

Reopening of the Hellenic Capital Markets

After more than one month of suspension of its operation, the Hellenic Capital Market reopened on Monday, 03.08.2015, following a Ministerial Decision dated 31.12.2015, which regulates the operational details, and a decision of the Hellenic Capital Markets Commission dated 03.08.2015.

Herein follows an unofficial translation of the above mentioned Ministerial Decision, for informational purposes.

Ministerial Decision No Γ.Δ.Ο.Π. 0001062ΕΞ 2015/Χ.Π. 2412 GG B' 1617/31.12.2015

Lifting of the restrictions of the Presidential Legislative Act of 18.7.2015 (GG A' 84) concerning transactions in financial instruments in the Greek regulated market.

Taking into consideration:

1. The provisions:
 - a) Of Article First par. 10 and 18 of the Presidential Legislative Act of the 18th July 2015 "Emergency provisions concerning restrictions on cash withdrawal and capital transfer and amendments of Law 4063/2012, 4172/2013, 4331/2015 and 4334/2015" (GG A' 84),
 - b) Of the Presidential Decree 111/2014 "Organization of the Ministry for Economics" (GG A' 178),
 - c) Of the PD 45/2014 "Appointment of the Minister for Economics" (GG A' 73),
 - d) Of Article 90 of the PD 63/2005 "Codification of the legislation concerning the Government and the Governmental Institutions" (GG A' 98).
2. The need to modify the restrictions and prohibitions on the transactions and actions described in Article first of the Presidential Legislative Act of 18.7.2015.
3. The suggestion of 31.07.2015 of the Bank of Greece.
4. The suggestion of 30.07.2015 of the Board of Directors of the Hellenic Capital Markets Commission.
5. The suggestion of the Systemic Stability Council.
6. The fact that the present decision does not cause any expenses on the state budget.

WE DECIDE

Article 1

In derogation of Article First par. 4, 6 and par. 10 point d' of the Presidential Legislative Act of 18th July 2014 (GG A' 84), capital transfers from an Institution, the latter being defined in Article First par. 1 of the above Presidential Legislative Act, are permitted in the following cases:

1. With respect to capital transfers in Greece through the respective clearing and settlement systems: a) for the clearing, including margin management, and settlement up to the ultimate beneficiary, of transactions on financial instruments of Article 5 of L.3606/2007 (GG A' 195), which are traded in Regulated Markets and Multilateral Trading Facilities (herein MTFs) in Greece (herein referred to as "Financial Instruments"), including any expenses and fees with respect to these transactions, and b) for the fulfillment of obligations concerning money payments and generally money distributions from the issuers to holders of financial instruments of Article 5 of L.3606/2007, indicatively due to their expected maturity, corporate or similar actions (payments of interest, dividends and other relative forms of income), in accordance with the provisions of paragraphs 2 and 3.
2. In the event of purchase of Financial Instruments or opening of positions in derivatives linked to Financial Instruments, then the bank account of the beneficiary from whom the transfer is made, or the clients account held by the provider of investment services in an Institution, from which the transfer is made on behalf of the beneficiary, shall be credited, following the entry into force of the present Decision, with new capital, at least equal to the necessary amounts for the clearing/ settlement of the transaction for the purchase of Financial Instruments or for the opening and maintaining of positions in derivatives linked to financial instruments of Article 5 points (d) to (j) of L.3606/2007.

New capitals refer to the capital credited in the relevant bank accounts in the Institution following the entry into force of the present Decision (herein referred to a "new capitals") and derive from: a) remittance from abroad, b) the product of sale of financial instruments of Article 5 of L.3606/2007, except from the ones described under point c' of the above Article 5, c) from margin repayments, the coverage of which initially derived from capitals falling under points a, b, d, e and g of the present paragraph, d) money distributions to the holders of financial instruments of Article 5 of L.3606/2007, linked to the respective financial instruments, indicatively due to their expected maturity, corporate or other similar actions (payments of interest, dividends and other relative forms of income), e) credits deriving from positions in derivatives linked to financial instruments of Article 5 points (d) to (j) of L. 3606/2007, f) free credit balances ,existing at the time of the entry into force of the present Decision, of beneficiaries of investment accounts held in Institutions by investment firms falling within the scope of L.3606/2007 and operating in Greece and g) cash payments to credit institutions and investment firms, which execute the relevant transactions, concerning the purchase price of Financial Instruments, for which an order has been placed. In order to receive the new capitals, the Institutions may, in derogation of Article First par. 6 of the Presidential Legislative Act of the 18th July 2015, open or add new special type accounts or subaccounts, additional to or linked with existing bank accounts, following a request from their beneficiaries. Such special type accounts or subaccounts will be used exclusively for the transactions of paragraphs 1 and 2 and they will be credited only with new capitals. Capitals transferred from the above special type accounts/ subaccounts, to other accounts, beyond the purpose of clearing and settlement

of the transactions in Financial Instruments of par. 1, shall no longer be considered to be new capitals.

