

“Greek Depository Receipts”

another category of securities tradable on Greek Stock Exchange Market

Among the securities listed on the Athens Stock Exchange Market (hereinafter “ASE”) there also exist a quite recently introduced kind of securities, the **“Greek Depository Receipts”** (hereinafter “ELPIS”), representing shares of a foreign company. The functional aim of the legislative introduction of the ELPIS is the ability offered to a foreign company to have its shares indirectly traded on the Greek market, without having them per se being listed on ASE. Said possibility appears quite appealing especially to firms domiciled in countries outside the European Union, as they are offered an access to the european capital markets.



ELPIS may be admitted for listing either in the *Main Market* or in the **Greek Market of Emerging Capital Markets** (hereinafter “EAGAK”) of ASE; the latter one constitutes another organized market of the ASE operating in parallel with the Main market (referred to as well as “Parallel Market of EAGAK”) and its operation is further strongly supported by the Thessaloniki Stock Exchange Center.

The operation of EAGAK, as explicitly provided for in law, is governed by the same provisions applicable to the Parallel Market of ASE, notwithstanding any more specific provisions. It is further expressly provided in law that on the newly operating market of EAGAK the following three categories of securities shall be traded: *i)* Greek Depository Receipts; *ii)* Units of Mutual Funds investing in Emerging Capital Markets (referred to as “EKAA units”; resembling the function of mutual funds); *iii)* Shares of Portfolio Management Firms investing in Emerging Markets (referred to as “EXAA shares”). It should be noted at this point that for the time being only the category of ELPIS is anticipated to be negotiated on EAGAK.

The distinctive feature of said market consists in the fact that the securities listed on it are related to emerging capital markets. Such markets basically constitute the countries of Middle East, Caucasus, Mediterranean, Central and East Europe. What is particularly noticeable in the case of ELPIS trading on EAGAK market is the fact that the domiciled in an emerging market, thus evidently not an EU-country, foreign firm, which opts to have its shares negotiated in greek market may accomplish that through the mode of ELPIS, not needed to be admitted in any other Stock Exchange as it is on the contrary required in order to have its shares per se listed on ASE.

In regard with the specific category of ELPIS securities in particular, the persons involved in the ELPIS listing and trading can be summarized to the following:

- i) the *foreign company*, whose shares are represented by the ELPIS;
- ii) the *issuer* of the ELPIS in Greece;
- iii) the *principal underwriter*, who may be the same as the issuer;
- iv) the *custodian*, under the custody of whom are placed the represented shares and who may be the same as the issuer;
- v) the *ELPIS' holders*, who have invested in the ELPIS by signing the correspondent ELPIS contract with the issuer.

In order for the shares of a foreign company to be listed on one of the aforementioned markets of ASE, a relevant contract must be signed between the foreign company and the issuer, through which approval of the foreign company for the issuance and listing of ELPIS is granted to the issuer. In order subsequently for the investors to invest in ELPIS they should enter in the relevant ELPIS contract with the issuer. Should the shares of the foreign company be listed on the ASE, the ELPIS contract is dissolved.

Regarding the nature and the function of the ELPIS the following should be taken into consideration:

- ELPIS are listed on the Stock Exchange Market in the form of dematerialized securities as vouchers of the foreign stocks and, as explicitly provided for in law, they are equalized to the concept of “securities” listed on a Stock Exchange Market; ELPIS not listed on ASE constitute commercial papers either registered or to the bearer.
- The issuance of ELPIS representative of foreign stocks other than shares, especially foreign companies’ bonds, may be further introduced by virtue of a Presidential Decree.
- ELPIS may also be issued in order to cover a foreign company’s capital raise, which should be effected through public offering.
- ELPIS may be issued only by licensed therefor Banks in Greece. However principal underwriter may either be a Bank or an investment firm (specific form of firm providing investment services, called “EPEY”) authorized to provide underwriting services.
- The Bank-issuer (hereinafter simply “issuer”) is the owner of foreign securities which it administers nominally on behalf of the ELPIS’ holders.
 - ✓ The issuer attributes to the ELPIS’ holders the corresponding dividends, interest and any other benefits deriving from the shares represented in the ELPIS the ELPIS’ holder possesses.
 - ✓ In case the foreign company distributes free shares to its stockholders, the issuer administers the new shares as well, in the investors’ interest under the same conditions.
 - ✓ The issuer is obliged to convey to any ELPIS’ holder the ownership of the shares immediately in case of a relevant request or due to dissolution of the ELPIS’ contract.
 - ✓ The shares represented by ELPIS are not subject to insolvency proceedings against the issuer and therefore cannot be seized.

