securities Depository (CSD) pursuant to Regulation (EU) 909/2014, Law 4569/2018 and the specific terms of its Operation Regulation.>>

<<Own Securities Account: the Own Securities Account as defined in the ATHEXCSD Rulebook>>.

<<Omnibus Securities Account: the Omnibus Securities Account as defined in the ATHEXCSD Rulebook>>.

<<Client Securities Account: the Client Securities Account as defined in the ATHEXCSD Rulebook>>.

<<System Administrator Share: The System Administrator Share as defined in the ATHEXCSD Rulebook>>.

<<ATHEXCSD Participant: The Participant in the Dematerialized Securities System (DSS) as defined in the ATHEXCSD Rulebook>>.

- B) In part 1 <<Definitions>> of Section I of the Regulation, definitions <<Operating Rules of the DSS>>, <<Securities Account>>, <<Securities Settlement Account>>, <<DSS Share>>, <<Dematerialized Securities System>>, and <<Financial Settlement Intermediary>> are respectively replaced as follows:**

<< ATHEXCSD Rulebook: the Operating Rules of ATHEXCSD as may be in force at each time, issued by the ATHEXCSD and approved by the Capital Market Commission pursuant to L. 4569/2018.>>

<<Securities Account: The Securities Accounts in the DSS as defined in ATHEXCSD Rulebook>>

<<Securities Settlement Account: The Securities Account kept by a Participant for the settlement of transactions on Securities pursuant to ATHEXCSD Rulebook. For the purposes of the present Regulation, the Securities Accounts in the DSS are considered Securities Settlement Accounts.>>

<<(DSS) Share: The Dematerialized Securities System (DSS) share, as defined in ATHEXCSD Rulebook>>

<< Dematerialized Securities System (DSS): the Dematerialized Securities System as defined in ATHEXCSD Rulebook>>

<<Financial settlement intermediary: a credit institution of L. 4261/2014 and Directive 2013/36/EC or a Central Bank through which the monetary settlement of the transactions cleared by the ATHEXClear is carried out.>>

C) In Part 1 <<Definitions>> of Section I of the Rulebook, the definitions <<Transferable Securities>> and <<Operator>> are deleted.

2. A) Throughout the present Regulation, the terms <<Transferable Securities>> and <<Securities>> are replaced by <<Securities>>.

B) Throughout the present Regulation, the term <<Operator>> is replaced by <<Participant>>.

3. A) The internal paragraphs c) and d) of par. 5 of art. 4.1.3. of part 4 of section II of the Rulebook are replaced as follows:

<<c) the code number of the Own Share held by the Clearing Member in the DSS

d) the relevant authorization to ATHEXClear enabling it to act as Participant in the Securities Account of the Own Share for the purpose of providing Securities collateral in favour of ATHEXClear through the relevant Account, in accordance with the terms hereof and the ATHEXCSD Regulation.>>

B) Section d) of par. 6 of Article 4.1.3. of part 4 of section II of the Rulebook is replaced as follows:

<<The code number of the Intermediary Settlement Share in the ATHEXClear up to>>

C) Section f) in par. 6 of Article 4.1.3 of part 4 of section II of the Rulebook is replaced as follows:

<<f) The relevant authorization to ATHEXClear enabling it to act as a Participant in the Securities Account of the Intermediary Settlement Share or in an Own Share of the Clearing Member as a Participant in ATHEXClear for the provision in favor of ATHEXClear of collaterals on Securities through the relevant account, pursuant to the terms of the present Regulation and ATHEXCSD Rulebook>>

D) Sections c) and d) of par. 7 of art. 4.1.3 of part 4 of section II of the Rulebook are replaced as follows:

<<c) The code number of the Client Share in the DSS

d) The relevant authorization to ATHEXClear enabling it to act as Participant in the Securities Account of the Own Share or the Omnibus Collaterals Account of the Clearing Member as Participant in the DSS for the provision in favor of ATHEXClear of collaterals on Securities through the relevant account, pursuant to the terms of the present Regulation and the Operating Regulation of ATHEXCSD. Alternatively, if the Settlement Sub-account with which the Investment Position Account is a Client Settlement Sub-account, the relevant authorization of the Client to ATHEXClear so that it has access to the Securities Account of the Client Share in the DSS for the provision in favor of ATHEXClear of collaterals on Securities through the relevant account, pursuant to the terms of the present Regulation and the Operating Regulation of ATHEXCSD.>>

