



Centrálny depozitár cenných papierov SR, a. s.

**Executory Decree No. 3
to the Rules of Operation of Centrálny depozitár cenných
papierov SR, a.s.**

**REQUEST FOR ACCESS AND PARTICIPATION
CRITERIA EVALUATION PROCESS**

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Definitions and Abbreviations

CDCP, Central Depository	Centrálny depozitár cenných papierov SR, a.s.
CSDR Regulation	Regulation (EU) No 909/2014 of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012
Rules of Operation	The Rules of Operation of Centrálny depozitár cenných papierov SR, a.s.
Regulatory Technical Standards	Commission Delegated Regulation (EU) 2017/392 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories
Implementing Technical Standards	Commission Implementing Regulation (EU) 2017/394 laying down implementing technical standards with regard to standard forms, templates and procedures for authorisation, review and evaluation of central securities depositories, for the cooperation between authorities of the home Member State and the host Member State, for the consultation of authorities involved in the authorisation to provide banking-type ancillary services, for access involving central securities depositories, and with regard to the format of the records to be maintained by central securities depositories in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council
Request for Access	Depending on person/entity filing the request, it means the request for access of a participant filed in compliance with Article 33 of CSDR Regulation, request for access of a central depository filed in compliance with Article 52 of CSDR Regulation, request for access of other market infrastructure filed in compliance with Article 53 of CSDR Regulation
Applicant	Person/entity that in compliance with Part II of the Rules of Operation of CDCP may request for participant access, access to services, other central depository, market infrastructure, and person/entity that may request for membership

Article 1

Introductory Provisions

- 1.1 This Executory Decree has been issued in compliance with Article 6, Part II, of the Rules of Operation and details the procedure for filing the requests for access, a list of documents and information submitted by the party requesting access, specifies the details related to participation criteria, and requirements in connection with the participation criteria evaluation process.

Article 2

Request for Access

- 2.1 Person authorized to request for access under Part II of the Rules of Operation and the respective legal regulations, in particular of CSDR Regulation, files the request using the respective form the template of which is published by CDCP on its website. The request must meet all formalities and content requirements pursuant to the respective provisions of the Rules of Operation. The request must be signed by the statutory representatives of the Applicant and their signatures attached to the form must be officially authenticated. In compliance with Part I of the Rules of Operation, in relation to signatories it is necessary to submit also the documents proving the authorisation to act as a statutory representative along with the request. The request together with the required documents must be delivered by the Applicant to the address of the registered office of CDCP.
- 2.2 The template request is made in line with the requirements of the Implementing Technical Standards and in addition to the filing of the request for access, it is used also in case of a request for access to individual types of services (also in case of additional request for access to services when the Applicant has been already granted participant access /central depository), and in case of a request for membership. The Applicant must specify/mark the extent of its requirements in the request.
- 2.3 For the purpose of granting access, the Applicant must submit the request that is complete and meets all required formalities. The request is considered to be incomplete in particular if:
 - a) it is not submitted by an authorised person (statutory representatives),
 - b) it is not submitted in specified form, i.e. in particular by using the prescribed form required by the Implementing Technical Standards under Article 12,
 - c) it does not contain all necessary documents, annexes and information pursuant to the Rules of Operation of CDCP and the legal regulations,
 - d) it does not contain all data stipulated in the Rules of Operation and the legal regulations, the request is unclear or the data contained in the request are incorrect, incomplete or confusing.
- 2.4 If the request is incomplete under par. 2.3 of this Article, CDCP informs the Applicant about shortcomings of the request and the Applicant is entitled to remedy the shortcomings. This shall be without prejudice to the periods for handling the request pursuant to the Rules of Operation.
- 2.5 The procedure for handling the request, including the periods for handling the request and the manner in which the decisions are taken regarding the request, are regulated

by the Rules of Operation of CDCP, without prejudice to the provisions of the CSDR Regulation.

