THE CROATIAN PARLIAMENT

2812

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby pass the

DECISION

PROMULGATING THE CAPITAL MARKET ACT

I hereby promulgate the Capital Market Act, adopted by the Croatian Parliament at its session on 15 July 2008.

Class: 011-01/08-01/109

Reg. no: 71-05-03/1-08-2

Zagreb, 18 July 2008

The President of the

Republic of Croatia

Stjepan Mesić, *m.p.*

CAPITAL MARKET ACT

PART ONE

General provisions

Article 1

This Act regulates:

1. conditions for establishment, operation, supervision and dissolution of an investment firm, market operator and settlement system operator in the Republic of Croatia;
2. conditions for the provision of investment services and performance of investment activities and related ancillary services;
3. rules for trading on a regulated market;
4. conditions for offering of securities to the public and admission of securities to a regulated market;
5. obligations regarding disclosure of the information relating to the securities listed on a regulated market;
6. market abuse;
7. storage, clearing and settlement of financial instruments;

8. authorities and actions of the Croatian Financial Services Supervisory Agency in implementation of this Act.

Transposition of EU legislation

Article 2

(1) By virtue of this Act, the following directives shall be transposed into the legal system of the Republic of Croatia:

1. Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (hereinafter: Council Directive 89/117/EEC);

2. Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (hereinafter: Directive 97/9/EC);

3. Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities (hereinafter: Directive 2001/34/EC);

4. Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (hereinafter: Directive 2003/6/EC);

5. Commission Directive 2003/124/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the definition and public disclosure of inside information and the definition of market manipulation (hereinafter: Directive 2003/124/EC);

6. Commission Directive 2003/125/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the fair presentation of investment recommendations and the disclosure of conflicts of interest (hereinafter: Directive 2003/125/EC);

7. Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions (hereinafter: Directive 2004/72/EC);

8. Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (hereinafter: Directive 2003/71/EC);

9. Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (hereinafter: Directive 2004/109/EC);

10. Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (hereinafter: Directive 2007/14/EC);

11. Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (hereinafter: Directive 2004/39/EC);

12. Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) (hereinafter: Directive 2006/48/EC);

13. Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) (hereinafter: Directive 2006/49/EC);

14. Directive 2006/73/EC of the European Parliament and of the Council of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (hereinafter: 2006/73/EC);

15. Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (hereinafter: Directive 2007/44/EC);

(2) This Act regulates in more detail implementation of the following EC Regulations:

1. Commission Regulation (EC) No. 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments (hereinafter: Commission Regulation (EC) No. 2273/2003);

2. Commission Regulation (EC) No. 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (hereinafter: Commission Regulation (EC) No. 809/2004);

3. Commission Regulation (EC) No. 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive (hereinafter: Commission Regulation (EC) No. 1287/2006).

Definitions

Article 3

(1) For the purposes of this Act, the following definitions shall apply:

1. “Agency” means the Croatian Financial Services Supervisory Agency, whose competences and scope of operation are stipulated by the Act on the Croatian Financial Services Supervisory Agency and this Act;

2. “Financial instruments” are:

a. transferable securities;

b. money-market instruments;

c. units in collective investment undertakings;

d. derivatives which include:

- options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash;

- options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event);

- options, futures, swaps and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or a multilateral trading facility;

- options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 2, sub-point (d), indent 3, not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls;

- derivative instruments for the transfer of credit risk;

- financial contracts for differences;

- options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this point, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or a multilateral trading facility, are cleared and settled through recognised clearing houses or are subject to regular margin calls.

3. “Transferable securities” means those classes of securities which are negotiable on the capital market, with the exception of instruments of payment, such as:

a. shares and other securities equivalent to shares which represent a share in the capital or membership rights in a company, and depositary receipts in respect of shares;

b. bonds or other forms of securitised debt, including depositary receipts in respect of such securities;

c. any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures;

For the purposes of point 3 of this Article, instruments of payment are not deemed to be transferable securities.

4. “Money-market instruments” means all classes of instruments which are normally dealt in on the money market, such as treasury bills, commercial papers and certificates of deposit and excluding instruments of payment;

5. “Investment firm” means any legal person whose regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis;

6. “Credit institution” means a credit institution as defined by the act that regulates establishment and operation of credit institutions.

7. “Collective investment undertaking” means:

- an undertaking for collective investment which has been authorised by the Agency in accordance with the act regulating establishment and operation of funds and management companies;

- an undertaking for collective investment which has obtained authorisation in a Member State and which, pursuant to the legislation of the home Member State, satisfies the requirements of the Council Directive 85/611/EEZ of 20 December 1995 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and amendments thereto;

- other foreign undertaking for collective investment including undertakings other than those referred to in indent 2 of this point, as well as undertakings for collective investment which have been granted authorisation to carry on business in a third country;

8. “Systematic internaliser” means an investment firm which, on an organised, frequent and systematic basis, deals on own account by executing client orders outside a regulated market or a multilateral trading facility;

9. “Market maker” means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him;

10. “Investment services and activities” means any of the services and activities listed in Article 5 of this Act relating to any of the instruments listed in point 2 of this paragraph;

11. “Client” means any natural or legal person to whom an investment firm provides investment and/or ancillary services;

12. “Execution of orders on behalf of clients” means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients;

13. “Dealing on own account” means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments;

14. “Portfolio management” means managing portfolios in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments;

15. “Investment advice” means the provision of personal recommendations to a client, either upon his/her/its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments;

16. “Personal recommendation” is a recommendation that is made to a person in his capacity as an investor or potential investor, or in his capacity as an agent for an investor or potential investor. That recommendation must be presented as suitable for that person, or must be based on a consideration of the circumstances of that person, and must constitute a recommendation to take one of the following sets of steps:

- to buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular financial instrument;

- to exercise or not to exercise any right conferred by a particular financial instrument to buy, sell, subscribe for, exchange, or redeem a financial instrument. A recommendation is not a personal recommendation if it is issued exclusively through distribution channels or to the public.

17. 'distribution channels' shall mean a channel through which information is, or is likely to become, publicly available. 'Likely to become publicly available information' shall mean information to which a large number of persons have access.

18. "Tied agent" means a natural or legal person who, under the full and unconditional responsibility of only one investment firm on whose behalf he/she/it acts, carries on the activities laid down in this Act as the activities of tied agents.

19. "Multilateral trading facility (hereinafter: MTF)" means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments. Bringing together of buying and selling interests is carried out in accordance with pre-determined non-discretionary rules in a way that results in a contract in accordance with the provisions of this Act;

20. "Regulated market" means a multilateral system operated and/or managed by a market operator, and which satisfies the following requirements:

a. brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments, in the system and in accordance with pre-determined non-discretionary rules, and in a way that results in a contract in respect of the financial instruments admitted to trading under its rules and/or systems;

b. is authorised as a regulated market, and

c. functions regularly in accordance with the provisions of Part 2 of this Act;

21. "Market operator" means a person or persons who manage(s) and/or operate(s) the business of a regulated market. The market operator may be the regulated market itself;

22. Central counterparty is a person which for the purpose of clearing of transactions in financial instruments entered into on a regulated market, an MTF or outside a regulated market and an MTF, assumes responsibility for fulfilment of obligations of parties to counterparties in such transactions in such manner that it enters into every transaction and acts as a new seller in relation to a buyer or as a new buyer in relation to a seller.

23. "Parent undertaking" means:

- a parent undertaking as defined in the legislation governing accounting of enterprises and application of financial reporting standards;

- for the purposes of Part 2, Title 1, Chapters 9 and 11, a parent undertaking as defined in the legislation governing accounting of enterprises and application of financial reporting standards and any undertaking which, in the opinion of the Agency, exercises a dominant influence over another undertaking;

24. "Subsidiary" means:

- a subsidiary undertaking as defined in the legislation governing accounting of enterprises and application of financial reporting standards;

- for the purposes of Part 2, Title 1, Chapters 9 and 11, a subsidiary undertaking within the meaning of the legislation governing accounting of enterprises and application of financial reporting standards and any undertaking over which, in the opinion of the Agency, a parent undertaking exercises a dominant influence;

25. “Member State” means a member of the European Union and a signatory to the European Economic Area Agreement.

26. “Third country” is a country that is not a Member State within the meaning of point 25 paragraph 1 of this Article.

(2) By virtue of an ordinance, the Agency shall lay down:

1. the derivative contracts mentioned in point 2, sub-point (d), indent 4, of paragraph 1 of this Article that have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls;

2. the derivative contracts mentioned in point 2, sub-point (d), indent 7, of paragraph 1 of this Article that have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls;

PART TWO

Financial instruments market

Title 1

Providing investment services and carrying on investment activities

Chapter 1

Definitions

Article 4

For the purposes of this Part of this Act, the following definitions shall apply:

1. “Qualifying holding” means:

- any direct or indirect holding in an investment firm which represents 10% or more of the capital or of the voting rights, or which makes it possible to exercise a significant influence over the management of the investment firm, stock exchange or central clearing depositary company in which that holding subsists. A holding of the capital or of the voting rights shall be determined in accordance with Articles 413 to 417, Articles 420 and 427 of this Act;

- for the purposes of Chapter 9 of Part Two of this Act, a qualifying holding means any direct or indirect holding in an undertaking which represents 10% or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking.

2. “Branch” means a branch as defined by regulations on establishment, structure and business activities of sole traders and companies.

3. “Branch” means a branch as defined by the act regulating establishment and operation of companies. For the purposes of this Act, all the places of business set up in the same Member State by an investment firm with headquarters in another Member State shall be regarded as a single branch;

4. “Home Member State” in the case of investment firms means:

- if the investment firm is a natural person, the Member State in which its head office is situated;

- if the investment firm is a legal person, the Member State in which its registered office is situated;

- if the investment firm has, under its national law, no registered office, the Member State in which its head office is situated;

5. “Home Member State” in the case of a regulated market means the Member State in which the regulated market is registered or, if under the law of that Member State it has no registered office, the Member State in which the head office of the regulated market is situated;

6. “Host Member State” means the Member State, other than the home Member State, in which an investment firm has a branch or performs investment services and/or activities directly.

7. “Host Member State” in the case of a regulated market means the Member State, other than the home Member State, in which a regulated market provides appropriate arrangements so as to facilitate access to trading on its system by remote members or participants established in that same Member State;

8. “Competent authority” means:

- the competent authority designated by a state which has, under the laws of that state, competence for supervision of investment firms, unless it is stipulated by a provision of this Act that such provision relates to an authority that has competence for another type of supervision;

- the competent authority of a Member State which has, under the laws of that state, competence for supervision of investment firms and which has been designated by that Member State as a contact point in accordance with Article 56, paragraph 1, of Directive 2004/39/EC, unless it is stipulated by a provision of this Act that such provision relates to an authority that has competence for another type of supervision. The contact point in accordance with Article 56, paragraph 1, of Directive 2004/39/EC shall be the Agency;

9. “Normal trading hours” means those hours which the trading venue or investment firm establishes in advance and makes public as its trading hours.

10. “Durable medium” means paper or any instrument which enables a client to store information in digital format in such a way that access, processing and integrity of the information is ensured for at least the period of time stipulated by law or provisions enacted by virtue of this Act;
11. “Relevant person” in relation to an investment firm, means:

- a person in managerial position in the investment firm, person with equity holdings or tied agent of the investment firm;

- a person in managerial position or person with equity holdings in any tied agent of the investment firm;

- an employee of the investment firm or of a tied agent of the investment firm, as well as any other natural person whose services are placed at the disposal and under the control of the investment firm or a tied agent of the investment firm and who is involved in the provision by the investment firm of investment services and activities;

- a natural person who is directly involved in the provision of services to the investment firm or to its tied agent under an outsourcing arrangement for the purpose of the provision by the investment firm of investment services and activities;

12. “Person with whom a relevant person has a family relationship” means:

- the spouse of the relevant person or any partner of that person considered by national law as equivalent to a spouse;

- a dependent child or stepchild of the relevant person;

- any other relative of the relevant person who has shared the same household as that person for at least one year on the date of the personal transaction concerned;

13. “Outsourcing” means an arrangement of any form between an investment firm, stock exchange, central clearing and depositary agency and a service provider by which that service provider performs actions, services or activities which would otherwise be undertaken by the investment firm, stock exchange or central clearing depositary company;

14. “Clearing member” means a member of the stock exchange or the clearing house which has a direct contractual relationship with the central counterparty;

15. “Local firm” means a firm dealing for its own account on markets in financial futures or options or other derivatives and on cash markets for the sole purpose of hedging positions on derivatives markets, or dealing for the accounts of other members of those markets and being guaranteed by clearing members of the same markets, where responsibility for ensuring the performance of contracts entered into by such a firm is assumed by clearing members of the same markets;

16. “Financial institution” means any undertaking other than a credit institution, the principal activity of which is to acquire holdings or to carry on one or more of the basic financial services as defined by the act governing establishment and operation of credit institutions;

17. “Parent financial holding company in the Republic of Croatia (hereinafter: RoC parent financial holding company)” means a financial holding company with a registered office in the Republic of Croatia which is not itself a subsidiary of another investment firm authorised by the Agency, or of a credit institution authorised by the Croatian National Bank, or of another financial holding company set up in the Republic of Croatia;

18. “Parent financial holding company in the European Union (hereinafter: EU parent financial holding company)” means a parent financial holding company with a registered office in a Member State which is not itself a subsidiary of a credit institution or of an investment firm authorised in any Member State, or of another financial holding company set up in any Member State;

19. “Parent investment firm in the Republic of Croatia (hereinafter: RoC parent investment firm)” means an investment firm with a registered office in the Republic of Croatia which has a credit institution, investment firm, another financial institution as a subsidiary or which holds a participation in one or more such entities, and which is not itself a subsidiary of another investment firm authorised by the Agency, or of a credit institution authorised by the Croatian National Bank, or of a financial holding company set up in the Republic of Croatia;

20. “Parent investment firm in the European Union (hereinafter: EU parent investment firm)” means a parent investment firm with a registered office in a Member State which is not itself a subsidiary of another investment firm or of a credit institution authorised in any Member State, or of a financial holding company set up in any Member State;

21. “Recognised third-country investment firms” means firms meeting the following conditions:

- firms which, if they were established within EU, would be covered by the definition of investment firm;

- firms which are authorised in a third country; and

- firms which are subject to and comply with prudential rules considered by the Agency as at least as stringent as those laid down in this Act;

22. “Ancillary services undertaking” means a undertaking the principal activity of which consists in owning or managing property, managing data-processing system or performing any other similar activity which is ancillary to the principal activity of one or more credit institutions or investment firms;

23. “Financial holding company” means a financial institution the subsidiary undertakings of which are either exclusively or mainly investment firms or other financial institutions, at least one of which is an investment firm, and which is not a mixed financial holding company.

24. “Mixed-activity holding company” means a parent undertaking other than a financial holding company or an investment firm or a mixed financial holding company, the subsidiaries of which include at least one investment firm and not include a credit institution;

25. “Mixed financial holding company” means a parent undertaking other than a credit institution, insurance undertaking or investment firm, the subsidiaries of which include at least one credit institution, insurance undertaking or investment firm;

26. “Close links” means a situation in which two or more natural or legal persons are linked in any of the following ways:

- participation relationship;

- control relationship; or

- the fact that both or all are permanently linked to one and the same third person by a control relationship;

27. “Control” means the relationship between a parent undertaking and a subsidiary as defined in the legislation governing accounting of enterprises and application of financial reporting standards, or a similar relationship between any natural or legal person and an undertaking;

28. “Participation” as defined in the legislation governing accounting of enterprises and application of financial reporting standards means participation of a person in another legal person if:

- it has direct or indirect investments on the basis of which it owns 20% or more of the capital or voting rights of that legal person; or

- it has a holding in that legal person amounting to less than 20% of its capital or voting rights, which has been acquired with the intention to enable, on the basis of permanent link with that legal person, influence over its management;

29. “Undertakings managed on unified basis” as defined in the legislation governing accounting of enterprises and application of financial reporting standards means undertakings which are not connected as described in Article 3 paragraph 1 number 23 and 24 of the Act, but are affiliated in any of the following ways:

- undertakings operate on equal terms and are managed on unified basis pursuant to a contract or provisions of a statute;

- majority of the members of the management board or supervisory board of those undertakings are the same persons.

30. “Asset management company” means a management company defined by the act regulating the conditions for establishment and operation of investment funds and investment fund management companies;

Chapter 2

Investment firms

Section 1

Investment services and activities and ancillary services

Article 5

(1) Investment services and activities within the meaning of this Act are as follows:

1. reception and transmission of orders in relation to one or more financial instruments;

2. execution of orders on behalf of clients;

3. dealing on own account;

4. portfolio management;

5. investment advice;

6. underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;

7. placing of financial instruments without a firm commitment basis;

8. operation of Multilateral Trading Facilities.

(2) Ancillary services within the meaning of this Act are as follows:

1. safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management;

2. granting credits or loans to an investor to allow him/her/it to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction;

3. advice on capital structure, industrial strategy and related matters, and advice and services relating to mergers and the purchase of undertakings;

4. foreign exchange services where these are connected to the provision of investment services;

5. investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments;

6. services related to the services referred to in point 6 of paragraph 1 of this Article;

7. investment services and activities as well as ancillary services mentioned in this Article related to the underlying of the derivatives referred to in Article 3, paragraph 1, point 2, sub-point (d), indents 2, 3, 4 and 7, of this Act where these investment services and activities are connected to the provision of investment or ancillary services.

Provision of investment services and performance of investment activities in the Republic of Croatia

Article 6

(1) The following undertakings may provide investment services and perform investment activities in Republic of Croatia:

1. an investment firm which has been authorised by the Agency;

2. an investment firm with a registered office in a Member State, other than a credit institution or financial institution, which sets up, in accordance with the provisions of this Act, a branch in the Republic of Croatia or is authorised to provide investment services and perform investment activities in the Republic of Croatia directly;

3. a branch of an investment firm with a registered office in a third country, which has been authorised by the Agency.

(2) In addition to the undertakings referred to in paragraph 1 of this Article, the following undertakings may also provide investment services and perform investment activities:

1. a credit institution authorised by the Croatian National Bank;

2. a credit institution or financial institution from a Member State, which sets up, in accordance with the provisions of the act regulating establishment and operation of credit institutions, a branch in the Republic of Croatia, or is authorised to provide financial services in the Republic of Croatia directly;

3. a branch of a credit institution with a registered office in a third country, which has been authorised by the Croatian National Bank;

(3) In the Republic of Croatia, investment services described in Article 5, paragraph 1 point 8, may also be provided by a market operator meeting the conditions stipulated by this Act;

(4) Apart from the persons referred to in paragraphs 1 to 3 of this Article, no other person is permitted to provide investment services or perform investment activities in the Republic of Croatia;

(5) Paragraph 4 of this Article shall not apply to the persons referred to in Article 9 of this Act as regards the transactions and activities to which the exemptions specified in Article 9 of this Act relate.

Article 7

(1) By way of derogation from the provisions of Article 6, paragraph 4, of this Act, the investment services referred to in Article 5, paragraph 1, points 4 and 5, of this Act may also be provided by management companies of open-end investment funds with public offer in accordance with the provisions regulating the conditions for establishment and operation of open-end investment funds with public offer and of management companies of open-end investment funds with public offer.

(2) The following provisions of this Act shall apply accordingly to management companies of open-end investment funds with public offer which provide the investment services referred to in Article 5, paragraph 1, points 4 and 5, of this Act:

1. the provisions of Article 9, paragraph 2, of this Act;

2. the provisions of Article 31 to 35 of this Act, relating to the initial capital;

3. the provisions of Article 36 to 43 of this Act, relating to the organisational requirements;

4. the provisions of Article 53 to 71 of this Act, relating to the conduct of business obligations;

5. the provisions of Articles 82 to 84 of this Act

6. the provisions of Articles 222 to 246 of this Act, relating to the investors compensation,

7. the provisions of Articles 247 to 279 of this Act, relating to supervision of provision of investment services

Article 8

The following provisions shall apply accordingly to credit institutions providing investment services and performing investment activities:

1. Article 9, paragraph 2, of this Act;

2. the provisions of Articles 222 to 246 of this Act, relating to the investors compensation,

3. the provisions of Articles 36 to 43 of this Act, relating to the organisational requirements,

4. the provisions of Articles 119 to 135 of this Act,

5. the provisions of Articles 53 to 135 of this Act;

6. the provisions of Articles 141, 147, 152, 153 and 154 of this Act;

7. the provisions of Articles 249, 250, 555, 556, 558 and 560 of this Act;

Article 9

Exemptions

(1) The provisions of Part 2 of this Act relating to the provision of investment services and performance of investment activities shall not apply to:

1. insurance and reinsurance undertakings;

2. persons which provide investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;

3. persons providing investment services where such services are provided in an incidental manner in the course of a professional activity and that activity is regulated by legal or regulatory provisions or a code of ethics governing the profession which do not exclude the provision of these investment services;

4. persons who do not provide any investment services or activities other than dealing on own account unless they are market makers or deal on own account outside a regulated market or an MTF on an organised, frequent and systematic basis by providing a system accessible to third parties in order to engage in dealings with them;

5. persons which provide investment services consisting exclusively in the administration of employee-participation schemes;

6. persons which provide investment services which only involve both administration of employee-participation schemes and the provision of investment services exclusively for their parent undertakings or for other subsidiaries of their parent undertakings;

7. the members of the European System of Central Banks and other national bodies performing similar functions and other public bodies charged with or intervening in the management of the public debt;

8. collective investment undertakings and pension funds, and the depositaries and managers of such undertakings;

9. persons dealing on own account in financial instruments, or providing investment services in the commodity derivatives or derivative contracts referred to in Article 2, paragraph 1, point 2, sub-point (d), indent 7, of this Act to the clients of their main business, provided this is an ancillary activity to their main business, when considered on a group basis, and that main business is not the provision of investment services and performance of investment activities within the meaning of this Act or the act regulating establishment and operation of credit institutions;

10. persons providing investment advice in the course of performing another activity within the framework of their regular occupation or business not covered by the provisions of this Act which relate to provision of investment services and performance of investment activities, provided that the provision of such advice is not specifically remunerated;

11. persons whose main business consists of dealing on own account in commodities and/or commodity derivatives, except where they are part of a group the main business of which is the provision of other investment services pursuant to this Act or banking services under the act governing establishment and operation of credit institutions;

12. persons which have the status of a local firm pursuant to this Act.