E) Section d) of par. 8 of art. 4.1.3 of part 4 of Unit II of the Rulebook is replaced as follows:

<<d) The relevant authorization to ATHEXClear enabling it to act as a Participant in the Securities Account of the relevant Share for the provision in favor of ATHEXClear of collaterals on Securities through the relevant account, pursuant to the terms of the present Regulation and the Operating Regulation of ATHEXCSD.>>

4. Sub-paragraph a) of par. 3 Article 5.5. part 5 of Unit II of the Rulebook is replaced as follows:

<<a) The collateral on Securities in the DSS is provided by transferring the Securities to Own Securities Account or to the Omnibus Securities Account or to the Client Securities Account administered by ATHEXClear. Similarly, the return of collateral is carried out by transfer of the relevant Securities to the Own Securities Account indicated by the Clearing Member or to the Clients Securities Account or Client Securities Account of its Share as collateral provider or of the Client Share, respectively, in the DSS. In case of financial collateral on Securities by title transfer, such collateral shall be provided by transferring the relevant Securities to the Securities Account of the System Operator Share of ATHEXClear, which shall be indicated by ATHEXClear.>>

5. Sub-paragraph a) of par. 5 of 7.1Article 3 of part 7 of Unit II of the Rulebook is replaced as follows:

<<a) Transfer is carried out after finalization of positions and in every case according to the timetable set by ATHEXClear to this end. For the transfer to be accepted, the Participant to which it is made must have access to the Securities Account through which the Securities are held on behalf of the beneficiary of the transferred trade.>>

6. Paragraphs 1 and 2 of Article 7.15.1 of part 7 of Unit II of the Rulebook are replaced as follows:

<<1. The Clients Position Account shall be opened by Clearing Members only for an Intermediary. To open a Clients Position Account and fulfill obligations for the physical delivery of Securities, Special Purpose Participants shall open in the System a technical account for each Intermediary, which shall be linked to the Intermediary Share in the DSS in accordance with art. 4.1.3 par. 6 case d) of Unit II. For the purposes hereof, the term Special Purpose Participant shall mean an investment firm or a credit institution within the meaning of Law 4514/2018 and Directive 2014/65/EU which are participants in ATHEXCSD. Clearing Members may also operate as Special Purpose Participants. Special Purpose Participants are not required to have the capacity of Clearing Member.

2. An Intermediary Account does not constitute a Securities Settlement Account. The Intermediary Account shall be displayed in the DSS as a Provisional Settlement Account, of Intermediary as defined in the ATHEXCSD Rulebook, which is used to facilitate the performance of transactions of the Intermediary to final beneficiaries, observing as applicable the provisions in force for the Securities Settlement Account.>>

7. A) Paragraph 3 of Article 7.15.2 of Part 7 of Unit II of the Rulebook is replaced as follows:

<<3. Securities of the Intermediary Share in the DSS may be transferred under settlement instructions to the Provisional Settlement Account of Intermediary for fulfillment of the relevant obligations for delivery to beneficiaries, either to supplement the amount of Securities due or to fulfill a late delivery obligation to the beneficiaries.>>

B) Paragraph 5 of Article 7.15.2 of Part 7 of Unit II of the Rulebook is replaced as follows:

<< 5. In cases where the Provisional Settlement Account of Intermediary at the end of the timeframe set by ATHEXClear and in any event at the end of the settlement day shall contain temporary entries of balances of Securities, such Securities shall be automatically transferred, by virtue of instructions to this effect from ATHEXClear to the DSS, to the linked Intermediary Share.>>

8. Article 2.2.2. of Part 2 of Section III of the Rulebook is replaced as follows:

<<2.2.2. Securities Settlement Accounts

1. The settlement of deliveries and receipts involving Securities shall be effected through the Securities Accounts of Shares in the DSS in accordance with the provisions of ATHEXCSD Rulebook or, if another system is used, in accordance with the rules of such system. Each Securities Account shall be linked to only

one Participant, which alone shall have access to and use it in accordance with the specific provisions of the ATHEXCSD Rulebook.