3. Capital transfers within the Greek banking system and without the restrictions of par. 2 of the present Decision, are also permitted in the following cases:
 - a) When they are conducted for the fulfillment of clearing and settlement obligations (i) concerning market making transactions in Regulated Markets and MTFs operating in Greece, (ii) concerning transactions conducted with the purpose of covering obligations from failed trades and (iii) concerning the cover of margin obligations,
 - b) For the fulfillment of obligations arising from investment actions of UCITS governed by L.4099/2012 (GG A' 250) which have been authorized by the Hellenic Capital Markets Commission, AIFs of L.4209/2013 (GG A' 253) which are managed by AIFMs authorized by the Hellenic Capital Markets Commission, portfolio investment Societes Anonymes of L. 3371/2005 (GG A' 178), insurance undertakings of LD 400/1970 (GG A' 10), professional insurance funds and insurance organizations/ social security institutions,
 - c) When they are conducted for the fulfillment of obligations stemming from positions in derivatives linked to financial instruments of Article 5 points (d) to (j) of L. 3606/2007, for their rollover, for the requirements of coverage by cash of their daily or final mark- to-market settlement, as well as for the coverage of margin deficits concerning security portfolios of L. 2843/2000 (GG A' 219), which existed until the 26th June 2015,
 - d) When they are attached to the fulfilment of existing, at the time of entry into force of the Bank Holiday on 28.06.2015, standing orders for capital transfers from bank accounts to UCITS authorized by the Hellenic Capital Markets Commission or to AIFs or to unit- linked mutual funds in the context of savings- investment programs/ accounts.
4. Capital transfers to Greece are permitted for the acquisition of: a) newly issued Financial Instruments issued in the context of capital increase or bond loans, and b) any kind of securities issued by credit institutions registered in Greece, for the purpose of their recapitalization.
5. The product of clearing and settlement of transactions in Financial Instruments, as well as the amount of cash distributions of par. 1 point b', may be credited to a bank account of up to the ultimate beneficiary, even outside the Greek banking system, provided that the clearing and the settlement of the transactions entered into through an investment account were conducted through the same as the above bank account before the entry into force of the Bank Holiday of the 28th June 2015. As long as the relevant transactions are conducted outside regulated markets or MTFs, the person requesting the capital transfer and the settlement shall provide the Institution or the competent legal entity for the clearing and settlement with complete documentation of the relevant transaction, adducing, indicatively, information on the placed order or the settlement document, in electronic or hard- copy form, which shall include the data and details of the settlement, or other information on the transaction as well, which document its conduct. Bank accounts held in the Greek banking system are considered to be accounts reflecting accounting entries in the Bank of Greece and the IBAN code of the relevant institutions bears the GR sign. The product of the clearing and settlement process may be credited to a bank account of up to the ultimate beneficiary even outside the Greek banking system for new investment accounts as well, provided that the capital for the purchase or opening of positions in derivatives already conducted, originated from bank accounts held abroad.

6. Capital transfers from an Institution are permitted, even when oriented outside Greece, for the purpose of reinvesting available funds of: a) UCITS governed by L. 4099/2012, as in force, which have been authorized by the Hellenic Capital Markets Commission, AIFs governed by L.4209/2013 and managed by AIFMs, which have been authorized by the Hellenic Capital Markets Commission, b) portfolio investment Societes Anonymes of L. 3371/2005, c) insurance undertakings of LD 400/1970, d) professional insurance funds, and e) insurance organizations/ social security institutions. The said reinvestment shall be made in financial instruments, according to the current investment policy of the above entities, its value will not exceed the value of its portfolio invested abroad at the time the present Decision is issued, and it shall mainly concern the available funds deriving from sales of financial instruments traded in regulated markets and MTFs operating abroad, payment of such financial instruments or distributions in connection with these financial instruments.

Article 2

The prohibition described under Article First par. 10 point c' of the Presidential Legislative Act of the 18th July 2015 does not cover the transfer of financial instruments to a depositary outside Greece for the purpose of clearing and settlement of transactions in those financial instruments. Provided that the relevant transactions are conducted outside regulated markets or MTFs, as indicatively in the case of a pledge, the person requesting the transfer of the financial instruments, in the context of the settlement, shall provide the respective depositary with complete documentation of the relevant transaction, adducing, indicatively, the transaction data in combination with the placed order for the transfer of securities, the settlement document, in electronic or hard- copy form, which shall include the information and the details of the settlement and the underlying transaction or other information of such transaction, proving its conduct.

The present Decision enters into force from the time of its publication in the Government Gazette.

For further clarifications, you may contact the below members of our team:

Viktoria Chatzara
Associate
E v.chatzara@rokas.com

Athina Siafarika
Associate
E a.siafarika@rokas.com

© I.K. Rokas & Partners, 25 & 25A, Boukourestiou Str. 106 71 Athens, Greece
T (+30) 210 3616816 F (+30) 210 3615425 E athens@rokas.com