(2) The rules for the provision of investment services and performance of investment activities laid down in this Act shall not apply to the provision of services in the capacity of a counterparty in transactions carried out by government bodies, public bodies dealing with public debt or by members of the European System of Central Banks performing their tasks as provided for by the Treaty establishing the European Community and the Statute of the European System of Central Banks and of the European Central Bank or performing equivalent functions under national provisions.

(3) The Agency shall, by virtue of an ordinance, define the criteria for determining when an investment service and activity is to be considered as ancillary to the main business in the cases prescribed by points 3, 9 and 11 of paragraph 1 of this Article.

(4) The provisions of Part 2 of this Act on the financial instruments market shall not apply to the Zagreb Money Market (Tržište novca d.d. Zagreb).

Subsection 1

Establishment of investment firms

Article 10

(1) An investment firm shall be established and operate as a limited-liability company or a joint-stock company in accordance with the provisions regulating establishment and operation of companies unless otherwise provided by this Act.

(2) An investment firm may also be established as a Societas Europea (SE) with a registered office in Republic of Croatia.

(3) The Agency shall keep a register of the firms referred to in Article 6 of this Act which have been authorised by the competent authorities for the provision of investment services and performance of investment activities referred to in Article 5 of this Act.

(4) The companies referred to in Article 7, paragraph 1, of this Act shall also be entered in the register referred to in paragraph 3 above.

(5) The Agency shall, by virtue of an ordinance, specify prescribe the contents, form and the method of keeping of the register referred to in paragraph 3 above.

Professional activity of the investment firm

Article 11

(1) In the Republic of Croatia, an investment firm may provide the investment services and perform the investment activities and related ancillary services listed in Article 5, paragraphs 1 and 2, of this Act subject to prior authorisation by the Agency and provided that such services and activities have been entered in the court register as the firm’s professional activity.

(2) An investment firm may not carry on other activities, apart from the activities referred to in paragraph 1 of this Article.

(3) A company whose title contains the words “investment firm” or derivatives thereof may not be entered in the court register if the legal person in question has not obtained authorisation from the Agency for the provision of investment services and performance of investment activities.

Obligation to notify the Agency

Article 12

(1) The investment firm shall permanently comply with the conditions under which it has been authorised by the Agency.

(2) The investment firm shall notify the Agency, within eight days, of any change of the data given in the application for authorisation.

Requirements and procedures for issuance of authorisation

Article 13

(1) An investment firm shall obtain authorisation from the Agency.

(2) Authorisation shall be issued for an indefinite period, it may not be transferred to another person and shall not apply to a legal successor.

(3) Application for the authorisation shall be submitted by the founders or management board of the investment firm.

(4) The authorisation referred to in paragraph 1 above shall contain authorisation for the provision of the investment services and performance of the investment activities listed in Article 5, paragraph 1, of this Act in respect of which the investment firm has submitted application and meets the requirements set out in this Act and regulations adopted pursuant to this Act.The application of the investment firm must contain a designation as to whether it relates to the provision of investment services and performance of investment activities involving all financial instruments or only specific ones.

(5) The authorisation referred to in paragraph 1 above may also include authorisation for the provision of one or more ancillary services mentioned in Article 5, paragraph 2, of this Act, which are related to the investment services and activities referred to in Article 5, paragraph 1, of this Act for which the investment firm has been authorised.

(6) The authorisation referred to in paragraph 1 above shall contain a designation as to whether the investment firm is authorised to hold money and/or financial instruments of its clients.

(7) Authorisation shall in no case be granted to the investment firm solely for the provision of the ancillary services referred to in Article 5, paragraph 2, of this Act.

(8) Prior to entry of the establishment of the investment firm in the court register, and prior to any later entry of the investment services and activities and related ancillary services subsequently applied for in respect of all financial instruments or only specific ones, the investment firm must obtain authorisation or an extension of the authorisation.

(9) The Agency shall specify, by virtue of an ordinance, the contents of the application for issuance of authorisation to an investment firm, the documents that must accompany the application, as well as the contents of such documents.

(10) Authorisation granted by the Agency shall be valid on the territory of Member States and shall enable investment firms to provide investment services and perform investment activities and related ancillary services directly or through a branch.

Extension of authorisation

Article 14

(1) After it has been granted the authorisation referred to in Article 13 of this Act, an investment firm may submit a request for extension of its authorisation for the provision of additional investment services or activities or related ancillary services, as referred to in Article 5 of this Act, not foreseen at the time of initial authorisation as well related to financial instruments on which already granted authorisation does not apply.

(2) The provisions of this Act relating to authorisation shall analogously apply to the extension of authorisation. The request for extension of authorisation shall be submitted by the management board of the investment firm.

Article 15

(1) The request for authorisation may also be submitted by a joint-stock company or a limited-liability company which has already been set up, whereby the request for authorisation shall be submitted by the management board.

(2) The company referred to in paragraph 1 above must obtain authorisation prior to entry of the change of the company's professional activity in the court register.

Article 16

(1) A credit institution may provide the investment services and perform investment activities and related ancillary services referred to in Article 5, paragraphs 1 and 2, of this Act for which it has been authorised by the Croatian National Bank.

(2) The Croatian National Bank shall issue the authorisation referred to in paragraph 1 of this Article subject to prior approval of the Agency which must satisfy itself that the requirements for provision of the investment services and performance of the investment activities and related ancillary services referred to in Article 5, paragraphs 1 and 2, of this Act have been met.

(3) At the request of a credit institution, the Agency shall issue the prior approval referred to in paragraph 2 of this Article if the credit institution in question meets the requirements laid down in the provisions of Article 30, Articles 36 to 43 and Articles 119 to 135 of the Act.

(4) The Agency shall decide on the application for issuance of prior approval within 60 days of the date of receipt of a duly submitted application.

(5) The provisions of Article 17 of this Act shall apply accordingly to issuance of prior approval to a credit institution.

(6) For the purpose of issuance of the approval referred to in paragraph 5 above, the words "credit institution" shall be used accordingly instead of the words "investment firm" in Article 30, Articles 36 to 43 and Articles 119 to 135 of the Act. Articles 119 to 135 of the Act shall apply only in the case when a credit institution submits an application for operation of an MTF as well.

Decision-making regarding applications for authorisation

Article 17

(1) The Agency shall grant authorisation to an investment firm if the latter has satisfied the conditions relating to:

1. form, shares and initial capital of the firm;

2. acquisition of qualifying holdings for all holders of qualifying holders and close links;
3. issuance of approval to the members of the management board;

4. organisational requirements;

5. membership of an investor compensation scheme.

(2) If the application for authorisation relates to provision of the services referred to in Article 5, paragraph 1, point 8, of this Act, the Agency shall issue authorisation if the investment firm satisfies the requirements laid down in Articles 119 to 135 of the Act in addition to the requirements referred to in paragraph 1 of this Article.

(3) The Agency shall decide on the application referred to in Article 13, paragraph 3, of this Act within six months of the date of receipt of a duly submitted application. An application will be regarded as duly submitted if, pursuant to the provisions of the ordinance referred to in Article 13, paragraph 10, of this Act, it contains all required pieces of information and if it is accompanied by all required documents.

(4) If the applicant does not correct, within the period determined by the Agency, the deficiencies in respect of the application in accordance with the notification received from the Agency, the applicant shall be regarded as having renounced the application.

(5) If an investment form does not comply with all requirements for provision of some of the investment services and performance of some of the activities and related ancillary services to which its application for authorisation relates, the Agency may restrict the scope of authorisation to those investment services, activities and related ancillary services in relation to which the firm complies with the requirements set out in this Act.

Merging decision-making procedures concerning granting of authorisation

Article 18

At the time of granting of authorisation to an investment firm, the Agency may also decide on the following applications:

1. the investment firm’s application for authorisation;

2. application by the holders of qualifying holders for approval for acquisition of a qualifying holding in the investment firm;

3. application for issuance of approval for a member of the management board of the investment firm.

Lapse of authorisation

Article 19

(1) The authorisation shall lapse:

1. if the investment firm does not commence providing investment services and performing investment activities within 12 months of the date of issuance of authorisation, on expiry of the period of 12 months;

2. if the investment firm does not provide for six months in a row any investment services or perform any investment activity for which the authorisation has been granted, on expiry of the period of six months;

3. at the request of the investment firm, upon delivery of the decision issued by the Agency;

4. upon delivery of the Agency's decision on withdrawal of the authorisation issued to the investment firm;

5. in the case of a credit institution, upon delivery of the decision on withdrawal of authorisation issued to a credit institution, or from the date of lapse of authorisation by virtue of law, in accordance with the act governing establishment and operation of credit institutions;

6. as of the date of opening of bankruptcy proceedings;

7. as of the date of closure of liquidation proceedings;

(2) In the event that the situation referred to in point 1 or point 2 of paragraph 1 of this Article arises, the Agency shall take a decision establishing that the granted authorisation has lapsed.

(3) The Agency shall notify stock exchange, central clearing depositary agency, central register operator and clearing and settlement system operator, of the lapse of authorisation referred in paragraph 1. to 3. of this Article, when it is applicable.

Status changes of investment firms

Article 20

(1) If an investment firm is involved in the process of merger or division of the firm, it must obtain authorisation from the Agency for such merger or division.

(2) The provisions of this Act relating to issuance of authorisation to an investment firm shall apply accordingly to decision-making concerning issuance of authorisation for merger or division of the firm.

(3) If a new firm is formed as a result of merger or division of an investment firm, which will provide investment services and/or perform investment activities, that firm must obtain authorisation from the Agency prior to entry of the merger or division in the court register.

(4) Paragraphs 1 to 3 of this Article shall apply analogously to other status changes an investment firm is undergoing.

Subsection 2

Management board of an investment firm

Article 21

(1) An investment firm shall have at least two members of the management board who effectively direct the business and jointly represent the investment firm. One member of the management board shall be appointed as the president of the management board.

(2) By way of derogation from paragraph 1 of this Article, the management board of an investment firm which is not authorised to hold money and financial instruments of their clients may have one member only. In that case, investment firm shall establish additional measures and procedures that will ensure sound and prudent management of the investment firm. If that investment firm has more members of the management board, paragraph 1. of this Article shall apply analogously.

(3) Members of the management board direct the business and jointly represent the investment firm, unless the foundation act of investment firm prescribes otherwise.

(4) The members of the management board of the investment firm must be of sufficiently good repute and must have the required professional qualifications and be sufficiently experienced so as to ensure the sound and prudent management of the investment firm.

(5) The members of the management board of the investment firm shall direct the business of the investment firm on a full-time basis and on the basis of employment with the investment firm.

(6) At least one member of the management board must be fluent in Croatian.

(7) The members of the management board of the investment firm shall direct the business of the investment firm from the territory of the Republic of Croatia.

(8) Management board of the investment firm may authorise a person with special purpose power of attorney (prokurist) to direct the business of the investment firm or to conclude the contract and carry out legal actions on behalf and for the account of the investment firm, jointly with at least one member of the management board of the investment firm.

(9) Accompany with the entrance of the person with special purpose power of attorney (prokurist) in the court register, management board of the investment firm shall enter all limitations of that special purpose power of attorney (prokura).

(10) Requirements that has to fulfil the person to whom the special commercial proxy (prokura) is given, means and modes of granting the special commercial proxy, the scope of the authority, including all limits in undertaking certain actions by special commercial proxy, shall be determined by the foundation act of investment firm.

(11) In the case that the investment firm is managed by the board of directors, the board shall appoint at least two executive directors. The provisions of this Act and the regulations adopted on the basis of this Act relating to the members of the management board of the investment firm shall apply analogously to executive directors.

(12) By virtue of an ordinance, the Agency shall specify in more detail the requirements which must be met by the members of the management board of the investment firm, as well as the contents of the application for issuance of approval for the position of a member of the management board, the documents that must accompany the application and the contents of the documents.

Approval for appointment

Article 22

(1) A person may be appointed member of the management board of the investment firm only subject to prior approval of the Agency.

(2) Application for issuance of the approval referred to in paragraph 1 of this Article shall be submitted by the members or by the supervisory board of the investment firm, who shall apply for a maximum term of office of five years.

(3) The applicants referred to in paragraph 1 of this Article shall enclose with their application proof of compliance with the requirements set out in Article 21 of this Act and the ordinance referred to in Article 21, paragraph 12, of this Act.

(4) In the course of decision-making concerning issuance of the approval referred to in paragraph 1 of this Article, the Agency may require the candidate for the member of the management board of the investment firm to present the investment firm management programme.

(5) The person who has obtained approval of the Agency for the position in one investment firm shall re-apply to the Agency and obtain its approval prior to his/her appointment to the same position in another investment firm.

(6) The Agency shall refuse approval for the appointment of a member of the management board if:

1. the person proposed does not meet the requirements set out in Article 21 of this Act and the ordinance referred to in Article 21, paragraph 12, of this Act;

2. the Agency has objective and demonstrable grounds for believing that the activities or business the person engages in or has engaged in pose a threat to the management of the investment firm in accordance with the risk management rules referred to in Chapter 9 of this Title;

3. if the application for issuance of approval contains false statements or information.

Withdrawal and lapse of approval for appointment of a member of the management board

Article 23

(1) The Agency shall withdraw the approval issued to a member of the management board in the following cases:

1. if the member of the management board no longer meets initial conditions under which the approval was granted;

2. if the member of the management board repeatedly fails to meet the obligation to establish and evaluate efficiency of the policies, measures or internal procedures aimed at establishing all the necessary arrangements for the investment firm to comply with this Act or if he/she fails to meet the obligation to undertake relevant actions with a view to eliminating irregularities in the operation of the investment firm;

3. if the approval has been granted on the basis of false information.

(2) If the Agency withdraws approval issued to a member of the management board, the investment firm is obliged to take, without delay, a decision to recall that member of the management board.

(3) In the case referred to in paragraph 2 above, the founders or the supervisory board shall appoint their replacements, without the Agency’s consent, for a maximum term of three months.

(4) Approval issued to a member of the management board of the investment firm shall lapse if:

1. the person is not appointed to or does not assume the office to which the approval relates within 12 months of the date of issuance of the approval;

2. the person’s term of office to which the approval relates expires, as of the date of expiry of the term of office;
3. the person’s contract of employment with the investment firm expires, as of the date of expiry of the contract.

Subsection 3

Brokers and investment advisers

Article 24

(1) A broker is an employee of an investment firm who performs, on the basis of authorisation issued by the Agency, the activities covered by the investment services referred to in Article 5, paragraph 1, points 1 and 2, of this Act.

(2) An investment adviser is an employee of an investment firm and who performs, on the basis of authorisation issued by the Agency, the activities covered by the investment services referred to in Article 5, paragraph 1, points 1, 2, 4 and 5, of this Act, and an employee of management company of open-end investment funds with public offer who performs, on the basis of authorisation issued by the Agency, the activities covered by the investment services referred to in Article 5, paragraph 1, points 4 and 5, of this Act.

(3) The broker and investment adviser must be of sufficiently good repute and must have the required professional qualifications.

(4) The Agency is authorised to organize and implement training programme and run professional examinations in order to ensure that the candidates are capable of performing the activities referred to in paragraphs 1 and 2 of this Article, and to issue certificates thereof.

(5) The Agency shall specify, by virtue of an ordinance, the programme and the method of running of the professional examination referred to in paragraph 4 of this Article.

(6) The Agency may recognize the certificate issued by a foreign authority as a certificate equivalent to the one referred to in paragraph 4 of this Article.

(7) The Agency shall specify, by virtue of an ordinance, the conditions under which the authorisations referred to in paragraphs 1 and 2 of this Article are issued, as well as the contents of the application for issuance of the authorisation, the documents which must accompany the application, as well as the contents of such documents.

(8) The persons who have not obtained authorisation from the Agency are not permitted to perform the activities referred to in paragraphs 1 and 2 of this Article.

(9) The Agency shall keep the register of brokers and investment advisers.

(10) The Agency shall specify, by virtue of an ordinance, the contents, method and form of keeping of the register referred to in paragraph 9 of this Article.

Article 25

(1) The Agency shall, at the request of the natural person referred to in paragraph 1 or paragraph 2 of Article 24 of this Act, issue authorisation for performance of the activities covered by the investment services listed in Article 5, paragraph 1, points 1 and 2, of this Act (authorisation for the position of a broker), or of the activities covered by the investment services listed in Article 5, paragraph 1, points 1, 2, 4 and 5, of this Act (authorisation for the position of an investment adviser). The Agency shall issue the authorisation referred to in this paragraph if the natural person meets all the requirements laid down in Article 24 of this Act and in the ordinance referred to in paragraph 7 of Article 24 of this Act.

(2) The provisions of Article 17 of this Act shall apply analogously to issuance of authorisation to a broker and an investment adviser.

Standards of professional conduct for brokers and investment advisers

Article 26

(1) In performing the activities related to investment services provided by investment firms to clients, brokers and investment advisers shall act in compliance with:

1. the provisions of this Act and the regulations adopted on the basis of this Act; and

2. professional rules and standards.

(2) An investment adviser is not permitted to recommend buying or selling of financial instruments solely for the purpose of earning commission.

Withdrawal of authorisation from brokers and investment advisers

Article 27

(1) The Agency shall withdraw authorisation issued to a broker or an investment adviser if:

1. the broker or investment adviser is convicted by final judgement of a criminal act or acts adversely affecting the property, security of payment transactions and operations, or calling into question authenticity of documents, or involving abuse of authority in performing economic activities, or of any criminal act as provided for by this Act, or if a security measure has been imposed banning him/her from pursuing the occupation which is entirely or partly covered by the main activity of the investment firm

2. he/she has been found guilty of an offence under Article 568 paragraph 1 number 10 of this Act;

3. he/she has seriously infringed the provisions of this Act and provisions of the regulations adopted on the basis of this Act;

4. he/she no longer meets initial requirements on the basis of which the authorisation was granted and fails to meet these requirements within the time limit determined, where appropriate, by the Agency.

5. it establishes that the authorisation has been granted on the basis of false information;

(2) The Agency may withdraw authorisation issued to a broker or an investment adviser if in spite of warnings of the Agency, he/she keeps violating regulations of the stock exchange or an MTF operator;

(3) By virtue of a decision on withdrawal of the authorisation issued to a broker of investment adviser, the Agency shall fix the period within which the broker or investment adviser may not reapply for authorisation, such period amounting to between a minimum of three months to a maximum of five years.

(4) Gross violation of the provisions referred to in paragraph 1, point 5, of this Article shall be deemed to be any of the following situations:
1. when a broker or investment adviser infringes the same provisions of this Act or the provisions adopted on the basis of this Act for the second time within a period of three years;

2. when a client or another person suffers damage or loss because of infringement of the provisions of this Act or the provisions adopted on the basis of this Act, pursuant to the separate decision of an Agency.

(5) The Agency shall caution the broker or investment adviser if he/she violates the provisions of Article 26, paragraph 1, of this Act, but the conditions under which the authorisation is to be withdrawn are not in place.

Subsection 4

Shareholders and members with qualifying holdings

Article 28

(1) At the time of submission of application for issuance of the authorisation as an investment firm referred to in Article 13, paragraph 1, of this Act, the applicant shall submit to the Agency the information on the identities of the shareholders or members of the investment firm, whether direct or indirect, that have qualifying holdings, amounts of those holdings and the additional documents specified by the ordinance referred to in Article 50, paragraph 4, of this Act.

(2) The provisions of Article 50 of this Act shall apply accordingly to the application referred to in paragraph 1 of this Article.