- 2.6 Together with the request for access, the Applicant must file the request for access to individual types of services which the Applicant wishes to have access to. The provisions or requirements pursuant to the Rules of Operation (e.g. opening of account, execution of a separate agreement) shall apply to granting of access. Individual types of services may be made accessible to the Applicant no sooner than after the access is granted.
- 2.7 Person with granted access may additionally request for access to another types of services. The procedure under this Article hereof and the provisions of the Rules of Operation shall apply accordingly to granting of access to individual types of services.
- 2.8 Participant or person requesting participant access may request for membership. The procedure for handling the request, including the periods for handling the request and the manner in which the decisions are taken regarding the request, are regulated by the Rules of Operation of CDCP. CDCP will not grant membership to the Applicant sooner than the participant access is granted to the Applicant. The provisions of this Article hereof shall apply accordingly to submitting of the request. Together with the request for membership, the Applicant submits the request for access to individual types of services (Client's Account Services, Services of Authorised Member to Non-allocated Accounts) which the Applicant wishes to have access to. The provisions or requirements pursuant to the Rules of Operation (e.g. opening of account, execution of a separate agreement) shall apply to granting of access to individual types of services. Individual types of services may be made accessible to the Applicant no sooner than after the membership is granted.
- 2.9 The list of documents and information to be submitted by the Applicant for access, Applicant for membership is specified in Annex No. 1 hereto (Request for Access and Participation Criteria Evaluation Process).

Article 3

Demonstration of Compliance with Participation Criteria

- 3.1 The Applicant for access /participant demonstrates the compliance with the participation criteria to CDCP when submitting the request for access, within the annual evaluation of compliance with the participation criteria and upon request of CDCP.
- 3.2 Compliance with the participation criteria is demonstrated as follows:
 - a) in case of the Applicant for access, by submitting the relevant documents, information, and declarations stipulated in Part II of the Rules of Operation (annexes to request for access) and other documents and information defined under this Executory Decree for the purpose of risk assessment under Article 89 of the Regulatory Technical Standards; a particular list is included in Annex No.1,
 - b) in case of the person with granted access, within the regular evaluation of compliance with the participation criteria, by submitting the relevant documents,

information and declarations specified in the questionnaire Annual Participation Criteria Evaluation.

- 3.3 If CDCP does not consider the submitted documents or information under par. 3.2. of this Article to be sufficient to demonstrate the compliance with the participation criteria or to assess respective risks, CDCP is entitled to require another documents and information if it is reasonable under the given circumstances, in particular if it is not possible to execute a comprehensive risk assessment on the basis of submitted documents and information or in case of other relevant facts.
- 3.4 When demonstrating the compliance with participation criteria CDCP assesses the compliance with the criteria and the risks under the requirements of the respective regulations, taking into account mainly the legal, operational and financial risks.
- 3.5 When demonstrating the compliance with participation criteria, the Applicant shall submit the required documents. If any document is of confidential nature and the Applicant fails to submit it, the Applicant may submit a transcript of information from the respective document. If the Applicant encloses the document, it must specify the pages of the document on which the required information can be found. If the Applicant provides the transcript of the information without enclosing the document, the Applicant must also specify the title and date of effectiveness of the document on the basis of which the transcript has been made.

Article 4

Monitoring of Compliance with Participation Criteria

- 4.1 CDCP monitors compliance with the participation criteria on an annual basis (for each calendar year) by using a questionnaire containing the requirements for demonstration of compliance with the participation criteria. For this purpose, CDCP shall send, by the end of January of the year following the year under review, to the persons with granted access respective questionnaire, asking them to fill it out and deliver it to CDCP within the specified period of time, as a rule by the end of April of the year following the year under review. Persons with granted access shall fill out the required parts and if needed, they shall submit respective documents. The questionnaire will be available for the participants on CDCP website.
- 4.2 For purpose of the evaluation process, persons with granted access must state all relevant facts (including the facts notified during the period under review) related to compliance with the participation criteria that occurred during the period under review and prove such facts by submitting the necessary documents, if applicable (if not already submitted).
- 4.3 CDCP shall evaluate the questionnaire of annual review of compliance with the participation criteria no later than by the end of June of the calendar year following the reviewed year and shall inform in writing the person with granted access of the result of evaluation by CDCP.
- 4.4 If CDCP, on the basis of the filled out questionnaire of annual review of compliance with the participation criteria, discovers non-compliance with any of the participation

criteria, it is entitled to proceed in line with the respective provisions of the Rules of Operation regulating the measures and sanctions.

Article 5

Final Provisions

- 5.1 This Executory Decree to the Rules of Operation enters into force on the day of approving hereof by the Board of Directors of CDCP on 13 December 2018 and is effective from 1 January 2019.