- ELPIS representing the shares of a single foreign company may be issued only by one issuer, whereas more issuers may undertake the issuance of ELPIS in the aforementioned case only if acting jointly.
- Liable towards greek authorities for the compliance with any legal obligations is in principle the issuer of the ELPIS; however the foreign company is still rested with the obligation of treating equally all the shares as well as of engaging for the accuracy, validity and amplitude of the information provided to the issuer.
- Income deriving from ELPIS is exempted from taxation. However, any income deriving from interest and dividends is levied with an amount of tax equal to 35% of the amount of interest or dividends in total less any amount already retained or paid to the revenue authorities in the country of the foreign company; said amount is withheld by the issuer.
- ELPIS' holders who do not reside in Greece, are exempted from any tax obligation regarding ELPIS' proceeds.

As far as ELPIS listing requirements are concerned the following should be quoted:

- The listing procedure of the ELPIS is carried out by the issuer.
- The admission of ELPIS in the Main Market or in EAGAK rests upon a decision granted by the ASE Board of Directors subject to the application of the conditions provided for in law for the listing of shares either on the Main or Parallel Market. More specifically the following conditions must apply in order to be admitted in:
 - ✓ *the Main Market*: the foreign company should have own funds of at least 4 billion GRD and have disclosed annual financial statements audited by a certified auditor and published or submitted in accordance with the applicable law for the last 3 years precedent to the listing application; in case of disclosure of consolidated statements, these statements as well as those of the companies included in the consolidation must be audited by

certified auditors; it must present a satisfactory financial structure demonstrated by the balance sheet of the last fiscal year.

- ✓ *the EAGAK Market*: the foreign company should have own funds of 1 billion GRD and have disclosed annual financial statements audited by a certified auditor and published or submitted in accordance with the applicable law for the last 2 years precedent to the listing application; in case of disclosure of consolidated statements, these statements as well as those of the companies included in the consolidation; it should in general present a satisfactory financial structure.
- ✓ The represented shares must in any case be in compliance with the conditions provided for in law in regard with their legal status and be freely transferable.
- ✓ Furthermore the following two requirements must additionally apply: i) the listing application must include the total number of the ELPIS issued; ii) ELPIS must be freely transferable and be satisfactorily dispersed to a percentage of 25% of the ELPIS issued, allocated to at least 100 persons not related to the issuer according to the provisions of Law 2190/1920 on Companies limited by shares.
- The Prospectus issued for the admission of ELPIS should contain basically the same information as provided for in regard with the listing of shares. Additionally, however, there must be reported information on the ELPIS issuer as well as the ELPIS titles themselves such as their legal nature and status, the relevant legislation and taxation regime etc.
- ✓ Liable for the information contained in the prospectus are jointly the issuer of the ELPIS and the principal Underwriter as well as the foreign company whose shares are represented by the ELPIS.

Regarding further the listing procedure of the ELPIS, this varies slightly depending on the distinctive features of the ELPIS to be listed in specific; thus a different procedure is followed in each of the following cases:

1. Primal listing of ELPIS in EAGAK
2. Listing of supplementarily issued ELPIS

3. Listing of ELPIS representing new shares due to the exercise of the issuer's preference right on the capital raise of the foreign company.
4. Listing of free ELPIS representing free shares due either to capital raise via capitalization of the reserves or any other corporate practice such as shares split or reverse split.
5. Listing of free ELPIS due to ELPIS split or reverse split.
6. Listing of new ELPIS due to:
 - merger by absorption of the companies;
 - takeover of another company;
 - exchange of the shares represented with the shares of another company;
 - conversion of bonds or other securities, which the issuer is in possession of, to shares
 - any other corporate activity due to which new ELPIS must be issued representing the new shares arisen.

The phases followed in each of the previous cases are in general three at the most, presenting in resembling cases repetitive steps; moreover in each case there exist time limits regarding the submission of the requisite supporting documents and the opening/commencement of ELPIS' trading, set to a period of either 10 or 15 calendar days.