Close links

Article 29

(1) Where close links exist between the investment firm and other natural or legal persons, the Agency shall issue authorisation as an investment firm only if those links do not prevent the effective exercise of the supervision of the investment firm.

(2) The Agency shall refuse authorisation if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the undertaking has close links, or implementation and enforcement of such laws, regulations or administrative provisions prevent the effective exercise of supervision of the investment firm.

Subsection 5

Membership of the Investor Compensation Scheme

Article 30

Membership of the Investor Compensation Scheme, pursuant to Articles 222 to 246 of this Part of the Act, is obligatory for the following firms with a registered office in the Republic of Croatia, which provide the investment services and perform the activities listed in Article 5, paragraph 1, of this Act when these firms are authorised to hold money and/or financial instruments of clients, and when they perform the ancillary investment services referred to in Article 5, paragraph 2, point 1, of this Act:

1. investment firms;

2. credit institutions which provide investment services and perform investment activities on the basis of the act that governs establishment and operation of credit institutions;

3. management companies of open-end investment funds with public offer when they provide the investment services referred to in Article 5, paragraph 1, points 4 and 5, of this Act.

Subsection 6

Initial capital of an investment firm

Article 31

(1) The level of initial capital of an investment firm depends on the type and scope of investment services and activities in respect of which the investment firm applies for authorisation of the Agency.

(2) Initial capital of an investment firm must be fully paid up in cash and the shares that constitute the initial capital may not be issued before full amount at which they are issued is paid. When investment firm is established as a limited-liability company, amount of initial holdings must be fully paid up in cash before entering in the court register.

Article 32

(1) An investment firm which is authorised for the provision of one or more investment services referred to in Article 5, paragraph 1, points 1, 2 or 4, of this Act and which holds clients' money and/or financial instruments, and is not authorised for the provision of the investment services and performance of the investment activities referred to in Article 5, paragraph 1, points 3 and 6, must have a initial capital amounting to at least HRK 1 million.

(2) An investment firm which is authorised for execution of clients' orders for financial instruments may hold such instruments for its own account if all the following conditions are met:

1. such positions arise only as a result of the firm's failure to match clients' orders precisely;

2. the total market value of all such positions is subject to a ceiling of 15% of the firm's initial capital;

3. the investment firm meets the requirements laid down in Articles 176 to 178 and Articles 193 to 200 of this Act; and

4. such positions are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.

The investment firm's holding of non-trading-book positions in financial instruments in order to invest own funds shall not be considered as dealing in relation to the services set out in paragraph 1 and paragraph 3 of this Article.

(3) When the investment firm referred to in paragraph 1 of this Article is not authorised to hold clients' money and/or financial instruments, its initial capital must amount to at least HRK 400 000.

Article 33

Local firms, insofar as they benefit from the freedom of establishment or to provide services specified in this Act, shall have initial capital of at least HRK 400 000.

Article 34

(1) Investment firms which are only authorised to provide the services referred to in Article 5, paragraph 1, points 1 and 5, without holding money and/or financial instruments belonging to their clients and which for that reason may not at any time place themselves in debt with those clients shall have:

1. initial capital of at least HRK 400 000; or

2. professional indemnity insurance representing at least HRK 8 million applying to each claim and in aggregate HRK 12 million per year for all claims; or

3. a combination of initial capital and professional indemnity insurance in a form resulting in a level of coverage equivalent to that referred to in points 1 or 2 of this paragraph.

(2) The firm which is also registered, in addition to the activities referred to in paragraph 1, for insurance mediation as defined by the provisions governing the conditions for establishment and operation of insurance undertakings, shall have:

1. initial capital of at least HRK 200 000; or

2. professional indemnity insurance representing at least HRK 4 million applying to each claim and in aggregate HRK 6 million per year for all claims; or

3. a combination of initial capital and professional indemnity insurance in a form resulting in a level of coverage equivalent to that referred to in point 1 or point 2 of this paragraph.

Article 35

All investment firms other than those referred to in Articles 31 to 34 of this Act shall have initial capital of at least HRK 6 million.

Subsection 7

Organisational requirements for investment firms

General organisational requirements

Article 36

Investment firms shall, taking into account the nature, scale and complexity of their business, and the nature and range of the investment services they provide and the activities they perform, establish, implement and maintain:

1. organisational structure with clearly defined, transparent and consistent lines of responsibility;

2. adequate internal control system;

3. effective strategies and procedures designed to establish, manage, monitor and report the risks to which they are or could be exposed in the course of provision of investment services and performance of investment activities;

4. adequate administrative and accounting procedures;
5. effective measures for supervision and protection of their information systems.

Monitoring compliance with relevant rules and regulations

Article 37

An investment form shall establish and implement adequate policies and procedures sufficient to ensure:

1. compliance of the investment firm with its obligations under the provisions of this Act and regulations adopted on the basis of this Act;

2. compliance of the members of the management board or executive directors of the investment firm, its employees and tied agents with the provisions of point 1 of this Article in the course of provision of investment services and performance of investment activities, as well as appropriate rules governing personal transactions in financial instruments, as laid down in the ordinance pursuant to Article 43 of this Act.

Measures for prevention of conflicts of interest

Article 38

An investment firm shall implement effective organisational and administrative measures and procedures with a view to taking all reasonable steps designed to prevent conflicts of interest as defined in Article 53 of this Act, which may arise in the course of provision of investment services and performance of investment activities or related ancillary services, and may adversely affect the interests of its clients.

Business continuity

Article 39

(1) An investment firm shall take reasonable steps to ensure continuity and regularity in the performance of investment services and activities.

(2) In order to achieve the purpose referred to in paragraph 1 above, the investment firm shall employ appropriate systems, resources and procedures which are proportionate to the nature and range of the investment services and activities performed.

Outsourcing

Article 40

(1) An investment firm shall ensure, when relying on a third party for the performance of operational functions which are critical for the provision of continuous and satisfactory service to clients or the performance of investment activities on a continuous and satisfactory basis, that it takes reasonable steps to avoid undue additional operational risk.

(2) An investment firm may not outsource important operational functions in such a way as to impair materially the quality of its internal control and the ability of the supervisory authority to monitor the firm's compliance with all obligations in accordance with this Act.

Keeping of business records

Article 41

(1) An investment firm shall keep and preserve records of all investment services and activities, as well as transactions undertaken by it in such a manner as to enable supervision of the business in accordance with Article 37 of this Act, and in particular to ascertain that the investment firm has complied with all obligations with respect to clients and potential clients.

(2) An investment firm shall organise its operations and keep orderly business documents and other administrative and business records in a way that it is possible at any time to check the course of a transaction it has made for its own account or for a client's account.

(3) An investment firm shall keep all records documenting the transactions in respect of each individual client separate from the records concerning transactions in respect of other clients and from the records concerning its own operations.

(4) An investment firm shall protect all business records from unauthorised access and possible loss of records, and preserve in a way that ensures durability of records.

(5) An investment firm shall preserve, for a minimum period of 5 years from the end of the year in which a transaction is entered into, all records and information on all transactions in financial instruments which it makes for either its own account or for a client's account.

(6) In the case of branches of investment firms from another Member State the obligation laid down in this Article with regard to transactions undertaken by the branch shall apply.

Safeguarding of clients assets

Article 42

(1) An investment firm shall, when holding financial instruments belonging to clients, make adequate arrangements so as to:

1. safeguard clients' ownership rights, especially in the event of the investment firm's insolvency;

2. prevent the use of a client's financial instruments on own account or for the account of other clients, except with the client's express consent.

(2) The client shall give his/her consent referred to in paragraph 1, point 2, of this Article in writing as a general consent for a certain type of transactions involving use of a client's financial instruments or a single consent for a specific use of a client's financial instruments.

(3) An investment firm shall, when holding funds belonging to clients, make adequate arrangements so as to:

1. safeguard the clients' rights;

2. prevent the use of client funds for its own account or for the account of other clients of the investment firm.

(4) The provisions of paragraph 3 of this Article shall apply analogously to credit institutions.

(5) Funds and financial instruments belonging to clients are neither the property of the investment firm or part of its assets, or of liquidation- or bankruptcy estate, nor can they be used in the enforcement proceedings in connection with claims against the investment firm.

Article 43

The Agency shall specify in more detail, by virtue of an ordinance, organisational requirements for the provision of investment services and performance of investment activities and related ancillary services with respect to:

1. monitoring compliance with relevant rules and regulations;
2. risk management;
3. measures designed to prevent conflicts of interest;
4. business continuity measures;
5. outsourcing;
6. keeping and preservation of business records;
7. safeguarding of property of the investment firm's clients;
8. personal transactions of relevant persons;
9. additional organisational requirements for the investment firms which conduct and distribute investment researches.

Section 2

Change of holders of qualifying holdings in an investment firm

Article 44

(1) Any natural or legal person or such persons acting in concert (hereinafter referred to as the proposed acquirer) who intend either to acquire, directly or indirectly, a qualifying holding in an investment firm or to further increase, directly or indirectly, such a qualifying holding in an investment firm as a result of which the proportion of the voting rights or of the capital held would reach or exceed 20%, 30% or 50% or so that the investment firm would become its subsidiary (hereinafter referred to as the proposed acquisition), shall first submit an application in writing to the Agency.

(2) The application referred to in paragraph 1 of this Article shall contain the information on:

1. the size of the intended holding;

2. the relevant documents, as referred to in Article 50, paragraphs 3 and 4, of this Act.

Article 45

(1) Any natural or legal person who intends to dispose, directly or indirectly, of a qualifying holding in an investment firm, shall notify the Agency in writing, indicating the size of the holding he/she/it intends to dispose of.

(2) The person referred to in paragraph 1 of this Article shall likewise notify the Agency if he/she/it intends to reduce his/her/its qualifying holding so that the proportion of the voting rights or of the capital held would fall below 20%, 30% or 50% or so that the investment firm would cease to be a subsidiary of that person.

Article 46

In determining the size of a qualifying holding in an investment firm, the Agency shall not take into account voting rights or shares which an investment firm or a credit institution may hold as a result of providing the investment services referred to in Article 5, paragraph 1, point 6, of this Act, provided that those rights are not exercised or otherwise used to intervene in the management of the issuer, that is, the investment firm, and that the shares to which voting rights are attached are disposed of within one year of acquisition.

Article 47

(1) The Agency shall co-operate with other competent authorities when carrying out the assessment provided for in Article 50 of this Act, if the proposed acquirer is one of the following:

1. a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm, management company of open-end investment funds with public offer authorised in another country or in a sector other than that in which the acquisition is proposed;

2. the parent undertaking of the entities referred to in point 1 of this paragraph;

3. a natural or legal person controlling the entities referred to in point 1 of this paragraph.

(2) The Agency shall, without undue delay, in co-operation with other competent authorities:

1. provide another competent authority, whenever it deems necessary, with any information which is essential for the assessment provided for in Article 50 of this Act;

2. communicate to another competent authority upon the latter’s request all the information which is essential for the assessment provided for in Article 50 of this Act.

(3) If the competent authority responsible for the proposed acquirer expresses its opinion as to the information referred to in paragraph 2 of this Article, the Agency shall take such opinion into account in taking a decision concerning the proposed acquisition of a qualifying holding.

Article 48

(1) The Agency shall promptly and in any event within two working days following receipt of the application referred to in Article 44, paragraph 1, of this Act, as well as following possible subsequent receipt of any additional information referred to in Article 49 of this Act, acknowledge receipt thereof in writing to the proposed acquirer, indicating the date of expiry of the assessment period.

(2) The Agency shall carry out the assessment referred to in Article 50 of this Act within sixty working days of the date when the proposed acquirer receives the written acknowledgement of receipt referred to in paragraph 1 of this Article (hereinafter referred to as the assessment period).

Article 49

(1) The Agency may, during the assessment period, if necessary, and no later than on the 50th working day of the assessment period, request any further information that is necessary to complete the assessment. The Agency shall make such request in writing and shall specify the additional information needed.

(2) The assessment period shall be interrupted for the period between the date of request by the Agency for the information referred to in paragraph 1 above and the receipt of a response thereto from the proposed acquirer, whereby the interruption shall not exceed 20 working days.

(3) Upon expiry of the period referred to in paragraph 2 above, the Agency may make further requests for completion or clarification of the information, but this may not result in an interruption of the assessment period.

(4) The Agency may extend the interruption referred to in paragraph 2 of this Article up to 30 working days if the proposed acquirer is:

1. situated or regulated outside of Republic of Croatia;

2. situated or regulated outside a Member State;

3. a natural or legal person not subject to supervision under this Act or the provisions governing establishment and operation of open-end investment funds with public offer, insurance undertakings and credit institutions.

(5) If the Agency decides to oppose the proposed acquisition, it shall within the assessment period inform the proposed acquirer in writing and provide the reasons for that decision.

(6) The Agency may publish an appropriate statement of the reasons for the decision referred to in paragraph 4 on its own initiative or upon request of the proposed acquirer.

(7) If the Agency does not oppose the proposed acquisition within the period and in the manner referred to in paragraph 4, it shall be deemed to be approved.

(8) The Agency may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.

(9) If the proposed acquirer does not acquire the qualifying holding within the period referred to in paragraph 8 of this Article, approval of the Agency shall lapse in its entirety.

Article 50

(1) In assessing the application referred to in Article 44, paragraph 1, and the information referred to in Article 49, paragraphs 1, 2 and 3, in order to ensure the sound and prudent management of the investment firm in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the investment firm, the Agency shall appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition against all of the following criteria:

1. the reputation of the proposed acquirer;

2. the reputation and experience of any person who will direct the business of the investment firm as a result of the proposed acquisition;

3. the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued in the investment firm in which the acquisition of a qualifying holding is proposed;

4. whether the investment firm will be able to comply and continue to comply with the requirements of this Act and other legislation, where applicable, on an individual and consolidated basis, in particular, whether the group of which the investment firm will become a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities, and whether it is possible to determine the allocation of responsibilities among the competent authorities;

5. whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing, within the meaning of the regulations governing money laundering and terrorist financing, has been committed or attempted, or could be committed.

(2)The Agency may oppose the proposed acquisition only if the requirements of paragraph 1 of this Article are not met or if the information provided by the proposed acquirer is incomplete.

(3) The documents required for the assessment, which must be submitted to the Agency with the application referred to in Article 44, paragraph 1, shall be proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition.

(4) The Agency shall specify, by virtue of an ordinance, a list of the documents referred to in paragraph 3 of this Article.

(5) Where two or more proposals to acquire or increase qualifying holdings in the same investment firm have been notified to the Agency, the latter shall treat the proposed acquirers in a non-discriminatory manner.

(6) If an investment firm becomes aware of an acquisition or disposal of a qualifying holding in the investment firm which would exceed or fall below 20%, 30% or 50%, it shall notify the Agency without delay.

(7) Once a year, an investment firm shall submit to the Agency, by 31 March of the current year, a list of names of all shareholders and members possessing holdings or qualifying holdings and the sizes of such holdings as at 1 January of the current year.

Legal consequences of unapproved acquisition and withdrawal of approval for acquisition of a qualifying holding

Article 51

(1) A person who acquires a qualifying holding in an investment firm contrary to the provisions of this Act, shall not be able to exercise voting rights attaching to the shares or holdings acquired that way.

(2) In the case referred to in paragraph 1 of this Article, the Agency shall order that the shares or holdings acquired that way be sold.

(3) The Agency may withdraw its approval for the acquisition of a qualifying holding if:

1. the member possessing a qualifying holding has obtained the approval by giving false statements;

2. the conditions set out in the provisions of this Act on the basis of which the approval for acquisition of a qualifying holding has been granted are no longer met.

(4) In the case referred to in paragraph 3 of this Article, the person from whom the approval for acquisition of a qualifying holding has been withdrawn shall not be able to exercise voting rights attaching to the shares or holdings in respect of which the approval has been withdrawn. In this case, the Agency shall order that the acquired shares or holdings in respect of which the approval for acquisition of a qualifying holding has been withdrawn be sold.

Measures taken by the Agency in the event when the sound and prudent management of an investment firm is challenged

Article 52

(1) Where the influence exercised by the persons possessing qualifying holdings is likely to be prejudicial to the sound and prudent management of an investment firm, the Agency shall be authorised to take appropriate measures to put an end to that situation.

(2) The measures referred to in paragraph 1 of this Article may include, in addition to relevant supervisory measures, application for judicial orders for imposition of temporary measures in connection with acquisition of voting rights attaching to the qualifying holdings possessed by the persons referred to in paragraph 1 of this Article.

Section 3

Operating conditions and protection of clients of investment firms

Subsection 1

Conflicts of interest

Article 53

(1) Investment firms shall take all reasonable steps to identify conflicts of interest which may arise in the course of providing any investment and ancillary services between:

1. the interests of an investment firm, their managers, employees, tied agents or any person directly or indirectly linked to them by control, on one hand, and the interests of their clients on the other hand;

2. the interests of one client and that of another.

(2) Where organisational or administrative arrangements made by the investment firm in accordance with Article 38. to manage conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to client interests will be prevented, the investment firm shall clearly disclose the general nature and/or sources of conflicts of interest to the client before undertaking business on its behalf.

(3) The Agency shall specify, by virtue of an ordinance:

1. the measures to be taken in order to identify, prevent, manage conflicts of interest and/or notify the clients thereof when providing various investment and ancillary services;

2. appropriate criteria for determining the types of conflict of interest whose existence may damage the interests of the clients or potential clients of the investment firm.

Subsection 2

Conduct of business obligations when providing investment services to clients

Article 54

(1) When providing investment services and/or, where appropriate, ancillary services to clients, an investment firm shall act in accordance with the best interest of its clients, fairly and professionally and comply with the provisions of this Act.

(2) The members of the management board, supervisory board, brokers, investment advisers, other employees of the investment firm and tied agents shall safeguard the information on the clients, the balance and transactions in the clients' accounts, the services they provide to the clients, as well as other information and facts they learn in connection with the provision of the investment services and, where appropriate, ancillary services. Such information shall be regarded as confidential and the persons referred to in this paragraph shall neither use them or disclose to third parties nor enable third parties to use them.

(3) The information referred to in paragraph 2 of this Article shall not be treated as confidential when such information is requested by the Agency, stock exchange, judicial and administrative bodies in exercise of their supervisory and other public authorities in accordance with this Act or another act, or when clients authorise disclosure of such information.

Article 55

(1) All information, including marketing communications, addressed by the investment firm to clients or potential clients shall be fair, clear and not misleading.

(2) Marketing communications of investment firms shall be clearly identifiable as such.

Article 56

(1) An investment firm shall provide appropriate information in a comprehensible form to clients or potential clients about:

- the investment firm and its services;

- financial instruments and proposed investment strategies; this should include appropriate guidance on and warnings of the risks associated with investments in those instruments or in respect of particular investment strategies;

- execution venues; and

- costs and associated charges

so that the clients and potential clients are reasonably able to understand the nature and risks of the investment service and of the specific type of financial instrument that is being offered and, consequently, to take investment decisions on an informed basis.

(2) An investment firm may provide the information referred to in paragraph 1 of this Article in a standardised format.

(3) When this Act and the provisions adopted on the basis of this Act provide that an investment firm is obliged to submit information to its clients on a durable medium, the investment firm may submit the information on a durable medium other than paper only if the following conditions are satisfied:

1. a client has provided the investment firm with a legitimate e-mail account;

2. a client has chosen such way of submission of information.

Reporting to clients

Article 57

(1) An investment firm shall send adequate reports to clients on the services provided to them.

(2) The reports referred to in paragraph 1 of this Article shall include, where appropriate, the costs associated with the transactions and services undertaken on behalf of the client.

Record keeping

Article 58

(1) An investment firm shall establish a record that includes the documents agreed between the investment firm and the client that set out the rights and obligations of the parties, and the other terms on which the investment firm will provide services to the client.

(2) The rights and obligations of the parties to the contract may be incorporated by reference to other documents or internal acts of the firm.

Article 59

In cases where an investment service is offered as part of a financial product which is already subject to other provisions of Community legislation or common European standards related to credit institutions and consumer credits with respect to risk assessment of clients and/or information requirements, this service shall not be additionally subject to the obligations set out in this Subsection.

Subsection 3

Client classification

Article 60

An investment firm shall categorise its clients with regard to their knowledge, experience, financial situation and investment objectives as retail and professional clients.

Clients who are regarded as professional clients

Article 61

(1) Professional client is a client who possesses the experience, knowledge and expertise to make his/her/its own investment decisions and properly assess the risks that he/she/it incurs.

(2) The following entities shall be regarded as professionals in providing all the investment services and performing the investment activities referred to in Article 5 of this Act and all related ancillary services in relation to all financial instruments:

1. entities which are required to be authorised and/or regulated by the competent regulatory authority to operate in the financial market:

- investment firms;

- credit institutions;
- other financial institutions authorised by the competent authority in accordance with the provisions governing their operations;

- insurance undertakings;

- collective investment schemes and management companies of such schemes;

- pension funds and management companies of such funds;

- pension insurance undertakings;

- commodity and commodity derivatives dealers;

- local firms;

- other institutional investors whose main activity is not covered by indents 1 to 8 of this paragraph, and which are required to be authorised or regulated to operate in the financial market.