2. For the purposes of this Rulebook, Securities Accounts, which are maintained by each Participant, shall be treated as Securities Settlement Accounts for the settlement of deliveries and receipts involving Securities.>>

9. A) Subparagraph a and cases (i), (ii) and (iii) of subparagraph b of par. 3 of art. 3.2. of Part 3 of Section III of the Rulebook are replaced as follows:

<<3. If the Securities to be delivered are monitored by the DSS, delivery may be carried out as follows:

a) Through withdrawal by ATHEXClear of the Securities to be delivered from the Securities Account of the party responsible for their delivery and transfer, through the Share maintained by ATHEXClear in the DSS as System Operator, to the respective Account of the beneficiary or by direct transfer from and to the aforesaid Accounts of the party responsible for delivery and the beneficiary respectively. ATHEXCSD shall, upon reception of the relevant instruction from ATHEXClear, conduct settlement on Derivative transactions using the delivery versus payment (dvp) method. In this case, the delivery of the Securities shall be made by ATHEXCSD via transfer from and towards the aforementioned Accounts of the party responsible for delivery and the beneficiary, while the settlement of consideration for the delivery versus payment shall be effected by the respective debiting and crediting of the Cash Settlement Accounts held by the Clearing Members and the Participants in accordance with the provisions of this Rulebook and the specific settlement procedures as the case may be.

b) In case of delivery of Securities in execution of transactions in securities lending products, delivery shall be conducted in accordance with the following specific provisions:

(i) in case of an obligation of delivery to ATHEXClear, via withdrawal of Securities by ATHEXClear from the Securities Account of the Share of the party responsible for delivery, which is managed by the Clearing Member or the Participant, after they have been identified by the Clearing Member or the Participant as "available in favor of ATHEXClear", and transfer to the Share of ATHEXClear or, alternatively, via direct transfer from the Clearing Member to the Share of ATHEXClear.

(ii) In case of a delivery obligation of ATHEXClear, by ATHEXClear transferring the Securities to be delivered to the Securities Account where the Securities are held for the receiving beneficiary, which is managed by its Member;

(iii) For the overall monitoring by ATHEXClear of the positions arising from the aforementioned lending and borrowing of securities per transacting party, through the respective Securities Account, ATHEXCSD shall keep data in the relevant

Accounts of trading investors on the balances of "expected securities" and "securities due", which ATHEXClear may also take into account when determining the position of the trading investor lender or borrower for return and delivery, respectively, of the underlying securities.>>

10. A) Paragraph 12 of art. 2.2. of part 2 of Unit IV of the Rulebook is replaced as follows:

<<12. The charges of the preceding paragraphs shall be applicable regardless of the imposition of penalties to the Clearing Member in default in accordance with the provisions of Article 1.1, UNIT V, and/or penalties in accordance with the provisions of Regulation (EU) 1229/2018 and Regulation (EU) 389/2017 based on the provisions of par. 13.>>

B) A new paragraph is inserted with no. 13 in Article 2.2 of part 2 of Unit IV of the Rulebook as follows:

<<13. By decision of ATHEXClear, a procedure imposing penalties shall be determined pursuant to Regulation (EU) 1229/2018 and (EU) 389/2017, in accordance with the relevant provisions of ATHEXCSD Rulebook and every technical issue and necessary detail shall be specified, regarding calculation, collection and distribution of the aforementioned penalties, as well as the relevant appeals procedure. In case of inability to pay such penalties by the responsible Clearing Members, ATHEXClear shall have no obligation for their respective payment to the beneficiary Clearing Members or Participants, as the case may be.>>

B Entry into force of the 3rd Amendment

<<3rd Amendment

The 3rd Regulation Amendment, as adopted during the meeting dated 28.01.2022 of the BoD of ATHEXClear shall enter into force on the date the Decision was made by the Capital Market Commission to approve the relevant amendment.>>

Article 2

The approved amendment shall be incorporated into a single text in the "Regulation for Clearing Derivatives Transactions" and uploaded on the website of "Athens Exchange Clearing House Société Anonyme".

Article 3

No expense shall be incurred from the provisions of this decision to the State Budget.

The present decision is valid as of its adoption.

The present decision shall be published in the Official Government Gazette

The Secretary

Alexandra Ninasiou

The President

The A Vice-President

The B Vice-President

Vasiliki Lazarakou

Nikolaos Kontaroudis

Anastasia Stamou

The members

Panagiotis Giannopoulos