

This is an English translation. The original Icelandic text, as published in the Law Gazette (Stjórnartíðindi), is the authoritative text. Should there be discrepancy between this translation and the authoritative text, the latter prevails.

# **Regulation No. 706/2008 on nominee registration and the custody of financial instruments in nominee accounts**

## **CHAPTER I Scope and definitions**

### **Article 1**

#### **Scope**

This Regulation applies to nominee registration and the custody of financial instruments in nominee accounts in accordance with Act No. 108/2007 on securities transactions.

### **Article 2**

#### **Definitions**

For the purposes of this Regulation the following terms shall have the meanings hereinafter assigned to them:

1. *Nominee registration*: The registration of financial instruments on an owners' list maintained by a custodian, where it is stated that the custodian is not the owner of the financial instruments.
2. *Nominee account*: The custodian's own account in which clients' financial instruments are registered.
3. *Custodian*: A financial undertaking authorised to hold financial instruments owned by its clients.
4. *Client*: The person who receives the financial benefit from or bears the financial risk of a financial instrument and grants authorisation to the custodian to act in its own name and be registered as the owner of the financial instruments.

## **CHAPTER II Licence for registration in a nominee account**

### **Article 3**

#### **Application**

A financial undertaking authorised to hold financial instruments owned by its clients may apply to the Financial Supervisory Authority for a licence to hold these in a nominee account and accept payment on behalf of its clients from individual issuers of financial instruments.

### **Article 4**

#### **Conditions of the licence**

The activities provided for in this Regulation may only be carried out by financial undertakings which guarantee compliance with the following conditions on the issue of a licence:

1. that rules on disclosure of information to the Financial Supervisory Authority are complied with; and

2. the custodian will not exercise the voting rights attached to the financial instruments held in a nominee account.

## **Article 5**

### **Conditions of licences granted to foreign financial undertakings**

In addition to the information required pursuant to Article 4, an application by a foreign financial undertaking to act as a custodian shall be accompanied by:

1. a statement by a competent authority in the home state of the financial undertaking confirming that the applicant is authorised to act as a financial undertaking and is subject to the supervision of the authority concerned;
2. a statement by a competent authority or a lawyer in independent practice in the relevant jurisdiction confirming that under the law of the home state there is nothing to prevent the applicant from obtaining the information required by this Regulation.

In addition to the information required pursuant to paragraph 1, applicants from states outside the European Economic Area shall procure a written statement from a competent party confirming that there exists in their home state legislation on measures against money laundering and terrorist financing corresponding to the legislation in effect within the European Economic Area in this field.

Statements pursuant to this Article shall be submitted in Icelandic or English. Otherwise, a translation by a certified translator shall accompany the statement.

## **CHAPTER III Nominee account**

### **Article 6**

#### **Owners' approval**

A client's financial instrument shall not be registered in a nominee account without the client's approval. The custodian shall inform the client of the legal effects of registering a financial instrument in a nominee account.

### **Article 7**

#### **Information on clients**

The custodian shall have information available on clients requesting nominee registration of financial instruments. The custodian shall inform the client of the obligation to provide information to the Financial Supervisory Authority under this Regulation.

The custodian shall preserve information on nominee registrations and clients, including any changes to nominee accounts, for five years from the end of the business relationship.

### **Article 8**

#### **Record of clients and financial instruments**

A custodian holding financial instruments in a nominee account shall maintain a record of the share of each individual client. The record shall always include the names and number of clients associated with the financial instrument registered in the nominee account, as well as the number of financial instruments covered by each nominee registration agreement. The record shall be prepared in such a way that there is no doubt regarding the ownership of financial instruments. The Financial Supervisory Authority may establish further rules regarding such a record.

## **Article 9**

### **Identification of financial instruments registered in nominee accounts**

The issuer of financial instruments shall identify financial instruments registered in nominee accounts separately in its records, including the share registers of limited liability companies, so that there is no doubt as to which financial instruments are held in nominee accounts, e.g. by using the abbreviation SAFN, NOM or other similar identification.

## **Article 10**

### **Bankruptcy of custodians**

In the event that a custodian's estate is subjected to bankruptcy proceedings or a moratorium is granted on its debts, or the custodian is wound up or comparable measures are taken, the client may, on the basis of the record provided for in Article 8, withdraw its financial instruments from the nominee account, provided that their ownership is not disputed.

## **CHAPTER IV**

### **Rights conferred by financial instruments**

## **Article 11**

### **Rights conferred by a financial instrument**

No other rights conferred by a financial instrument besides the rights provided for in Article 12 are attached to a nominee account. Voting rights at shareholders' meetings are not attached to nominee accounts.

## **Article 12**

### **Permission to accept payments, etc.**

A custodian is permitted to accept payments on behalf of its clients from individual issuers of financial instruments, including rights to dividends or other payment and rights to new shares in the event of an increase in share capital. The custodian shall keep these payments separate from its other assets.

## **Article 13**

### **Notification**

Voting rights attached to financial instruments in a nominee account shall be taken into account when assessing whether a client is required to give notification under the Act on securities transactions, even if no voting rights are attached to a nominee account.

## **CHAPTER V**

### **Supervision and provision of information**

## **Article 14**

### **Information on business**

The Financial Supervisory Authority may require a custodian to disclose the identity of the clients registered as owners of financial instrument held in a nominee account at a specific point in time.

A custodian must provide the Financial Supervisory Authority with the information required under paragraph 1 in the form and within the time limit deemed appropriate by the Financial Supervisory Authority.

## **Article 15**

### **Revocation of licences**

The Financial Supervisory Authority may revoke a licence for registration in a nominee account:

1. if the custodian has been deprived of an operating licence under the Act on financial undertakings;
2. if the custodian violates the provisions of this Regulation regarding the provision of information to the Financial Supervisory Authority;
3. if the custodian in other respects commits serious or repeated violations of the legal provisions to which its activities are subject, this Regulation or rules which the Financial Supervisory Authority may establish on the basis of this Regulation.

Before any revocation pursuant to paragraph 1, the custodian must be allowed a reasonable period to rectify the situation, if rectification is possible in the estimation of the Financial Supervisory Authority.

Revocation of the custodian's licence for registration in a nominee account shall be notified to the board of directors of the custodian and reasoned in writing.

## **CHAPTER VI**

### **Entry into force**

## **Article 16**

This Regulation, which is issued on the basis of point 8 of paragraph 1 of Article 26 of Act No. 108/2007 on securities transactions, is effective immediately.