2. Legal persons which, in relation to the previous financial year, meet at least two of the following requirements:

- total assets amounting to HRK 150 million;
- net turnover amounting to HRK 300 million;
- own funds amounting to HRK 15 million.

3. National and regional governments, public bodies that manage public debt, central banks, international and supranational institutions such as the World Bank, the International Monetary Fund, the European Central bank, the European Investment Bank and similar international organisations.

4. Other institutional investors whose main activity is to invest in financial instruments and which are not required to be authorised or regulated by the competent authority to operate in the financial market, including entities established for the purpose of securitisation of assets.

Article 62

(1) An investment firm may provide to professional clients on their request a treatment involving a higher level of protection, as it provides to retail clients.

(2) Where the client of an investment firm is an undertaking which is regarded as a professional client prior to provision of services, the investment firm must inform it that, on the basis of the information available to the firm, such legal person is deemed to be a professional client and will be treated as such.

(3) The investment firm must inform the client that it can request a variation of the terms of the agreement in order to secure, on its request, a higher level of protection.

(4) It is the responsibility of the client, considered to be a professional client, to ask for a higher level of protection when it deems it is unable to properly assess or manage the risks involved.

(5) When a client who is considered to be a professional client pursuant to Article 61 of this Act enters into a written agreement with the investment firm to the effect that it shall not be treated as a professional for the purposes of the applicable conduct of business rules, the investment firm shall provide a higher level of protection to it.

(6) The agreement referred to in paragraph 5 of this Article shall be in writing and shall specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.

Clients who may be treated as professionals on their own request

Article 63

(1) Clients other than those mentioned in Article 61 of this Act may also be treated by an investment firm as professionals, provided the relevant criteria and procedures set out in this Article are fulfilled.

(2) An investment firm may treat the clients referred to in paragraph 1 as professionals only on their own request and provided that an adequate assessment of the knowledge, experience and expertise of the client, undertaken by the investment firm, gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making its own investment decisions and understanding the risks involved. These clients should not, however, be presumed to possess market knowledge and experience comparable to clients mentioned in Article 61 of this Act.

(3) In the course of the assessment referred to in paragraph 2 above, as a minimum, two of the following criteria should be satisfied:

1. the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous 12 months;

2. the size of the client’s financial instrument portfolio exceeds HRK 3.75 million;

3. the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.

(4) The relevant market referred to in point 1 of paragraph 3 is the market where trading takes place in those financial instruments in respect of which a client wants to acquire professional status.

(5) The financial instrument portfolio referred to in point 2 of paragraph 3 shall include both money and financial instruments.

Article 64

(1) The clients referred to in Article 63 of this Act may waive the benefit of a higher level of protection afforded by the conduct of business rules only where the following procedure is followed:

1. they must state in writing that they wish to be treated as a professional client, either generally or in respect of a particular investment service or transaction, or type of transaction or product;

2. the investment firm must give them a written warning of the protections and investor compensation rights they may lose;

3. they must state in writing, in a separate document from the contract, that they are aware of the consequences of losing such level of protection.

(2) Before deciding to accept any request for waiver of the protection afforded by the conduct of business rules, an investment firm must take all reasonable steps to ensure that the client requesting to be treated as a professional client meets the relevant requirements set out in Article 63 of this Act.

Retail clients

Article 65

Clients of the investment firm other than those referred to in Article 61 of this Act shall be regarded as retail clients within the meaning of this Act.

Article 66

(1) Prior to provision of an investment service to a new retail client for the first time, an investment firm shall enter into a written agreement with the client setting out the rights and obligations of the firm and the client.

(2) The rights and obligations referred to in paragraph 1 of this Article may also be incorporated in other legal acts of the investment firm.

(3) The provisions of this Article shall not apply to service described in Article 5 Paragraph 1 point 5 of the Act

Article 67

(1) An investment firm must adopt and implement appropriate internal acts which will specify measures and procedures to categorise clients in accordance with the provisions of this Act and the ordinances issued on the basis of this Act.

(2) Professional clients are responsible for keeping the investment firm informed about any change, which could affect their current categorisation.

(3) Should the investment firm become aware that the client no longer fulfils the initial conditions, which made the client eligible for a professional treatment, it must take appropriate action with a view to changing the client's categorisation.

Conduct of business obligations when providing investment advice or portfolio management

Article 68

(1) When providing investment advice or portfolio management, the investment firm shall obtain the necessary information regarding the client's or potential client's knowledge and experience in the investment field relevant to the specific type of product or service, his/her/its financial situation and his/her/its investment objectives so as to enable the firm to recommend to the client or potential client the investment services and financial instruments that are suitable for him/her/it.

(2) If the investment firm fails to obtain the information referred to in paragraph 1 of this Article, it shall warn the client that it will not be able to provide investment advice or portfolio management.

(3) The investment firm may provide the warning referred to in paragraph 2 of this Article in a standardised format.

Conduct of business obligations when providing other investment services

Article 69

(1) When providing investment services other than those referred to in Article 68 of this Act, an investment firm shall ask the client or potential client to provide information regarding his/her/its knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded so as to enable the firm to assess whether the investment service or product envisaged is appropriate for the client.

(2) In case the investment firm considers, on the basis of the information received under paragraph 1 above, that the product or service is not appropriate to the client or potential client, the investment firm shall warn the client or potential client.

(3) The investment firm may provide the warning referred to in paragraph 2 of this Article in a standardised format.

(4) In cases where the client or potential client elects not to provide the information referred to in paragraph 1 of this Article, or where he/she/it provides insufficient information regarding his/her/its knowledge and experience, the investment firm shall warn him/her/it that such a decision will not allow the firm to determine whether the service or product envisaged is appropriate for him/her/it.

(5) The investment firm may provide the warning referred to in paragraph 4 of this Article in a standardised format.

Article 70

An investment firm shall consider the information received from a client pursuant to Articles 68 and 69 of this Act as credible, except where the firm is aware or should be aware on the basis of all known circumstances that the information is outdated, inaccurate or incomplete.

Conduct of business obligations when receiving and transmitting and/or executing client orders

Article 71

(1) An investment firm may provide to its clients investment services that only consist of reception and transmission and/or execution of orders on behalf of a client with or without ancillary services and without the need to obtain the information or make the assessment referred to in Article 69 of this Act if all the following conditions are met:
1. the services relate to:

- shares admitted to trading on a regulated market or on an equivalent third country market or money market instruments; or

- bonds or other forms of securitised debt, excluding those bonds or securitised debt that embed a derivative; or

- units in open-end investment funds with public offer; or

- other non-complex financial instruments.

2. the service is provided at the initiative of the client or potential client;

3. the client or potential client has been clearly warned that in the provision of these services the investment firm is not required to assess whether the instrument or service provided or offered is suitable for the client and that therefore he/she/it does not benefit from the corresponding protection of the relevant conduct of business rules;

4. the investment firm complies with its obligations under Article 53 of this Act and the ordinances governing conflicts of interest which are adopted on the basis of this Act;

(2) In addition to the financial instruments listed in point 1 of paragraph 1 of this Article, non-complex financial instruments shall also include instruments:

1. other than those covered by Article 3, paragraph 1, point 3, sub-point (c), and Article 3, paragraph 1, point 2, sub-point (d);

2. in respect of which there is a frequent possibility to sell, buy back or otherwise realise them at a price which is publicly available to the market participants and which is either the market price or the price verified by evaluation systems independent of the issuer;

3. which do not include actual or potential liability of a client that exceeds the costs of acquisition of the instrument;

4. in respect of which integral information on their characteristics is publicly available and as such is likely to enable an average retail client to take an informed decision on entering into a transaction in connection with the instrument in question.

(3) The warning referred to in paragraph 1, point 3, of this Article may be provided in a standardised format.

(4) A third country market shall be considered as equivalent to a regulated market if it complies with equivalent requirements to those established under this Act for a regulated market.

(5) For the purposes of point 2 of paragraph 1 of this Article:

- a service shall be considered not to be provided at the initiative of a client in the case when the client demands it in response to a personalised communication from or on behalf of the investment firm to that particular client, which contains an invitation or is intended to influence the client in respect of a specific financial instrument or specific transaction;

- a service shall be considered to be provided at the initiative of the client notwithstanding that the client demands it on the basis of any communication containing a promotion or offer of financial instruments made by any means that by its very nature is general and addressed to the public or a large group or category of clients or potential clients.

Subsection 4

Transactions executed with eligible counterparties

Article 72

Investment firms may provide the investment services and perform the investment activities referred to in Article 5, paragraph 1, points 1, 2 and 3, of this Act to eligible counterparties, without being obliged to comply with the obligations under Articles 54 to 71, Article 82 and Articles 85 to 91 of this Act in respect of those transactions or in respect of any ancillary service directly related to those transactions.

Article 73

Eligible counterparties for the purposes of this Act are as follows:

1. investment firms;

2. credit institutions;

3. insurance undertakings;

4. open-end investment funds with public offer and their management companies;

5. pension funds and management companies of pension funds;

6. other financial institutions authorised or regulated under the legislation of the Republic of Croatia;

7. other financial institutions authorised or regulated under Community legislation or the national law of a Member State;

8. the entities referred to in Article 9, points 11 and 12, of this Act;

9. national governments and public bodies that deal with public debt, and central banks;

10. supranational organisations.

Article 74

In the event of a transaction where the prospective counterparties are located in different jurisdictions, the investment firm shall recognise the status of the other entity according to the law or criteria of the Member State in which that entity is established.

Article 75

Third country entities equivalent to those categories of entities mentioned in Article 73 of this Act may also be recognised as eligible counterparties.

Article 76

The entities classified as eligible counterparties within the meaning of Article 73 of this Act may request, either on a general form or on a trade-by-trade basis, treatment as clients who are subject to the obligations set out in Articles 54 to 71, Articles 82 to 84 and Articles 85 to 91 of this Act.

Article 77

The Agency shall specify, by virtue of an ordinance, the conditions related to the conduct of business obligations of the investment firm when providing services for specific categories of clients.

Section 4

Provision of investment services in accordance with client orders related to financial instruments

Subsection 1

Order and order contract

Article 78

(1) Order is a statement of a client's will made to an investment firm instructing the latter to buy or sell on his/her/its behalf financial instruments on his/her/its behalf (in the name of the firm and for the account of the client).

(2) By acceptance of an order, the investment firm enters into a contract by which it undertakes to buy and sell financial instruments in accordance with the order and for the account of the client, and the client undertakes to pay remuneration for the execution of such transactions.

(3) If the investment firm does not accept an order, it shall notify the client without delay.

(4) Unless otherwise provided by this Act, a client's order shall be subject to the provisions of the Civil Obligations Act.

(5) The provisions of Sections 4 and 5 of Chapter 2 of this Title shall apply to provision of the investment services referred to in Article 5, paragraph 1, points 1 and 2, of this Act.

(6) The provisions of Sections 4 and 5 of Chapter 2 of this Title shall apply accordingly to provision of the investment services referred to in Article 5, paragraph 1, points 3 to 7, of this Act and related ancillary services referred to in Article 5, paragraph 2, of this Act.

Client orders acceptance points

Article 79

(1) An investment firm shall accept client orders for purchase and sale of financial instruments at the firm's registered office or at a branch designated for execution of client orders.

(2) An investment firm may also receive written client orders at a branch where client orders are not executed, or at the registered office or a branch of a tied agent, which receive client orders in the name and for the account of the investment firm if the client personally contacts that branch of the investment firm or branch of a tied agent or a tied agent.

(3) When an investment firm receives orders in the manner described under paragraph 2 of this Article, special operating conditions shall provide for the deadline by which the order must be received at the firm's registered office or the branch which executes accepted client orders. The investment firm shall specifically warn the client of such provision of special operating conditions at the time of conclusion of the contract referred to in Article 66 of this Act.

(4) An order shall be regarded as received at the time when it is received at the head office of the investment firm or at the branch of the investment firm which executes client orders.

Confirmation of receipt of client order

Article 80

(1) An investment firm shall confirm reception of the order to the client no later than the first working day following the receipt of the order.

(2) Paragraph 1 of this Article shall apply accordingly to change and cancellation of an accepted order.

Acceptance and rejection of orders

Article 81

(1) If an investment firm does not accept a client's order, it must inform the client on rejection of the order immediately upon receipt of the order, unless a different time limit is provided under paragraph 2 or paragraph 3 of this Article. In its notice the investment firm shall indicate the reasons for rejection of the order.

(2) If the general operating conditions of the investment firm provide that the firm has no obligation to accept an order for sale of financial instruments until the client enables the investment firm to use the financial instruments that are the subject of the order, the time limit for the notice referred to in paragraph 1 shall run:

1. where the subject of the order are dematerialised securities registered with the central depository:

- from the time when the investment firm is able to establish that the client does not have or has insufficient securities that are the subject of the order in his/her/its account at the investment firm; or

- if the client gives to the investment firm, along with the sale order, an appropriate order for transfer of securities from another account of the same holder, from the time when the investment firm is able to establish that such order cannot be executed.

2. where the subject of the order are other financial instruments, from the time when the investment firm is able to establish that the client enabled the firm to handle such instruments.

(3) Where an investment firm asks the client, at the time it receives a purchase order, to make an advance payment for the purchase price and expenses in connection with execution of the order, the time limit for the notice referred to in paragraph 1 shall run from the time when the investment firm is able to establish that the advance payment has not been made within the agreed period.

(4) If an investment firm does not refuse to execute an order, it shall be deemed to have accepted the order on expiry of the time limit for dispatch of the notice concerning rejection of the order.

Client order handling rules

Article 82

(1) An investment firm which provides the service referred to in Article 5, paragraph 1, point 2, of this Act shall establish and implement relevant measures and procedures which provide for the prompt,

fair and expeditious execution of client orders relative to orders of other client or trading interests of the investment firm.

(2) The measures and procedures referred to in paragraph 1 of this Article shall allow for the execution of comparable client orders in accordance with the time of their reception by the investment firm.

(3) For the purpose of prompt, fair and expeditious execution of client orders, the investment firm shall:

1. promptly and accurately record the information on orders executed on behalf of clients;

2. promptly and accurately allocate orders executed on behalf of clients;

3. execute comparable client orders in accordance with the time of their reception by the investment firm and without delay unless the characteristics of the order or prevailing market conditions make this impracticable, or the interests of the client require otherwise;

4. inform a retail client about any material difficulty relevant to the proper execution of orders promptly upon becoming aware of the difficulty.

(4) An investment firm shall not misuse information relating to pending client orders, and shall take all reasonable steps to prevent the misuse of such information by any of its relevant persons.

(5) Where an investment firm is responsible for overseeing or arranging the settlement of an executed order, it shall take all reasonable steps to ensure that any client financial instruments or client funds received in settlement of that executed order are promptly and correctly delivered to the account of the appropriate client.

Execution of client limit orders

Article 83

(1) Limit order within the meaning of this Act is an order to buy or sell a financial instrument at its specified price or better and for a specified size.

(2) If a client limit order for purchase or sale of shares admitted to trading on a regulated market cannot be executed immediately under prevailing market conditions, an investment firm shall take measures to facilitate the earliest possible execution of that order, unless the client expressly instructs otherwise.

(3) The measures referred to in paragraph 2 of this Article shall include making public, without delay, of that order in a manner which is easily accessible to other market participants.

(4) An investment firm shall be deemed to have complied with the obligation under paragraph 2 if it transmits the client limit order to the trading system of a regulated market or an MTF.

Article 84

The Agency shall specify by virtue of an ordinance:

1. the conditions and nature of the procedures and arrangements which result in the prompt, fair and expeditious execution of client orders and the situations in which or types of transaction for which

investment firms may reasonably deviate from prompt execution so as to obtain more favourable terms for clients;

2. the procedures by which an investment firm can be deemed to have met its obligations under this Act to disclose the client limit orders to the market.

Subsection 2

Execution of orders on most favourable terms

Obligation to execute orders on terms most favourable to the client
Article 85

(1) When executing client orders, investment firms shall take all reasonable steps to obtain the best possible result for their clients taking into account the following factors relevant for execution of orders, such as:

1. price;
2. costs, speed, likelihood of execution;
3. costs, speed, likelihood of settlement;
4. size and nature of the order and any other consideration relevant to the execution of the order.

(2) Whenever an investment firm executes an order following the specific instruction from the client, it shall be deemed to have complied with the obligation to obtain the best possible result for the client.

(3) Investment firms shall establish and implement effective arrangements for complying with the provisions of this Article.

Execution of retail client orders

Article 86

(1) Where an investment firm executes an order on behalf of a retail client, the best possible result shall be determined in terms of total expenses of the transaction.

(2) The total expenses of the transaction within the meaning of paragraph 1 of this Article shall include the price of the financial instrument and all expenses which are directly related to the execution of the order, including execution venue fees, clearing and settlement fees and any other fees paid to third parties involved in the execution of the order.

(3) An investment firm shall specifically warn retail clients that in the case of a specific instruction from the client, the investment firm shall execute the order in accordance with Article 85, paragraph 2, of this Act, and that it has no obligation to execute the order in accordance with the order execution measures and policies.

Order execution policy

Article 87

(1) Investment firms shall establish and implement an order execution policy to allow them to obtain, for their client orders, the best possible result in accordance with Article 85 of this Act.

(2) The order execution policy referred to in paragraph 1 of this Article shall include, in respect of each class of instruments:

1. information on the different venues where the investment firm executes its client orders; and

2. the factors affecting the choice of execution venue.

(3) For the purposes of this Chapter, "execution venue" means a regulated market, an MTF, a systematic internaliser or a market maker or other liquidity provider or an entity that performs a similar function in a foreign country to the functions performed by any of the foregoing.

(4) The order execution policy shall include as a minimum those execution venues which enable the investment firm to obtain, on a consistent basis, the best possible results when executing client orders.

(5) Investment firms shall provide to their clients relevant information on their order execution policies.

(6) Investment firms shall obtain the prior consent of their clients for the order execution policies.

Article 88

(1) Where the order execution policy provides for the possibility that client orders may be executed outside a regulated market or an MTF, the investment firm shall, in particular, inform its clients about this possibility and obtain the prior express consent of their clients before proceeding to execute their orders outside a regulated market or an MTF.

(2) The consent referred to in paragraph 1 of this Article may be given either in the form of a general agreement or in respect of individual transactions.

Article 89

(1) Investment firms shall monitor the effectiveness of their order execution arrangements referred to in Article 85, paragraph 3, and the order execution policy referred to in Article 87 of this Act in order to identify and correct any deficiencies.

(2) Investment firms shall assess, on a regular basis, whether the execution venues included in the order execution policy provide for the best possible result for the client.

(3) If the execution venues included in the order execution policy do not provide for the best possible result for the client, the investment firm shall make changes to the arrangements referred to in Article 85, paragraph 3, and to the policy referred to in Article 87 of this Act.

(4) An investment firm shall notify clients of any material changes to their order execution arrangements and/or execution policy.

Article 90

An investment firm shall be able to demonstrate to its clients, at their request, that it has executed their orders in accordance with the firm's execution policy.

Article 91

The Agency shall specify by virtue of an ordinance:

1. the criteria for determining the relative importance of the different factors that, pursuant to Article 85 of this Act, may be taken into account for determining the best possible result taking into account the size and type of order and the categorisation of the client as retail or professional client;

2. the factors that may be taken into account by an investment firm when reviewing its execution arrangements referred to in Article 85, paragraph 3, of this Act and the circumstances under which changes to such arrangements may be appropriate;

3. the factors for determining which venues enable the investment firm to obtain on a consistent basis the best possible results for executing the client orders;

4. the nature and extent of the information to be provided to clients pursuant to Article 87, paragraph 5, of this Act.

Subsection 3

Provision of services through the medium of another investment firm

Article 92

(1) When an investment firm receives an instruction to perform investment or ancillary services on behalf of a client through the medium of another investment firm, it shall not be obliged to verify the completeness and accuracy of the information on the client and the client's instructions for the services in question.

(2) The investment firm which mediates the instructions will remain responsible for the completeness and accuracy of the information transmitted.

(3) The investment firm which receives instructions to provide services on behalf of a client in the manner provided in paragraph 1 of this Article shall be able to rely on any recommendations in respect of the service or transaction that have been provided to the client by another investment firm.

(4) The investment firm which mediates the instructions will remain responsible for the appropriateness for the client of the recommendations or advice provided.

(5) The investment firm which receives client instructions or orders through the medium of another investment firm shall be responsible for concluding the service or transaction, based on the information or recommendations referred to in paragraphs 1 to 4 of this Article, in accordance with the provisions of this Act.

Section 5

Tied agents of investment firms
Article 93

(1) An investment firm may appoint a tied agent who will, on its behalf, perform the following activities:

1. promoting the services of the investment firm;

2. offering the services of the investment firm;

3. receiving and transmitting orders from clients or potential clients;

4. placing financial instruments;

5. providing advice in respect of financial instruments and services offered by the investment firm.

(2) A tied agent may not handle money and/or financial instruments of clients or potential clients of the investment firm.

(3) A tied agent may perform the activities referred to in paragraph 1 on behalf of one investment firm only.

Register of tied agents

Article 94

(1) The Agency shall keep and update on a regular basis the register of tied agents who are authorised by the Agency to perform activities of a tied agent .

(2) The register of tied agents referred to in paragraph 1 of this Article shall be a public register.

(3) The register shall include the following minimum information:

1. the name and surname or the name of the company and registered office of the tied agent;

2. the name of investment firm on whose behalf the tied agent acts;

3. the activities as referred to in Article 93 of this Act which the tied agent performs on behalf of the investment firm.

Responsibility of the investment firm

Article 95

Where an investment firm appoints a tied agent, it remains fully and unconditionally responsible for any action or omission on the part of the tied agent when acting on behalf of the firm.

Requirements to be met in order to achieve the tied agent status

Article 96

(1) Tied agents shall be authorized by the Agency to perform the activities of tied agent if it has been established that they are of sufficiently good repute and that they possess appropriate general, commercial and professional knowledge so as to be able to communicate accurately all relevant information regarding the services offered to the client or potential client.

(2) It shall be deemed that natural person meets the requirements set out in paragraph 1. of this article to perform the activities set out in article 93. paragraph 1. points 1. to 4. of this Act, if that natural person meets the requirements for a broker set out in article 24. paragraph 3. of this Act and ordinance referred to in article 24. paragraph 7. of this act.

(3) It shall be deemed that natural person meets the requirements set out in paragraph 1. of this article to perform the activities set out in article 93. paragraph 1. point 5. of this Act if that natural person meets the requirements for investment adviser set out in article 24. paragraph 3. of this Act and ordinance referred to in article 24. paragraph 7. of this Act.

(4) It shall be deemed that legal person meets the requirements set out in paragraph 1. of this article to perform the activities set out in article 93. paragraph 1. points 1. to 4. of this Act if that legal person employs at least one natural person which meets the requirements for broker set out in article 24. paragraph 3. of this Act and ordinance referred to in article 24. paragraph 7. of this Act.

(5) It shall be deemed that legal person meets the requirements set out in paragraph 1. of this article to perform the activities set out in article 93. paragraph 1. point 5. of this Act if that legal person employs at least one natural person which meets the requirements for investment adviser set out in article 24. paragraph 3. of this Act and ordinance referred to in article 24. paragraph 7. of this Act.

Issuance of authorisation to tied agents

Article 97

(1) Authorisation of natural or legal person to perform the activities of tied agents shall be subject to provisions on authorisation of a broker and investment adviser set out in article 24. of this Act, mutatis mutandis.

(2) Tied agent – natural person, may start performing activities referred to in Article 93. of this Act as of the date of entry in the register referred to in Article 94. of this Act.

(3) Tied agent – legal person, may start performing activities referred to in article 93. of this Act as of the date of entry in the register referred to in Article 94. of this Act and Court Register.

Obligations of investment firms

Article 98

Investment firms appointing tied agents shall:

- monitor the activities of their tied agents so as to ensure that they comply with the provisions of this Act and the regulations adopted on the basis of this Act when performing the activities referred to in Article 93 of this Act;

- ensure that a tied agent discloses the capacity in which he/she/it is acting and the investment firm which he/she/it is representing when contacting or before dealing with any client or potential client, or before undertaking any of the activities referred to in Article 93 of this Act to which his/her authorisation relates;

- take adequate measures in order to avoid any negative impact that the activities of the tied agent not covered by the scope of this Act could have on the activities referred to in Article 93 of this Act which are carried by the tied agent on behalf of the investment firm.

Article 99

The Agency shall specify, by virtue of an ordinance, the contents of the application for issuance of authorisation to a tied agent, the documents that must accompany the application and the contents of such documents.

Chapter 3

Systematic internaliser

Section 1

Criteria for determining whether an investment firm is a systematic internaliser

Article 100

Where an investment firm deals on own account by executing client orders outside a regulated market or an MTF, it shall be treated as a systematic internaliser within the meaning of this Act if it meets the criteria provided for in Article 21 paragraph 1 of Regulation 1287/2006.

Article 101

(1) An investment firm must notify the Agency in advance of its intention to acquire the status of a systematic internaliser.

(2) The notification referred to in paragraph 1 of this Article shall include:

1. a description of the organisation of the firm's organisational unit which will be responsible for systematic internalisation,

2. a description of the rules and procedures to be followed in carrying out this activity,

3. a list of the personnel and/or features of the technical system assigned to that purpose,

4. a description of the system to be used for the publication of binding commitments to buy and sell,

5. a list of financial instruments for which the firm intends to act as the systematic internaliser.

Section 2

Obligations of the systematic internaliser

Article 102

(1) Systematic internalisers in shares shall make available firm quotes in those shares admitted to trading on a regulated market for which they are systematic internalisers and for which there is a liquid market, in accordance with Article 22 of Regulation 1287/2006.

(2) Systematic internalisers in shares shall make public the quotes referred to in paragraph 1 of this Article.

(3) In the case of shares for which there is not a liquid market, systematic internalisers shall disclose quotes to their clients on request.

(4) The provisions of this Chapter shall be applicable to systematic internalisers when dealing for sizes up to standard market size. Systematic internalisers that only deal in sizes above standard market size shall not be subject to the provisions of this chapter.

Article 103

(1) Systematic internalisers may decide the size or sizes at which they will quote. For a particular share each quote shall include a firm bid and/or offer price or prices for a size or sizes which could be up to standard market size for the class of shares to which the share belongs. The price or prices shall also reflect the prevailing market conditions for that share, in accordance with Article 24 of Regulation 1287/2006.

(2) Shares shall be grouped in classes on the basis of the arithmetic average value of the orders executed in the market for that share. The standard market size for each class of shares shall be a size representative of the arithmetic average value of the orders executed in the market for the shares included in each class of shares, in accordance with Article 23 of Regulation 1287/2006.

(3) As the competent authority for regulated markets performing its business in the Republic of Croatia the Agency shall, in accordance with Article 9 of Regulation 1287/2006:

1. determine for each share, at least annually, on the basis of the arithmetic average value of the orders executed in the market in respect of that share, the class of shares to which it belongs, subject to the provisions of Articles 33 and 34 of Regulation 1287/2006,
2. establish and publish a list of all liquid shares for which it is the relevant competent authority in accordance with Article 22 paragraph 6 of Regulation 1287/2006.

(4) The market for each share shall be comprised of all orders executed in the European Union in respect of that share, excluding those large in scale compared to normal market size for that share.

Article 104

(1) Systematic internalisers shall make public their quotes on a regular and continuous basis during normal trading hours.

(2) Systematic internalisers shall be entitled to update their quotes referred to in paragraph 1 of this Article at any time.

(3) Systematic internalisers shall also be allowed, under exceptional market conditions, to withdraw their quotes.

(4) Systematic internalisers shall make their quotes public in a manner which is easily accessible to other market participants on a reasonable commercial basis.

Section 3

Execution of orders by systematic internalisers

Execution of orders from retail clients

Article 105

Systematic internalisers shall, while complying with the provisions of this Act concerning the execution of orders on terms most favourable to clients, execute the orders they receive from their

retail clients in relation to the shares for which they are systematic internalisers at the quoted prices at the time of reception of the order.

Execution of orders from professional clients

Article 106

(1) Systematic internalisers shall execute the orders they receive from their professional clients in relation to the shares for which they are systematic internalisers at the quoted price at the time of reception of the order.

(2) By way of derogation from paragraph 1 of this Article systematic internalisers may execute the orders referred to in paragraph 1 of this Article at a better price in justified cases provided that this price falls within a public range close to market conditions and provided that the orders are of a size bigger than the size customarily undertaken by a retail investor, in accordance with Article 26 of Regulation 1287/2006.

(3) Systematic internalisers may execute the orders referred to in paragraph 1 of this Article at prices different than their quoted ones without having to comply with the provisions of paragraph 2 of this Article, in respect of transactions where execution of several different securities is part of one transaction or in respect of orders that are subject to conditions other than the current market price, in accordance with Article 25 of Regulation 1287/2006.

Article 107

(1) Where a systematic internaliser who quotes only one quote or whose highest quote is lower than the standard market size receives an order from a client of a size bigger than its quotation size, but lower than the standard market size, it may decide to execute that part of the order which exceeds its quotation size, provided that it is executed at the quoted size, except where otherwise provided by the provisions of Article 106 of this Act.

(2) Where the systematic internaliser is quoting in different sizes and receives an order between those sizes, which it chooses to execute, it shall execute the order at one of the quoted sizes in compliance with the provisions of Articles 82 to 84 of this Act, except where otherwise provided for by the provisions of Article 106 of this Act.

Article 108

(1) Systematic internalisers shall be allowed to decide, on the basis of their commercial policy and in an objective non-discriminatory way, the investors to whom they give access to their quotes. To that end there shall be clear standards for governing access to their quotes.

(2) Systematic internalisers may refuse to enter into or discontinue business relationships with investors on the basis of commercial considerations such as the investor credit status, the counterparty risk and the final settlement of the transaction.

(3) In order to limit the risk of being exposed to multiple transactions from the same client systematic internalisers shall be allowed to limit in a non-discriminatory way the number of transactions from the same client which they undertake to enter at the published conditions.

(4) Systematic internalisers shall also be allowed, in a non-discriminatory way and in accordance with the provisions of Articles 82 to 84 of this Act, to limit the total number of transactions from different clients at the same time, provided that this is allowable only where the number and/or volume of

orders sought by clients considerably exceeds the norm referred to in Article 25 paragraph 2 of Regulation 1287/2006.

(5) Limitations of the number of transactions referred to in paragraphs 3 and 4 of this Article shall be subject to the provisions of Article 25 paragraph 3 of Regulation 1287/2006.

Ceasing to act as a systematic internaliser
Article 109

(1) An investment firm shall cease to be a systematic internaliser in one or more shares in the manner provided for in Article 21 paragraph 2 of Regulation 1287/2006.

List of systematic internalisers
Article 110

(1) The Agency shall publish a list of systematic internalisers in respect of shares admitted to trading on a regulated market in the Republic of Croatia, pursuant to Article 21 paragraph 4 of Regulation 1287/2006.

(2) The Agency shall publish the list referred to in paragraph 1 of this Article and update it continuously on its website.

Supervision of systematic internalisers
Article 111

The Agency shall check on a regular basis:

1. that systematic internalisers regularly update bid and/or offer prices, in the manner provided for under this Section,

2. that systematic internalisers maintain prices which reflect the prevailing market conditions,

3. that systematic internalisers comply with the remaining provisions of this Act concerning the manner of operation of systematic internalisers.

Chapter 4

Obligation to maintain records, report transactions to the Agency and publish transactions

Record-keeping

Article 112

(1) An investment firm shall keep, for at least five years after the expiry of the business year concerned, a record of the relevant data relating to all transactions in financial instruments which it has carried out, whether on own account or on behalf of a client.

(2) In the case of transactions carried out on behalf of clients, the records referred to in paragraph 1 shall contain all the information and details of the identity of the client and the information required under the rules and regulations for the prevention of money laundering.

Reporting transactions to the Agency

Article 113

(1) Investment firms which execute transactions in financial instruments admitted to trading on a regulated market shall report to the Agency details of such transactions no later than the close of the following working day.

(2) The obligation referred to in paragraph 1 of this Article shall apply to all transactions, whether or not such transactions were carried out on a regulated market.

(3) The report under paragraph 1 of this Article shall include the information set in the ordinance pursuant to paragraph 10 of this Article and shall be transmitted in the manner prescribed pursuant to the same ordinance.
(4) The report under paragraph 1 of this Article shall include information set in Article 13 and Annex I to Commission Regulation (EC) No. 1287/2006 and shall be transmitted in the manner prescribed in Article 12 of Commission Regulation (EC) No. 1287/2006.

(5) The report referred to in paragraph 1 of this Article shall be made to the Agency by:

1. the investment firm itself or a third party acting on its behalf,

2. the regulated market or MTF through whose systems the transaction was completed,

3. a trade-matching or reporting system approved by the Agency or by the appropriate competent authority of another Member State.

(6) The Agency shall approve the system referred to in paragraph 5 item 3 for the purpose of transaction reporting referred to in paragraph 1 of this Article if that system complies with the requirements provided for in Article 12 of Commission Regulation 1287/2006.

(7) In cases where transaction reports referred to in paragraph 1 of this Article are delivered directly to the Agency by a regulated market, an MTF, or a trade-matching or reporting system approved by the Agency, the Agency may waive the obligation on the investment firm laid down in paragraph 1 of this Article.

(8) The Agency shall transmit the information pursuant to paragraph 4 in compliance with the provision in the Article 14 of Commission Regulation 1287/2006 to the competent authorities set in Article 14 paragraph 1, numbers a to c of Commission Regulation 1287/2006 and shall make arrangements to exchange notifications with other competent authorities.

(9) When the transaction reports referred to in paragraph 1 of this Article are transmitted to the Agency as the competent authority of the host Member State, the Agency shall transmit these reports to the competent authorities of the home Member State of the investment firm, unless the competent authorities decide that they do not want to receive these reports.

(10) The Agency shall adopt an ordinance defining the methods and arrangements for transaction reporting and the form and content of these reports.

(11) The Agency shall adopt an ordinance defining:

1. the use of durable medium to transmit data required to be reported, pursuant to Article 12, paragraph 1 of Commission Regulation 1287/2006

2. additional information required to be reported regarding transactions, pursuant to Article 13, paragraph 3 of Commission Regulation 1287/2006,

3. information used to identify on whose behalf the transaction has been executed, pursuant to Article 13, paragraph 4 of Commission Regulation 1287/2006.

(12) The obligation referred to in paragraph 1 of this Article shall apply to management companies of open-end investment funds with public offer when pursuant to authorization granted by the Agency providing investment services as defined in Article 5 paragraph 1 number 4 of this Act.

Publication of transactions

Article 114

(1) Investment firms which, either on own account or on behalf of clients, conclude transactions in shares admitted to trading on a regulated market outside a regulated market or MTF shall make public the volume and price of those transactions and the time at which they were concluded.

(2) The information referred to in paragraph 1 of this Article shall be made public as close to real-time as possible, on a reasonable commercial basis and in a manner which is easily accessible to other market participants.

(3) The information referred to in paragraph 1 shall be made public in the manner and within the time-limits provided for in Article 335 and 336 of this Act.

(4) The provisions of Article 336 of this Act concerning deferred reporting for certain categories of transactions in shares carried out in regulated markets shall apply *mutatis mutandis* to those transactions when undertaken outside regulated markets or MTF.

(5) The Agency shall adopt an ordinance which shall:

1. specify the means by which investment firms may publish the data referred to in paragraph 1 of this Article, including the following possibilities:

- through the facilities of any regulated market which has admitted the share in question to trading or through the facilities of an MTF in which the share in question is traded,

- through the offices of a third party,

- through proprietary arrangements.

2. clarify the application of the obligation under paragraph 1 of this Article to transactions involving the use of shares for collateral, lending or other purposes where the exchange of shares is determined by factors other than the current market valuation of the share.

Accounts and financial statements

Article 115

(1) Investment firms shall keep accounts and prepare and make public their annual financial statements and annual reports in compliance with this Act and with other rules and regulations governing the accounting of enterprises and the application of financial reporting standards.

(2) Investment firms shall keep accounts and prepare annual financial statements in the manner which allows for the verification of the business events recorded, of their financial position and their business performance.

(3) The Agency shall define in its ordinance the content and form of investment firms' supervisory reports, as well as the methods and deadlines for their submission.

Article 116

(1) The investment firm shall, within 15 days from the receipt of the auditor’s report and no later than four months after the last day of the financial year for which the annual financial statements were prepared, submit to the Agency:

1. the annual financial statement and the annual report,

2. the auditor's report on the audit of the annual financial statements referred to in item 1 of this Article.

(2) Investment firms which must carry out consolidation and prepare consolidated financial statements and consolidated annual reports shall submit to the Agency therewith within 15 days from the receipt of the auditor's report, but no later than six months from the last day of the financial year concerned.

(3) In addition to annual financial statements, investment firms shall also prepare interim financial statements.

(4) The financial year shall correspond to the calendar year, and the interim reporting periods shall include three-month, six-month and nine-month periods.

(5) The Agency shall lay down in its ordinance the content and form of investment firms' annual financial statements and interim financial statements, as well as the methods and deadlines for their preparation and submission.

Article 117

(1) Investment firms shall make public audited annual financial statements, or where an investment firm is a parent undertaking, audited consolidated annual financial statements for the entire group, in the manner provided for under the regulations governing the accounting of undertakings and the application of financial reporting standards.

(2) Investment firms shall publish and make available their unaudited annual financial statements on their websites no later than 5 months after the expiry of the financial year concerned.

(3) An investment firm whose head office is located outside the Republic of Croatia but which established a branch in the Republic of Croatia shall publish, in the Croatian language, on the branch's website, annual financial statements prepared and audited in accordance with the regulations of the home state of the parent undertaking, annual reports, including auditor’s reports, no later than within 15 days from the expiry of the deadline for their publication in the home state of the parent undertaking.

Chapter 6

Liquidation of investment firms

Article 118

(1) Unless otherwise provided for under this Act, liquidation of investment firms shall be subject to the provisions of the regulations on establishment, structure and business of sole traders and companies.

(2) Where liquidators establish grounds for bankruptcy, they shall submit without delay a proposal for initiating bankruptcy proceedings and shall immediately notify the Agency thereof.

(3) The management or the liquidators of the investment firm shall notify the Agency of their decision to cease the investment firm or to change of its business activities such that it is no longer allowed to provide the investment services or to perform the investment activities referred to in Article 5 hereof, on the day following the day when the decision was made.

(4) On the basis of the notification referred to in paragraph 3 of this Article the Agency shall adopt a decision limiting the investment firm's authorisation to perform its activities to only those activities which are necessary for its liquidation. Stock exchange, central clearing depository agency, central register operator and clearing and settlement operator, where appropriate, shall be informed on that decision.

(5) On commencement of the liquidation process the investment firm may only perform the activities specified in the decision referred to in paragraph 4 of this Article.

(6) Where the decision referred to in paragraph 4 of this Article concerns an investment firm which has a branch in a Member State, the Agency shall notify the competent authorities of the Member State concerned prior to rendering its decision.

(7) The notification referred to in paragraph 6 shall include the legal consequences and the actual effects of the decision adopted.

(8) Where for reason of safeguarding the interests of the investment firm’s clients or other public interests the adoption of the decision referred to in paragraph 4 of this Article cannot be deferred, the Agency shall inform the competent authorities of the Member State concerned thereof immediately after the decision has been made.

Chapter 7

Multilateral trading facility – MTF

Section 1

Authorisation and operation of multilateral trading facilities

Article 119

Multilateral trading facilities may be operated by an investment firm or stock exchange (hereinafter: MTF operator) authorised by the Agency.

Article 120

Stock exchange authorised by the Agency to manage and operate the business of the regulated market may operate an MTF if it complies with the requirements provided for under this Act concerning:

1. persons that effectively direct the business of an MTF, persons possessing qualifying holdings in the stock exchange, organisational requirements, and

2. the requirements provided for under this Chapter pertaining to access to an MTF, financial instruments traded on an MTF, trading process and finalisation of transactions in an MTF, monitoring of compliance with the rules of the MTF and transparency requirements for MTFs.

Article 121

Investment firms intends to operate an MTF shall meet the following requirements:
1. conditions provided for in Article 17 paragraph 1 of this Act, and
2. conditions provided for in this Chapter concerning access to an MTF, financial instruments traded on an MTF, trading process and finalisation of transactions in an MTF, monitoring of compliance with the rules of the MTF and transparency requirements for MTFs.

Granting authorisations to operate an MTF

Article 122

(1) Investment firm or stock exchange intending to operate an MTF shall submit a request for authorisation to operate an MTF accompanied by evidence that the requirements referred to in Article 120 item 1, i.e. in Article 121 item 1 have been complied with, as well as by the information concerning:

1. the trading system,
2. the accessibility of data concerning offers and demands and of trading data intended for users and the public,
3. the prospective system users,
4. the financial instruments to be traded within the system,
5. the mechanisms and methods of transaction settlement,
6. the arrangements which would ensure compliance with the provisions of this Act and with the rules and regulations adopted on the basis of this Act.

(2) Investment firm or stock exchange intending to operate an MTF shall accompany the request referred to in paragraph 1 of this Article with the MTF rules referred to in Article 123 hereof.

(3) Where investment firm or stock exchange intending to operate an MTF intends to use the possibilities provided for under Articles 132 and 134 hereof, it must specify so in their requests referred to in paragraph 1 of this Article.

(4) MTF operator shall notify the Agency without delay of any changes to the data communicated in accordance with paragraph 1 of this Article.

(5) The Agency shall lay down in its ordinance in detail the conditions for granting authorisations to operate an MTF, the contents of requests for such authorisations, the required accompanying documents and the contents of such documents.

MTF rules

Article 123

(1) MTF operator shall establish, implement and maintain transparent rules and procedures regarding:

1. access to the system operated,

2. criteria for determining the financial instruments that can be traded under its systems,

3. trading,

4. settlement of transactions.

(2) The rules and procedures referred to in paragraph 1 of this Article shall enable users to use the system efficiently and to understand the risks associated with the use of the facility.
(3) The Agency may prescribe in its ordinance the contents of the MTF rules referred to in paragraph 1 of this Article.

Section 2

Access to an MTF

Article 124

(1) MTF operator shall establish and maintain transparent rules governing access to their facilities.

(2) MTF operator shall ensure that access to their facilities is based on objective criteria.

(3) MTF operator may allow as users of their facilities the persons referred to in Article 301 paragraphs 1 and 2 of this Act. The provisions of this Act concerning market members shall apply *mutatis mutandis* to MTF users.

Section 3

Financial instruments traded on an MTF

Article 125

(1) MTF operator shall provide sufficient publicly available information regarding the financial instruments traded under its system to enable its users to form investment judgements.

(2) MTF operator shall provide the information on financial instruments referred to in paragraph 1 of this Article when the financial instruments are admitted to trading and during trading with the financial instruments concerned.

(3) In complying with the requirements set out in paragraph 1 of this Article MTF operator shall take into account both the nature and the types of instruments traded under its system.

(4) MTF operator shall be required to comply immediately with any decision of the Agency to suspend or remove a financial instrument from trading, according to article 341 paragraph 4.

Article 126

Where a transferrable security, which has been admitted to trading on a regulated market, is also traded on an MTF without the consent of the issuer, the issuer shall not be subject to any obligation relating to disclosure with regard to that MTF.

Section 4

Trading on an MTF

Trading process and finalisation of transactions in an MTF

Article 127

MTF operator shall ensure fair and orderly trading and setting of prices, including reference prices, as well as efficient execution of orders, whereby the rules of trading and price setting must not allow MTF operator to make discretionary estimates.

Exemptions

Article 128

(1) Articles 54 to 71 and Articles 82 to 91 of this Act shall not apply to the transactions concluded under the rules governing an MTF between its users or between the MTF and its users in relation to the use of the MTF.

(2) By way of derogation from the provision of paragraph 1 of this Article, users of an MTF shall comply with the obligations provided for in Articles 54 to 71 and Articles 82 to 91 of this Act with respect to their clients when, acting on behalf of their clients execute orders through the systems of an MTF.

Settlement of transactions

Article 129

(1) MTF operator shall put in place the necessary arrangements to facilitate the efficient settlement of the transactions concluded under the systems of the MTF.

(2) MTF operator shall clearly inform its users of their responsibilities for the settlement of the transactions executed in that facility.

Section 5

Monitoring compliance with the rules of an MTF

Article 130

(1) MTF users shall comply with the provisions of this Act, with ordinances adopted on the basis of this Act and with the rules of an MTF.

(2) MTF operator shall establish and maintain effective arrangements and procedures for the regular monitoring of transactions undertaken by its users in order to identify possible breaches of the rules, disorderly trading conditions or conduct that may involve market abuse.

(3) MTP operator shall have effective arrangements and procedures for the regular monitoring of the compliance of its users with the provisions of this Act, of the rules and regulations adopted on the basis of this Act, and the rules of an MTF.

(4) Where MTF operator establishes that any of the situations referred to in paragraph 2 of this Act obtain, it shall notify the Agency thereof without delay.

(5) Where MTF operator establish that any of the situations referred to in paragraph 2 obtain, they may temporarily or permanently exclude from the system the user concerned.

(6) MTF operator shall, at the request of the Agency and without delay, supply any information which is relevant for the supervision of the cases referred to in paragraph 2 of this Act.

(7) MTF operator shall provide full assistance to the Agency in the supervision of the market abuse cases occurring within its system.

Section 6

Publication of transactions

Pre-trade transparency requirements

Article 131

(1) MTF operators shall make public current bid and offer prices and the depth of trading interests in respect of shares admitted to trading on a regulated market that is traded within a system operated by them.

(2) The information referred to in paragraph 1 of this Article shall be available to the public on reasonable commercial terms and on a continuous basis during normal trading hours.

(3) MTF operators shall make public current bid and offer prices and the depth of trading interests in respect of shares admitted to trading on a regulated market that is traded within a system operated by them in accordance with Articles 17, 29, 30 and 32 of Regulation No 1287/2006, on reasonable commercial terms and on a continuous basis during normal trading hours.

Article 132

(1) The Agency may waive the obligation for MTF operator to make public the information referred to in Article 131 based on the market model or the type and size of orders in the cases prescribed by the ordinance referred to in Article 135 hereof. The waiver from the obligation to make public the information referred to in paragraph 1 of this Article in particular in relation to transactions that are large in scale compared with normal market size for individual classes of shares.

(2) The Agency may waive a MTF Operator the obligation set out in Article 131, in accordance with Articles 17 to 20 of Regulation No 1287/2006, based on the market model or the type and size of orders in particular in respect of transactions that are large in scale compared with normal market size for the share or type of share in question. The waiver from the obligation to make public the information referred to in Article 131 in particular relates to transactions that are large in scale compared with normal market size for individual classes of shares.

Post-trade transparency requirements

Article 133

(1) MTF operator shall make public the price, volume and time of the transactions executed under its system in respect of shares which are admitted to trading on a regulated market.

(2) MTF operator shall make public the details referred to in paragraph 1 of this Article on a reasonable commercial basis, as close to real-time as possible.

(3) MTF operator shall make public the price, volume and time of the transactions executed under its system in respect of shares which are admitted to trading on a regulated market on a reasonable commercial basis, as close to real-time as possible and in accordance with the provisions of Articles 27, 29, 30 and 32 of Regulation No 1287/2006.

Article 134

(1) The Agency may authorise MTF operator, on its request, to provide for deferred publication of the details referred to in Article 133 hereof, based on the type or size of transactions.

(2) The deferred publication referred to in paragraph 1 of this Article may be authorised in respect of transactions that are large in scale compared with the normal market size for individual classes of shares. MTF operator shall clearly disclose the arrangements for deferred trade-publication to market participants and the public.

(3) The Agency shall grant the authorisation referred to in paragraph 1 of this Article after the fulfilment of the requirements provided under the ordinance referred to in Article 135 hereof.

(4) The Agency shall grant the authorisation referred to in paragraph 1 of this Article after the fulfilment of the requirements provided in Article 28 of Regulation No 1287/2006.

Article 135

The Agency lay down in its ordinance:

1. the range of bid and offers or designated market-maker quotes, and the depth of trading interest at those prices, to be made public,

2. the size and type of orders for which pre-trade disclosure referred to in Article 131 hereof may be waived,

3. the market model for which pre-trade disclosure referred to in Article 131 hereof may be waived, and in particular the applicability of the obligation to the trading methods,

4. trading data which MTF operators are required to make public,

5. the contents of the data referred in item 4 of this Article,

6. the conditions under which MTF operators may provide for deferred publication of data,

7. the criteria which MTF operators must observe in deciding which transactions are eligible for deferred publication given the size of transactions or the types of shares traded.

Chapter 8

Rights of investment firms

Section 1

Provision of investment services and performance of investment activities outside the territory of the Republic of Croatia

Subsection 1

Provision of investment services and performance of investment activities in another Member State

Establishment of an investment firm's branch in another Member State

Article 136

(1) An investment firm wishing to establish a branch within the territory of another Member State shall notify the Agency thereof and provide the name of the Member State within the territory of which it plans to establish a branch.

(2) The notification referred to in paragraph 1 of this Article shall be accompanied by the following information:

1. a programme of operations, setting out the types and volume of the investment services and/or activities which the investment firm intends to perform through its branch, the organisational structure of the branch and an indication as to whether the branch intends to use tied agents,

2. the address in the host Member State from which information on the branch may be obtained,

3. the names of those responsible for the management of the branch.

(3) The notification referred to in paragraph 1 of this Article shall be deemed to include the request for the Agency to communicate the notification, accompanied by the information referred to in paragraph 2 of this Article, to the competent authority of the host Member State in which the investment firm intends to establish a branch.

(4) In cases where an investment firm intends to use a tied agent established in another Member State, such a tied agent shall be equivalent to the branch of the investment firm in that Member State and shall be subject mutatis mutandis to the provisions of this Act relating to branches of investment firms in Member States.

Communication to the competent authority of the host Member State

Article 137

(1) The Agency shall refuse to communicate the information referred to in Article 136 paragraph 1 of this Act to the competent authority of the host Member State if the investment firm does not have an adequate organisational, technical and personnel structure or the financial situation to provide the planned volume of investment services or activities through its branch in the Member State concerned.

(2) Unless the Agency refuses to communicate the information for the reasons referred to in paragraph 1 of this Article, it shall, within 60 days of receiving the notification and the accompanying information referred to in Article 136 of this Act, communicate them to the competent authority of the host Member State and shall inform the investment firm concerned accordingly.

(3) In addition to the information referred to in paragraph 2 of this Article, the Agency shall communicate to the competent authority of the host Member State:

1. information concerning the level of investment firms' own funds and capital requirements and

2. detailed information on the investor protection scheme it belongs in the Republic of Croatia.

(4) Where the Agency does not inform the investment firm, within the time referred to in paragraph 2 of this Article, of having communicated the information to the competent authority of the host Member State, or if it fails to refuse to communicate the information, the request for the communication of the information shall be deemed refused.

Commencement of activities of a branch in a host Member State

Article 138

An investment firm may start providing investment services and performing investment activities through its branch:

1. upon the receipt of a communication from the competent authority of the host Member State setting out the conditions under which, in the interest of the general good, those investment services or investment activities shall be carried out, or

2. 60 days from the day the competent authority of the host Member State received the communication from the Agency in accordance with Article 137 of this Act, if, until the expiry of that period, the investment firm does not receive the communication from the host Member State referred to in item 1 of this Article.

Notification of changes in information concerning a branch in a host Member State

Article 139

(1) If an investment firm intends to change its business activities or any of the information referred to in Article 136 paragraph 2, it must give notice of that change to the Agency 30 days before implementing the change. The Agency shall inform of that change the competent authority of the host Member State.

(2) The provisions of Articles 136 to 138 hereof shall apply mutatis mutandis to the changes referred to in paragraph 1 of this Article, the deadlines for decision-making being 30 days.

Direct provision of investment services and performance of investment activities in the territory of another Member State

Article 140

(1) Any investment firm that intends to provide investment services or perform investment activities in another Member State directly for the first time shall inform the Agency thereof and shall communicate to the Agency the Member State in which it intends to provide services directly. The communication shall be accompanied by a programme of operations describing the types and volume of services which it intends to provide directly in that Member State.

(2) In cases where an investment firm intends to use tied agents, the Agency shall, at the request of the competent authority of the Member State referred to in paragraph 1 of this Article and within a reasonable time, communicate the identity of the tied agents.

(3) Within 30 days of receiving the information referred to in paragraph 1 of this Article, the Agency shall forward the information to the competent authority of the host Member State and shall inform the investment firm thereof.

(4) The investment firm may start to provide in the host Member State the investment services and activities set out in the communication referred to in paragraph 1 of this Article from the day the competent authority of the Member State receives the communication from the Agency referred to in paragraph 1 of this Article.

(5) Paragraphs 1 to 4 of this Article shall apply mutatis mutandis to any change in the information contained in the communication referred to in paragraph 1 of this Article.

Special rules concerning MTFs

Article 141

(1) Investment firms or stock exchange authorised to operate an MTF in the Republic of Croatia, which intend to allow remote access to and the use of the MTF by persons with a registered office in another Member State shall inform the Agency thereof.

(2) The Agency shall transmit the communication referred to in paragraph 1 of this Article within 30 days of its receipt to the competent authority of the Member State concerned.

(3) The Agency shall, at the request of the competent authority of the Member State and without delay, furnish information on the users of the MTF included in the communication referred to in paragraph 1 of this Article.

(4) Investment firms or stock exchange referred to in paragraph 1 of this Article may allow remote access to and use of the MTF to persons with a registered office in another Member State, from the day the competent authority of that Member State receives the communication referred to in paragraph 2 of this Article.

Subsection 2

Provision of investment services and performance of investment activities in third countries

Branches of investment firms in third countries

Article 142

(1) An investment firm may provide investment services and perform investment activities as well as ancillary services in a third country only through the establishment of a branch.

(2) The establishment of a branch in a third country is subject to authorisation from the Agency.

(3) The provisions of Article 136, Article 137, paragraph 1 and Article 139 hereof shall apply mutatis mutandis to the authorisation referred to in paragraph 2 of this Article.

(4) The Agency may refuse authorisation referred to in paragraph 2 of this Article if the laws and regulations of a third country in which the investment firm intends to establish a branch, or difficulties

involved in their enforcement, are likely to prevent the effective exercise of its supervisory functions over the branch pursuant to provisions of this Act.

Direct performance of activities in a third country

Article 143

(1) By way of derogation from Article 142 paragraph 1 of this Act, any investment firm shall be authorised to directly perform in a third country the investment activity referred to in Article 5 paragraph 1 item 3 of this Act.
(2) The investment firm shall communicate to the Agency its intention to perform its activities directly.

(3) The provisions of Article 140 of this Act shall apply *mutatis mutandis* to the communication referred to in paragraph 2 hereof.

Section 2

Provision of investment services and performance of investment activities within the territory of the Republic of Croatia by investment firms with a registered office outside the Republic of Croatia

Subsection 1

Provision of investment services and performance of investment activities by investment firms with registered office in a Member State

Article 144

(1) An investment firm with a registered office in a Member State may perform those investment services and activities as well as the related ancillary services in the Republic of Croatia which it is authorised to perform in the Member State, either through a branch, or directly, subject to the conditions provided for under this Act.

(2) An investment firm with a registered office in a Member State which provides investment services and performs investment activities shall be subject to the provisions of those Croatian regulations which, in the interest of the general good, regulate consumer rights and the prevention of money laundering and financing of terrorism.

(3) Investment firm with registered office in Member State which provides investment services directly or through a branch within a territory of Republic of Croatia, shall provide all clients and potential clients in Republic of Croatia with all relevant information concerning the investor compensation scheme which it belongs to, in a manner proscribed by Article 245 of this Act.

Provision of investment services and performance of investment activities through a branch

Article 145

(1) An investment firm with a registered office in another Member State may establish a branch in the Republic of Croatia and may start providing investment services and performing investment activities in the Republic of Croatia through the branch 60 days after the competent authority of the investment

firm's home Member State delivers to the Agency the communication together with the information referred to in Article 136 paragraphs 1 and 2 and Article 137 paragraph 3 of this Act.

(2) If an investment firm from another Member State intends to change any information concerning its branch referred to in Article 136 paragraph 2 of this Act, it must communicate this to the Agency 30 days before the intended change.

(3) The branch of the investment firm with the registered office in another Member State shall, when providing services at the territory of the Republic of Croatia, comply with the conditions laid down in Articles 54 to 91 and 100 to 114 of this Articles, and regulation adopted pursuant to those Articles.

(4) Claims from investors who are clients of the branch of an investment firm shall be included in the investor protection scheme in the investment firm's home Member State.

(5) The branch of an investment firm with a registered office in a Member State may become included in the investor protection scheme in the Republic of Croatia for the purpose of extending the level and scope of investor protection as against that provided in the home Member State.

Direct provision of investment services and performance of investment activities

Article 146

(1) An investment firm with a registered office in another Member State may start providing investment services and performing investment activities after the Agency receives the communication and the information referred to in Article 136 of this Act from the competent authority of the home Member State.

(2) The provision of paragraph 1 of this Article shall apply mutatis mutandis to any change of the information included in the communication referred to in Article 140 paragraph 1 of this Act.

Special rules concerning MTFs

Article 147

Investment firms or market operators authorised to operate an MTF in their home Member States may allow remote access and use of the MTF to persons with a registered office in the Republic of Croatia from the day the Agency receives from the competent authority of that Member State the communication as set out in Article 141 of this Act.

Subsection 2

Provision of investment services and performance of investment activities by investment firms with a registered office in a third country

Article 148

Investment firms with a registered office in a third country may only provide investment services and perform investment activities in the Republic of Croatia through a branch, and under the terms provided for under this Act.

Authorisation for establishing a branch of an investment firm with registered office in a third country

Article 149

(1) An investment firm with a registered office in a third country may establish a branch in the Republic of Croatia upon authorisation from the Agency.

(2) Investment firms with a registered office in a third country shall, in addition to their request for authorisation for the establishment of a branch, submit the following:

1. an excerpt from a court register or some other equivalent register from the investment firm's home country for the parent investment undertaking

2. the statute or other corresponding rules of the parent investment undertaking

3. the information concerning members of the management and supervisory bodies of the parent investment undertaking

4. audited financial statements of the parent investment undertaking for the three preceding financial years

5. the relevant document with accurate data on the shareholders and their holdings in the investment firm,

6. an excerpt from a court register or some other equivalent register from the home country of the parent investment undertaking for those legal persons that possess qualifying holdings in the parent investment undertaking

7. the description of the investment services and activities to be performed by the branch and the programme of operations for the first three years of operation,

8. the approval, by the body authorised to supervise the parent investment undertaking, for the establishment of a branch, or a statement by such a body to the effect that no such authorisation is required under the rules and regulations of the country concerned,

9. the statement by the investment firm from a third country that the branch would keep all the requisite documentation pertaining to its business activities in the Croatian language, in its registered office, in accordance with this Act and the rules and regulations adopted on the basis of this Act,

10. detailed description of the system for the protection of investors in which the parent investment undertaking is included in the home country,

11. other documents which allow for verification of compliance with the personnel, technical and organisational requirements for performing the investment services and activities set out in the authorisation request.

(3) The Agency may impose on the investment firm with a registered office in a third country an additional requirement for the authorisation to establish a branch, namely, that the parent undertaking deposits in the Republic of Croatia a certain sum of money or some other corresponding financial guarantee or that it suggests some other appropriate form of guarantee for the settlement of obligations arising from the investment services and activities performed in the Republic of Croatia.

(4) The Agency shall issue the authorisation to establish a branch to the investment firm with a registered office in a third country if it satisfies itself on the basis of information at its disposal and the

documents submitted with the request for authorisation that the branch has the financial, administrative, organisational, personnel and technical capacities to carry out its business operations in accordance with this Act.

(5) The Agency shall also refuse to issue the authorisation referred to in paragraph 2 of this Article if the regulations of the third country where the parent investment undertaking has its had office and the difficulties involved in their execution are likely to prevent the effective exercise of its supervisory functions in respect of the branch in accordance with this Act.

(6) An investment firm with a registered office in a third country, which is authorised to establish a branch, may provide those services and perform those activities in the Republic of Croatia whose description it submitted with the request referred to in paragraph 2 of this Article.

(7) An investment firm from a third country wishing to provide additional or other investment services and activities through the branch in the Republic of Croatia shall request, in advance, an additional authorisation to perform those services and activities.

Application of provisions

Article 150

(1) An investment firm with a registered office in a third country which established its branch in the Republic of Croatia shall be subject to the provisions of Articles 115 to 117 hereof,

(2) The provisions of this Act governing investment firms which have their registered office in the Republic of Croatia shall apply mutatis mutandis to the investment firms referred to in paragraph 1 of this Article and to their branches and managers of their branches.

(3) The provisions of this Act concerning the management of investment firms which have their registered office in the Republic of Croatia shall apply mutatis mutandis to the managers of branches.

(4) The Agency shall withdraw authorisation to establish a branch from an investment firm with a registered office in a third country if:

1. the competent authority withdraws from the parent undertaking the authorisation to provide the investment services and to perform the investment activities which correspond in content to those referred to in Article 5 paragraph 1 of this Act,

2. for reasons referred to in Article 151 paragraph 2 of this Act the branch fails to meet its obligations in respect of the investor protection scheme.

Investor protection scheme in branches of investment firms from third countries

Article 151

(1) Where the branch of an investment firm from a third country is included in the investor protection scheme in the home country of the parent investment undertaking, the level and scope of investor protection rendered must not exceed the level and scope of investor protection laid down in this Act.

(2) Where there is none investor protection scheme in the home country of the parent undertaking or is significantly reduced in level and scope in comparison to that in the Republic of Croatia, the branch of the investment firm shall participate in the system for the protection of investors in the Republic of

Croatia. The manner and scope of such participation shall be laid down by the Agency in its authorisation for the establishment of the branch.

(3) Investment firm with registered office in a third country which has established a branch within a territory of Republic of Croatia, shall provide all clients and potential clients in Republic of Croatia with all relevant information concerning the investor compensation scheme which it belongs to, in a manner proscribed by Article 245 of this Act.

Section 3

Access to a regulated market

Article 152

Investment firms from other Member States authorised by the competent authorities to provide the investment service of executing client orders or to perform the investment activity of dealing on own account have the right of membership in or access to a regulated market established in the Republic of Croatia by means of any of the following arrangements:

1. directly, by setting up branches in the Republic of Croatia,

2. by becoming remote members of or having remote access to the regulated market without having to be established in the Republic of Croatia, where the trading procedures and systems of the market in question do not require a physical presence for conclusion of transactions on the market.

Access to central counterparty, clearing and settlement facilities and right to designate settlement system

Article 153

(1) Investment firms from other Member States shall have the right of access to central counterparty, clearing and settlement systems in the territory of the Republic of Croatia for the purposes of finalising or arranging the finalisation of transactions in financial instruments.

(2) Access of those investment firms to the facilities referred to in paragraph 1 of this Article shall be subject to the same non-discriminatory, transparent and objective criteria as apply to local participants in those facilities whose registered offices are located in the Republic of Croatia.

Article 154

Regulated markets shall offer their members the right to designate the system for the settlement of transactions in financial instruments undertaken on that regulated market, subject to conditions provided for under Article 536 hereof.

Chapter 9

Capital adequacy

Section 1

Own funds

Minimum own funds requirements

Article 155

(1) The own funds of any investment firm and local firm shall not at any time fall below the minimum initial capital referred to in Articles 32, 33 and 35 of this Act.

(2) In the event that the own funds of the investment firm and local firm referred to in paragraph 1 of this Article fall below the minimum initial capital referred to in Articles 32, 33 and 35 of this Act, the Agency shall allow such firms a limited period in which to rectify their situations, or it shall impose supervisory measures provided for under this Act.

(3) In the event of a merger of two or more investment firms and/or local firms approved by the Agency, at the time of the merger the own funds of the firm produced by the merger need not attain the minimum level of initial capital prescribed under Articles 32, 33 and 35 of this Act, but during any period when the level of minimum initial capital has not been attained, the own funds of the new firm may not fall below the merged firms' total own funds at the time of the merger.

Calculation of own funds

Article 156

(1) The own funds of an investment firm shall consist of the sum of original own funds referred to in Article 157 of this Act, additional own funds I referred to in Article 158 of this Act and additional own funds II referred to in Article 159 of this Act (in accordance with the limits referred to in Article 162 of this Act), excluding the deductible items referred to in Article 161 of this Act.

(2) The Agency shall lay down in its ordinance the characteristics of specific categories of own funds referred to in paragraph 1 of this Article and the characteristics of the items comprising them.

Original own funds

Article 157

(1) The original own funds of investment firms shall consist of the following items:

1. paid-up and registered initial capital, that is, the amount of paid ordinary and non-cumulative preferential shares realised at the time of issuance of those shares, at nominal value;

2. all the types of reserves formed from profit after tax;

3. retained profit from preceding years net of any future charges and confirmed by the proprietor of the investment firm or adopted by its general assembly;

4. capital reserves (gains on the purchase and sale of shares referred to in item 1 of this paragraph and on the acquisition and release of investment firm's own shares);

5. profit for the current financial year established on the basis of:

- audited annual financial statements, which is net of any future charges and confirmed by the proprietor of the investment firm or adopted by its general assembly,

- interim financial statements, which has been verified by the external auditor and when the investment firm allocates preliminary profit, net of any future charges, to reserves and/or retained profit in accordance with the decision of the investment firm's proprietor or its general assembly.

(2) The following items shall be deducted from the sum of items referred to in paragraph 1 of this Article:

1. acquired own shares, excluding cumulative preferential shares, at book value;

2. intangible assets, such as goodwill, licences, patents, trade marks and concessions;
3. losses brought forward established on the basis of audited annual financial statements;

4. loss for the current financial year based on audited annual financial statements or loss established on the basis of interim financial statements (preliminary amount of loss) which has been verified by the external auditor and in accordance with the decision of the investment firm's proprietor or its general assembly;

5. capital reserves (losses on the acquisition and release of the investment firm's own shares).

Additional own funds I

Article 158

(1) Additional own funds I shall consist of the following items:

1. special reserves which are not formed from profit after tax, but which arising from re-valuation of tangible fixed assets and financial assets, effects of valuation by the replacement value method for tangible fixed assets with limited useful life and from effects of valuation by methods which are designed to take account of inflation for the items shown in annual accounts,

2. paid-up capital arising from the sale of investment firm's cumulative preferential shares, at nominal value and capital reserves relating to that shares, minus acquired own cumulative preferential shares;

3. capital acquired on the basis of subordinated instruments,

4. securities and other instruments with non-fixed maturity and

5. other instruments similar to the subordinate instruments referred to in item 3 of this paragraph.

(2) Subordinated instruments referred to in items 3, 4, and 5 of paragraph 1 of this Article within the meaning of this Chapter shall be financial instruments which are issued by investment firm with a purpose of accumulate capital, and which comply with the requirements provided for comprising in additional own funds I.

(3) The Agency shall lay down in its ordinance the requirements for comprising of instruments referred to in paragraph 2 of this Article, in additional own funds I.

Additional own funds II
Article 159

(1) Additional own funds II shall consist of the financial instruments issued by investment firm with a purpose of accumulate capital, and which comply with the requirements provided for comprising in additional own funds II and that are not included in additional own funds I.

(2) The Agency shall lay down in its ordinance the requirements for comprising of instruments referred to in paragraph 1 of this Article, in additional own funds II.

Purpose of certain categories of own funds

Article 160

Original own funds and additional own funds I shall be used to cover capital requirements for market risk, credit risk and operational risk, while additional own funds II shall only be used to cover capital requirements for market risk, excluding capital requirements for settlement risks and counterparty risks.

Deductible items

Article 161

(1) The following items shall be deducted from an investment firm's own funds:

1. holdings in other investment firms, other financial and credit institutions, asset management companies, ancillary services undertakings amounting to more than 10% of their capital,

2. investments in subordinated instruments, referred to in paragraph 2 of Article 158 of this Act, of other investment firms, other financial and credit institutions, asset management companies, ancillary services undertakings, in which it has holdings exceeding 10% of the capital in each case,

3. holdings in investment firms, financial and credit institutions, asset management companies and ancillary services undertakings, other than those referred to in items 1 and 2 of this paragraph, of up to 10% of their capital and investments in subordinated instruments referred to in paragraph 2 of Article 158 of this Act, of these entities when investment firm's holdings exceed more than 10% of its own funds calculated before the deduction of items pursuant to this Article,

4. holdings in insurance and reinsurance undertakings and insurance holding companies within the meaning of item 28 of Article 4 of this Act and investments into instruments referred to in paragraph 2 of Article 158 of this Act, of these entities,

5. other deductible items.

(2) Where shares/holdings in another investment firm, other financial and credit institutions, asset management companies, ancillary services undertakings, insurance or reinsurance undertakings or insurance holding companies are held temporarily for the purposes of a financial assistance operation designed to reorganise and financially restructure that entity, the investment firm may request the Agency to waive the provisions on deductions in respect of those shares/holdings.

(3) One half of the total amount of deductions referred to in paragraph 1 of this Article shall be deducted from original own funds, while the other half shall be deducted from additional own funds I, after application of the limits laid down in paragraphs 1 and 2 of Article 162 of this Act. If the second half of the total amount of deductions exceeds additional own funds I, the excess shall be deducted from original own funds.

(4) Investment firms which use additional own funds II for the coverage of capital requirements for market risks, excluding settlement risk and counterparty credit risk, may calculate own funds in the manner provided for in Article 156 of this Act, deducting instead of the items referred to in paragraphs

1 to 3 of this Article, items of illiquid assets laid down by the Agency in the ordinance referred to in Article 156 of this Act.

(5) The Agency shall lay down in its ordinance the characteristics of other deductible items referred to in item 5 of paragraph 1 of this Article and items of illiquid assets referred to in paragraph 4 of this Article.

Own funds limits

Article 162

(1) Additional own funds I must not exceed 100% of original own funds.

(2) The total sum of subordinated instruments referred to in item 3 of paragraph 1 of Article 158 of this Act and cumulative preferential shares with fixed maturity included in additional own funds I must not exceed 50% of original own funds.

(3) Investment firms may use additional own funds II for the coverage of capital requirements for market risks, excluding settlement risk and counterparty credit risk, but only up to 150% of the original own funds necessary for the coverage of the aforementioned risks and no other risks.

(4) Subject to prior authorisation from the Agency, the limit referred to in paragraph 3 of this Article may be exceeded if the sum of additional own funds I and additional own funds II does not exceed 200% of the original own funds used for the coverage of capital requirements for investment firms' market risks, excluding settlement risk and counterparty credit risk.

(5) Subject to prior authorisation from the Agency, investment firms which calculate own funds in the manner provided for in Article 156 of this Act, with deduction of the items of illiquid assets, may exceed the limit referred to in paragraph 3 of this Article if the sum of additional own funds I and additional own funds II does not exceed 250% of the original own funds used for the coverage of capital requirements for the investment firm's market risks, excluding settlement risk and counterparty credit risk.

(6) Excesses of own funds limits referred to in items 1 to 5 of this Article investment firms shall not take into account of the capital requirements calculation.

Section 2

Risk management

Subsection 1

General provisions on risk management

Risk management

Article 163

Risk management is a set of measures and methods designed to identify, measure risk with reference to assessment, control and monitor risks, including reporting on the risks to which investment firm is or might be exposed in the course of performing its business activities.

Trading book and non trading book

Article 164

(1) The trading book of an investment firm shall consist of all positions in financial instruments and commodities held either with trading intent or in order to hedge other elements of the trading book and which are either free of any restrictive covenants on their tradability or able to be hedged.

(2) The non trading book of an investment firm shall consist of all positions of financial instruments and commodities not included among the positions of the trading book.

Market risks

Article 165

(1) Market risk consists of the following: position risks, settlement and counterparty credit risk, large exposures risk, foreign-exchange risk and commodities risk.

(2) Position risk is the risk of losses which could arise due to a price change in the financial instrument or, in the case of a derivative, due to a price change in the variable concerned. Position risk shall be divided into:

1. general position risk – risk of a price change in the financial instrument concerned due to a change in the level of interest rates or to a broad equity-market movement unrelated to any specific attributes of that financial instrument,

2. specific position risk – risk of a price change in the instrument concerned due to factors related to its issuer or, in the case of a derivative, the issuer of the underlying instrument.

(3) Settlement risk and credit counterparty risk are the risks of loss due to the counterparty's default to meet the obligations on the basis of trading-book positions.

(4)Large exposure risk is the risk of exceeding the permitted exposure limits to a single person or a group of connected persons which arise on the trading book positions.

(5) Foreign-exchange risk is a risk of exchange rate fluctuations.

(6) Commodities risk is a risk of changes to prices of commodities.

Credit risks

Article 166

Credit risk is a risk of loss due to incapacity of a client to settle its financial liabilities to investment firm within their maturity period.

Liquidity risk

Article 167

Liquidity risk is a risk of loss due to the actual or contingent incapacity of an investment firm to settle its financial liabilities within their maturity period.

Operational risk

Article 168

Operational risk is a risk of loss resulting form errors, disruptions or impairments caused by inadequate internal processes, people and systems or from external events, and includes legal risk.

Risk management strategies and policies

Article 169

In addition to complying with the organisational requirements referred to in Article 36 to Article 43 of the Act, investment firms shall, for the purpose of consistent implementation of the risk management strategies and policies referred to in Article 36 of this Act, establish and consistently apply appropriate administrative and accounting procedures to ensure an efficient system of internal control, in particular:

1. in the calculation and control of capital requirements for those risks, and

2. in identifying and monitoring large exposures, changes in large exposures and in controlling the compliance of large exposures with the investment firms' policies on the kinds of exposures concerned.

Strategies and procedures of internal capital assessment

Article 170

(1) An investments firm shall have in place and implement sound, effective and complete strategies and processes for ongoing assessment and maintenance the amounts, types and distribution of internal capital.

(2) Internal capital is the capital which the investment firm consider adequate to cover types and levels of risks to which they are or might be exposed.

(3) Strategies and procedures for internal capital assessment shall be subject to regular internal review to ensure that they remain comprehensive and proportional to the types, scope and complexity of the investment services and activities provided and performed by the investment firm.

The liquidity and solvency principles

Article 171

An investment firm shall conduct its business in the manner which ensures its permanent ability to service its financial liabilities (the solvency principle) and its ability to settle, at any time, its financial liabilities when due (the liquidity principle).

Subsection 2

Risk management policies and procedures

Market risk management policies and procedures

Article 172

(1) Investment firm shall establish and ensure the implementation of sound policies and procedures for measuring and managing any significant market risk factors and effects.

(2) The policies and procedures referred to in paragraph 1 of this Article shall prescribe at least the inclusion of positions in the trading book, active management of positions in the trading book and the valuation system of positions in the trading book.

Operational risk management policies and procedures

Article 173

(1) Investment firm shall establish and ensure the implementation of sound policies and procedures for measuring and managing operational risks, including low-frequency high-severity events, and shall articulate what constitutes operational risk for the purposes of those policies and procedures, in accordance with the provisions of Article 168 of this Act.

(2) Investment firms shall adopt contingency and business continuity plans to ensure their ability to operate on an ongoing basis and limit losses in the event of severe business disruptions.

Credit risk management policies and procedures

Article 174

(1) Investment firm shall establish and ensure the implementation of sound credit risk management policies and procedures.

(2) Investment firm shall adopt decisions to grant credits on the basis of sound and well-defined criteria and shall define the decision-making procedure for approving, amending, renewing and re-financing credits.

(3) Investment firm shall establish and ensure the implementation of appropriate systems for administration and ongoing monitoring of credit-risk bearing portfolios and individual exposures, which include adequate value adjustments for on-balance sheet items and provisions for risk-bearing off-balance sheet items.

Liquidity risk management policies and procedures

Article 175

(1) Investment firms shall establish and ensure the implementation of sound policies and procedures for liquidity risk management, shall regularly review the assumptions underlying the system for liquidity risk management, shall manage current and future cash inflows and outflows, and shall adopt contingency plans to deal with liquidity crises.

(2) The Agency shall lay down in its ordinance minimum requirements on investment firms for liquidity risk management.

Section 3

Capital requirements

Subsection 1

Minimum level of own funds in relation to capital requirements

Article 176

Investment firms shall have own funds which are always more than or equal to the sum of THE following:

1. capital requirements for market risks,

2. capital requirements credit risk and

3. capital requirements for operational risk.

Article 177

(1) Investment firms referred to in Article 178 of this Act shall hold own funds which must at all times be equivalent to not less than one quarter of their preceding year’s fixed overheads.

(2) Where a firm has not completed a year’s business, starting from the day it starts up, the requirement shall be a quarter of the fixed overheads projected in its business plan, unless an adjustment to that plan is required by the Agency.

(3) The Agency shall lay down in its ordinance the items comprising fixed overheads referred to in paragraph 1 of this Article.

Article 178

(1) By way of derogation from Article 176 of this Act, investment firms referred to in Article 32 of this Act may maintain their own funds at the level more than or equal to the higher of the following:

1. the sum of the capital requirements referred to in Article 176 items 1 and 2 of this Act,

2. the amount laid down in Article 177 of this Act.

(2) By way of derogation from Article 176 of this Act, investment firms referred to in Article 35 of this Act, which:

1. deal on own account only for the purpose of fulfilling or executing a client order or for the purpose of gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing client orders,

2. do not hold client money or financial instruments, undertake only dealing on own account, have no external customers, and the execution and settlement of whose transactions takes place under the responsibility of a clearing institution and are guaranteed by that clearing institution,

may hold own funds which are more than or equal to the sum of:

1. the capital requirements referred to in Article 176 items 1 and 2 of this Act,

2. the amount laid down in Article 177 of this Act.

(3) Investment firms referred to in paragraphs 1 and 2 of this Article shall be subject to other provisions concerning operational risks referred to in Article 173 of this Act.

(4) Recognised exchanges within the meaning of this Article shall be the exchanges recognised as such by the Agency, which meet the following conditions:

1. they function regularly,

2. they have rules, issued or approved by the appropriate authorities, defining the conditions for the operation of the exchange, the conditions of access to the exchange as well as the conditions that shall be satisfied by a contract before it can effectively be dealt on the exchange and

3. they have a settlement mechanism whereby derivatives financial instruments are subject to daily margin requirements which, in the Agency's opinion, provide appropriate protection.

Agency's permission

Article 179

(1) The Agency shall permit an investment firm to use:

1. advanced measurement approach for the calculation of their capital requirements for operational risk,

2. the internal model for the calculation of their capital requirements for settlement and counterparty credit risk,

3. the internal models for the calculation of their capital requirements for position risk, foreign-exchange risk and/or commodities risk,

4. the internal model for valuation of options,

5. internal ratings based approach for risk weighted exposure amount s for credit risk

6. other internal estimates and models in relation to capital requirements for credit risk.

(2) An investment firm shall notify the Agency without delay of any planned changes to the internal model referred to in paragraph 1 of this Article for which it received authorisation from the Agency. Agency shall decide, on the basis of the documentation submitted and the information at its disposal, whether the intended change requires changes in the permission referred to in paragraph 1 of this Article.

(3) Where an EU parent credit institution and its subsidiaries or the subsidiaries of an EU parent financial holding company use Approach or model referred in paragraph 1 point 1 and 5 of this Article

on a unified basis, the Agency may allow the qualifying criteria to be met by the parent and its subsidiaries considered together.

(4) An investment firm shall notify the Agency without delay if it ceases to comply with the conditions for the authorisation referred to in paragraph 1 of this Article and accompany this by:

1. evidence that such non-compliance is not of material significance, or

2. a plan of how it intends to ensure compliance with the requirements referred to in paragraph 1 of this Article.

(5) The Agency shall lay down in its ordinance the conditions and documentation required for the permission referred to in paragraph 1 of this Article as well as the conditions for its withdrawal.

Subsection 2

Capital requirements for market risks and credit risk

Capital requirements for position risk

Article 180

(1) Capital requirements for position risks shall be established by an investment firm in respect of its trading book business.

(2) Capital requirements for position risk shall be equal to the sum of capital requirements for general position risk and capital requirements for specific position risk. Capital requirements for general and specific position risk shall be calculated on the basis of net position in each individual financial instrument in the trading book.

(3) When calculating capital requirements for general position risk of debt financial instruments, an investment firm may apply a maturity-based approach or duration-based approach.

(4) By way of derogation from paragraph 3 of this Article, an investment firm may use an internal model as well if it received a prior permission from the Agency.

(5) Capital requirements for general and specific position risk of financial instruments shall be calculated by an investment firm by applying the methodology and risk weight.

(6) The Agency shall adopt an ordinance prescribing the manner of calculation of capital requirements for general and specific position risk.

Capital requirements for settlement and counterparty credit risk

Article 181

(1) Capital requirements for settlement and counterparty credit risk shall be established by an investment firm in respect of its trading book business.

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(2) When calculating capital requirements for settlement and counterparty credit risk an investment firm shall use methods and risk weight.

(3) By way of derogation from paragraph 2 of this Article, an investment firm may use an internal model for calculating capital requirements for counterparty risk if it received a prior permission from the Agency.

(4) The Agency shall adopt an ordinance prescribing the manner of calculation of capital requirements for settlement and counterparty credit risk.

Capital requirements for large exposures

Article 182

(1) An investment firm shall calculate capital requirements for large exposures which arise on the trading book positions.

(2) The Agency shall adopt an ordinance prescribing the manner of calculation of capital requirements for large exposures.

Capital requirements for foreign-exchange risk

Article 183

(1) An investment firm shall calculate capital requirements for foreign-exchange risk if its total net open foreign-exchange position in respect of all of their business activities (from the trading book and the non-trading book) exceeds 2% of the investment firm's own funds.

(2) By way of derogation from paragraph 1 of this Article, an investment firm may use an internal model for calculating capital requirements for foreign-exchange risk upon prior permission from the Agency.

(3) The Agency shall adopt an ordinance prescribing the manner of calculation of capital requirements for foreign-exchange risk.

Capital requirements for commodities risk

Article 184

(1) Capital requirements for commodities risk shall be calculated on the basis of net position in respect of all of their business activities (from the trading book and the non-trading book) for each individual commodity.

(2) When calculating capital requirements for commodities risk an investment firm must use a simplified approach or a maturity ladder approach.

(2) By way of derogation from paragraph 2 of this Article, an investment firm may use an internal model for calculating capital requirements for commodities risk upon a prior permission from the Agency.

(3) The Agency shall adopt an ordinance prescribing the manner of calculation of capital requirements for commodities risk.

Capital requirements for credit risk

Article 185

(1) Capital requirements for credit risk shall be calculated in respect of all of their business activities whit the exception of their trading book business and illiquid assets if deducted from own fund under Article 161 paragraph 4 of this Act.

(2) Investment firm shall use the Standardised Approach for the calculation of risk-weighted exposure amounts for credit risk.

(3) By way of derogation from paragraph 2 of this Article, an investment firm may use an Internal Ratings Based Approach for the calculation of risk-weighted exposure amounts for credit risk upon a prior permission from the Agency.

(4) The Agency shall adopt an ordinance prescribing the manner of calculation of capital requirements for credit risk.

Subsection 3

Capital requirements for operational risk

Approaches for the calculation of the capital requirements for operational risk

Article 186

(1) For calculating capital requirements for operational risk an investment firm may use the Basic Indicator Approach, the Standardised Approach or the Advanced Measurement Approach.

(2) By way of derogation from paragraph 1 of this Article, an investment firm may at the same time use several approaches based on the prior permission from the Agency.

(3) An investment firm may change the approach for the calculation of capital requirements for operational risk from the simplified to the next, methodologically more complex approach.

(4) An investment firm may not change the approach for the calculation of capital requirements for operational risk from the methodologically more complex approach to the simplified approach without a justified reason and a prior permission from the Agency.

Relevant indicator

Article 187

(1) The basis for the calculation of the relevant indicator is net income earned by an investment firm by providing and carrying out investment services and activities.

(2) By way of derogation from paragraph 1 of this Article, if an investment firm did not do business during the entire or part of the period for which the relevant indicator was to be calculated or for some other reason does not dispose of data necessary for calculating the relevant indicator, the investment firm may use business estimates for the calculation of the relevant indicator, upon prior permission from the Agency.

Basic Indicator Approach

Article 188

The capital requirement for operational risk of an investment firm under the Basic Indicator Approach shall be a certain percentage of a relevant indicator.

Standardised Approach

Article 189

(1) The Standardised Approach for calculating the capital requirement for operational risk shall comprise the classification of services and activities of an investment firm across individual business lines and the calculation of the capital requirement as a percentage of the relevant indicator.
(2) Under Standardised Approach, the capital requirement for operational risk shall be the sum of capital requirements for operational risk across all individual business lines of an investment firm.

(3) An investment firm using a Standardised Approach must meet the qualifying criteria for the standardised approach.

Advanced Measurement Approach

Article 190

(1) The Advanced Measurement Approach for the calculation of the capital requirement for operational risk shall be based on the own operational risk measurement system of an investment firm for which a prior permission from the Agency is required.

(2) An investment firm using the Advanced Measurement Approach must meet the qualifying criteria for the Advanced Measurement Approach.

Article 191

The Agency shall adopt an ordinance providing for procedures for calculating the relevant indicator, the capital requirement for operational risk by applying the Basic Indicator Approach and the Standardised Approach, and conditions of use of the Standardised Approach and the Advanced Measurement Approach as well as conditions for the combination of approaches.

Notifying the Agency

Article 192

(1) An investment firm using the Basic Indicator Approach for calculating capital requirements for operational risk must notify the Agency about its intention to transfer to the Standardised Approach for calculating capital requirements for operational risk.

(2) An investment firm must immediately notify the Agency if it does not meet the qualifying criteria for Standardised Approach or Advanced Measurement Approach or conditions for combining approaches, and propose measures and the time limit for meeting the prescribed conditions.

Section 4

Large exposures

Exposure and large exposure

Article 193

(1) The exposure of an investment firm to person or a group of connected persons shall be the amount of assets and/or off-balance-sheet items to that person or a group of connected persons.

(2) An investment firm's exposure to a person or a group of connected persons shall be considered a large exposure where its value is equal to or exceeds 10% of the investment firm's own funds.

(3) Investment firm shall monitor and control large exposures and shall establish and ensure the implementation of sound policies and procedures for the purposes of identifying, recording and monitoring all large exposures which arise on trading book and non- trading book.

Largest permissible exposure value

Article 194

(1) An investment firm may not incur an exposure to a person or a group of connected persons referred to in Article 195 of this Act the value of which exceeds 25% of its own funds.

(2) By way of derogation from paragraph 1 of this Article, the exposure of an investment firm to a person or a group of connected persons, if the persons in question are persons referred to in Article 196 of this Act, may not exceed 10% of its own funds.

(3) By way of derogation from paragraphs 1 and 2 of this Article, where a person or a group of connected persons is the parent undertaking or subsidiary of the investment firm and/ or of one or more subsidiaries of that parent undertaking, the exposure of the investment firm to a person or a group of connected persons may not exceed 20% of its own funds.

Group of connected persons

Article 195

(1) A group of connected persons shall consist of two or more legal or natural persons which, unless it is shown otherwise, constitute a single risk for the investment firm because:

1. one of them, directly or indirectly, has control over the other or others; or

2. they are interconnected in a way which makes it highly probable that, if one of them were to experience improvement or deterioration of economic and financial situation, the other or all of the others would be likely to encounter improvement or deterioration of economic and financial situation, and between them there is a possibility for the transfer of loss, gain or creditworthiness.

(2) A group of connected persons shall consist of all persons referred to in paragraph 1 of this Article and persons connected with them in the manner referred to in Article 4, item 12 of this Act.

Persons in a special relationship with an investment firm

Article 196

Persons in a special relationship with an investment firm to which exposure may be incurred or increased shall be the persons referred to in Article 4, items 11 and 12 of this Act.

Restrictions on overall exposures

Article 197

(1) The overall exposures of an investment firm to individual persons or groups of connected persons shall be calculated by summing the exposures which arise on the trading book and the exposures which arise on the non-trading book.
(2) The sum of overall large exposures of an investment firm may not exceed 800% of its own funds.

(3) The sum of overall exposures to persons in a special relationship with an investment firm may not exceed 50% of its own funds.

Excess of limits of exposure

Article 198

(1) An investment firm must at any given time be in compliance with limits referred to in Article 194 and 197 of this Act.

(2) By way of derogation from paragraph 1 of this Article, an investment firm may exceed the limits of exposure referred to in Article 194 and 197 of this Act provided that the following conditions have been met:

1. the exposure on the non-trading book to the person or a group of persons in question does not exceed the limits laid down in Articles 194 and 197 of this Act, that is, the excess arises entirely on the trading book;

2. the investment firm meets an additional capital requirement for each large exposure in accordance with Article 182 of this Act;

3. where 10 days or less has elapsed since the excess occurred, the sum of exposures of an investment firm to the person or a group of connected persons arising out of trading book positions does not exceed 500% of the investment firm’s own funds.

4. any excesses that have persisted for more than 10 days must not, in aggregate, exceed 600% of the investment firm’s own funds.

Article 199

(1) An investment firm may not deliberately avoid additional capital requirements that it would otherwise incur on exposures exceeding the limits laid down in Article 194 of this Act once those exposures have been maintained for more than 10 days by means of temporarily transferring the exposures in question to another subject within the same group or not and/or by undertaking artificial transactions to close out the exposure during the 10-day period and create a new exposure.
(2) The investment firm must immediately report to Agency any transfer the effects of which are laid down in paragraph 1 of this Article.

(3) Agency shall adopt procedures to prevent deliberately avoiding the additional capital requirements referred to in paragraph 1 of this Article.

(4) Agency shall notify the European Commission and the Council of procedures referred to in paragraph 3 of this Article.

Reporting exposures

Article 200

(1) An investment firm must report to the Agency every three months all large exposures referred to in Article 193 of this Act in course of the preceding 3 months.
(2) An investment firm must quarterly report to the Agency if exposures exceed the limits referred to in Article 198 of this Act in the course of the preceding 3 months. An investment firm must, in every report on excess, report about the amount of excess and the name of the client concerned shall be reported.

(3) If exposures exceed the limits of exposure which arises on the non-trading book, an investment firm must report that fact without delay to the Agency, which may, where the circumstances warrant it, allow the investment firm a limited period of time in which to comply with the limits.

(4) The Agency shall adopt an ordinance providing for the manner and time limits for reporting the exposures.

Section 5

Investments into qualifying holdings of non-financial institutions

Article 201

Non-financial institution

For the purposes of this section, a non-financial institution means any legal person, except:

1. investment firms and other financial institutions;
2. credit institutions;
3. asset management companies;
4. ancillary services undertakings.

Limitations on investments into capital of non-financial institutions

Article 202

(1) An investment firm’s holdings in the capital of non-financial institution may not exceed 15% of investment firm’s own funds..

(2) An investment firm’s total holdings in the capital of non-financial institution may not exceed 60% of investment firm’s own funds.

Exemptions from limitation on investments

Article 203

(1) Holdings acquired by an investment firm in exchange for its claims during the process of financial restructuring, and in the bankruptcy or enforcement proceedings, or through application of instruments for the securing of claims in accordance with the Enforcement Act in the first two years after the acquisition of qualifying holding shall not be regarded as investments within the meaning of Article 202 of this Act.

(2) Investments within the meaning of Article 202 of this Act shall not be:

1. shares held during the provision of an investment service referred to in Article 5, paragraph 1, item 6 of this Act;

2. shares or holdings acquired in the investment firm's own name, and on behalf of others, and

3. shares or holdings kept on the trading book.

Excess of limits on investments

Article 204

The limits laid down in Article 202 paragraphs 1 and 2 may be exceeded only in exceptional circumstances. In such cases, the Agency shall require an investment firm either to increase its own funds or to take other equivalent measures.

Section 6

Level of application

Subsection 1

Application of requirements on an individual basis

Article 205

(1) An investment firm referred to in Articles 32 and 35 of this Act with registered office in the Republic of Croatia shall comply with the following requirements on an individual basis concerning:

1. requirements referred to in Article 169 of this Act on the risk management strategy and policy;

2. requirements referred to in Article 170 of this Act on the internal capital assessment strategy and procedures;

3. minimum capital requirements referred to n Articles 176 to 178 of this Act;

4. large exposures referred to in Article 193 to 200 of this Act, and

5. limits on qualifying holdings in non-financial institutions referred to in Articles 201 to 204 of this Act.

(2) Obligations referred to in paragraph 1, items 2 and 5 of this Act shall not apply to investment companies with registered office in the Republic of Croatia which is:

1. a subsidiary investment firm whose parent undertaking has the obligation to comply with the provisions of paragraph 1 of this Article on a consolidated basis; and

2. a parent investment firm which complies with the requirements on a consolidated basis referred to in Article 208, paragraph 1 of this Act.

(3) The requirements referred to in paragraph 1, items 2 and 5 of this Act shall also apply to investment firms with registered offices in the Republic of Croatia which are not included in the supervision on a consolidated basis in accordance with Articles 209 and 210 of this Act.

(4) An investment firm with registered office in the Republic of Croatia shall comply with the provisions on public disclosure referred to in Article 219 to 221 of this Act on an individual basis where it is not:
1. a subsidiary investment firm of a parent undertaking subject to public disclosure on a consolidated basis within the meaning of Articles 219 to 221 of this Act;

2. a parent investment firm, and

3. included in the supervision on a consolidated basis, pursuant to Articles 209 and 210 of this Act.

Subsection 2

Application of requirements on a consolidated basis

Investment firm's group in the Republic of Croatia

Article 206

(1) An investment firm's group in the Republic of Croatia (hereinafter: investment firm's group in the RoC) shall include credit institutions, investment firms, other financial institutions, asset management companies and auxiliary services companies with registered offices in the Republic of Croatia or outside the Republic of Croatia, within which at least one of the investment firms has the status of:

1. a RoC parent investment firm, or

2. a EU parent investment firm with registered office in the Republic of Croatia.

(2) An investment firms' group in the RoC shall include investment firms, other financial institutions, asset management companies and auxiliary services companies with registered offices in the Republic of Croatia or outside the Republic of Croatia, within which at least one of the investment firms or other financial institutions has the status of:

1. a RoC parent investment firm,

2. an investment firm with registered office in the Republic of Croatia and is linked by management on a unified basis with another investment firm or another financial institution, assets management company or ancillary services undertaking,

3. a RoC parent financial holding company of which at least one subsidiary investment firm has its registered office in the Republic of Croatia,

4. a parent financial holding company in another Member State of which at least one subsidiary investment firm has its registered office in the Republic of Croatia, or

5. a EU parent investment firm with registered office in the Republic of Croatia.

(3) An investment firm's group in the RoC shall also exist if the same RoC parent financial holding company or EU parent financial holding company with registered office in the Republic of Croatia, in addition to having an investment firm subsidiary with registered office in the Republic of Croatia, has subsidiary investment firms of other Member States.

(4) An investment firm's group in the RoC shall also exist if an investment firm with registered office in the Republic of Croatia is a subsidiary of more than one financial holding company with registered office in the Republic of Croatia and other Member States and if each of these holdings has a subsidiary investment firm in each of these Member States and if that investment firm with registered office in the Republic of Croatia has the largest balance sheet total in relation to investment firms in other Member States.

(5) An investment firm's group in the RoC shall also exist if the same parent financial holding company with registered office in another Member State has, in addition to an investment firm with registered office in the Republic of Croatia, subsidiary investment firms of other Member States provided that none of the subsidiary investment firms has been authorised in the Member State in which the financial holding has its registered office and that the investment firm with registered office in the Republic of Croatia has the largest balance sheet total in relation to investment firms in other Member States.

Inclusion into and exclusion from an investment firm's group in the RoC

Article 207

(1) For the purposes of supervision on a consolidated basis the Agency shall request the inclusion into an investment firm's group in the RoC in the following cases:

1. where, in its opinion, an investment firm exercises a significant influence over one or more investment firms, other financial institutions, asset management companies or ancillary services undertaking, but without holding a participation or other capital ties in these institutions; and

2. where two or more investment firms with registered office in the Republic of Croatia are placed under single management other than pursuant to a contract or articles of association with other investment firms or another financial institution, asset management company or ancillary services undertaking.

(2) The Agency may, for the purposes of supervision on a consolidated basis, exclude one subsidiary member from the investment firm's group in the RoC which may be a credit institution, an investment firm or another financial institution, assets management company or ancillary services undertaking in the manner referred to in Article 209 of this Act or exempt an entire investment firm's group in the RoC in the manner referred to in Article 210 of this Act.

Article 208

(1) A parent investment firm in the Republic of Croatia shall comply with the following requirements on a consolidated basis for its investment firm's group in the RoC concerning:

1. minimum capital requirements referred to in Article 176 to 178 of this Act;

2. large exposures referred to in Articles 193 to 200 of this Act;

3. limits on qualifying holdings in non-financial institutions referred to in Articles 201 to 204 of this Act;

4. requirements referred to in Article 170 of this Act on the strategy and procedure for internal capital assessment.

(2) An investment firm with registered office in the Republic of Croatia which is a subsidiary of a parent financial holding from the investment firm's group in the RoC must comply with the requirements referred to in paragraph 1 of this Article on a consolidated basis of that investment firm's group in the RoC.

(3) An investment firm with registered office in the Republic of Croatia which is a EU parent investment firm must comply with the disclosure requirements referred to in Articles 219 to 221 of this Act on a consolidated basis.
(4) An investment firm with registered office in the Republic of Croatia which is a subsidiary of a EU parent financial holding company from the investment firm's group in the RoC must comply with the disclosure requirements referred to in Articles 219 to 221 of this Act on a consolidated basis.

(5) By way of derogation from paragraphs 3 and 4 of this Article, the Agency may request from an investment firm with registered office in the Republic of Croatia which is a subsidiary of a EU parent financial holding company, and which is significant for the capital market in the Republic of Croatia, to comply with disclosure requirements referred to in Articles 219 to 221 of this Act on an individual basis or on a sub-consolidated basis.

(6) When determining the significance of an individual investment firm for the capital market of the Republic of Croatia the Agency shall take into account the market share, type and scope of services and activities provided and performed by such an investment firm, and its influence on the stability of the financial system of the Republic of Croatia.

(7) The Agency may, fully or partially, permit the investment firm referred to in paragraphs 3, 4 and 5 of this Article from the disclosure requirements referred to in Articles 219 to 221 of this Act upon its request, under the condition that the disclosure requirements are complied with by the parent undertaking of an investment firm of a third country on a consolidated basis and if such disclosures are comparable with disclosures pursuant to this Act.

(8) A subsidiary investment firm or a parent financial holding in an investment firm's group in the RoC with hold the position of a parent undertaking or hold a participation in another investment firm or another financial institution, asset management company, ancillary services undertaking with registered office in a third country, must comply with the obligations referred to in paragraph 1 of this Article on a sub-consolidated basis.

(9) A parent investment firm in an investment firm's group in the RoC shall comply with the requirements referred to in Article 169 of this Act on a consolidated basis and on a sub-consolidated basis to ensure that their arrangements, processes and mechanisms within the investment firm's group in the RoC are consistent and well-integrated and that all data and information relevant for the purpose of for supervision can be produced.

Subsection 3

Waiver of the application of requirements on a consolidated basis
Article 209

(1) The Agency may, for the purposes of supervision on a consolidated basis from an investment firm's' group in the RoC, grant waiver to an individual member of the investment firm's group in the RoC which is a subsidiary, under the following conditions:

1. where the member concerned is situated in a third country where there are legal impediments to the transfer of the necessary information;

2. where, in the opinion of the Agency, the member concerned is of negligible interest only with respect to the objectives of monitoring of an investment firm and in any event where the balance-sheet total of the member concerned is less than the smaller of the following two amounts;

- HRK 75 million, or
- 1% of the balance-sheet total of the investment firm or a financial holding from the investment firm's group in the RoC which are a parent undertaking or hold participation.

3. where, in the opinion of the Agency, the inclusion into the investment firm's group in the RoC would be misleading as far as the objectives of the supervision of investment firms are concerned.

(2) By way of derogation from paragraph 1 of this Article, the Agency may, as far as the objectives of the supervision of investment firms are concerned, include into the investment firm's group in the RoC several members of an investment firm's group in the RoC which satisfy the criteria referred to in paragraph 1, item 2 of this Article and are collectively of non-negligible interest.

Article 210

(1) The Agency may grant waiver, on a case-by-case basis, to investment firm's groups in the RoC from the application of capital requirements on a consolidated basis provided that:
1. each EU investments firm in the investment firm's group in the RoC uses the calculation of own funds set out in Article 213 of this Act;

2. all investment firms in the investment firm's group in the RoC fall under categories referred to in Article 178, paragraphs 1 and 2 of this Act;

3. each EU investment firm in the investment firm's group in the RoC meets the requirements imposed in Articles 176 to 178 on an individual basis and at the same time deducts from its own funds any contingent liability in favour of investment firms, other financial institutions, asset management companies and ancillary services undertakings, which would otherwise be consolidated, and;

4. any RoC parent financial holding from an investment firm's group in the RoC which holds at least as much capital as the sum of the full book value of any holdings, subordinated claims and instruments in investment firms, other financial institutions, asset management companies and ancillary services undertakings and the total amount of any contingent liability in favour thereof which would otherwise be consolidated.

(2) Where the criteria in the first subparagraph are met, each EU investment firm within the investment firm's group in the ROC shall have in place systems to monitor and control the sources of capital and funding of all financial holding companies, investment firms, other financial institutions, asset management companies and ancillary services undertakings within the investment firm's group in the RoC.

(3) By way of derogation from paragraph 1, item 4 of this Article, the Agency may permit own funds of RoC parent financial holding to be lower than the value calculated under paragraph 1, item 4 of this Article but no lower than the sum of the requirements imposed in Articles 176 and 178 Act on an individual basis to investment firms, other financial institutions, asset management companies and ancillary services undertakings and the total amount of any contingent liability in favour thereof which would otherwise be consolidated.

(4) For the purposes of paragraph 3, capital requirements for investment undertakings of third countries, financial institutions, asset management companies and ancillary services undertakings is a notional capital requirement.

Obligations of members of investment firm's groups in the RoC which have been granted waiver

Article 211

(1) Investment firms in an investment firm's group in the RoC which has been granted waiver of the application of capital requirements on a consolidated basis in accordance with Article 210 of this Act must notify the risks which could undermine their financial positions, including those associated with the composition and sources of their capital and funding.

(2) When the Agency, on the basis of notifications referred to in paragraph 1 of this Article, assesses that the financial position of investment firms is not adequately protected from risks, it shall require them to take measures including, where necessary, limitations on the transfer of capital between these investment firms and other members of the group.

(3) The Agency shall take other appropriate measures towards investment firms from the investment firm’s group in the RoC referred to in Article 210 of this Act to monitor the risks, namely large exposures, of the whole investment firm’s group in the RoC, including any undertakings located in other countries.

Subsection 4

Calculation of capital requirements on a consolidated basis

Article 212

(1) Where own funds of investment firms is calculated on a consolidated basis, the consolidated amounts relating to the items listed under Article 156 of this Act shall be used in accordance with the provisions of Article 265 of this Act on the manner of consolidation for the purposes of supervision on a consolidated basis.

(2) The following items shall be regarded as consolidated reserves for the calculation of consolidated own funds:

1. minority interests (shares held by persons different from the majority owner);
2. the first consolidation difference (goodwill, capital gains, that is, capital losses)
3. the translation differences included in consolidated reserves and
4. any difference resulting from the inclusion of certain participating interests.

(3) Where consolidated reserves referred to in paragraph 2 of this are negative (“credit”) items, they shall be included in the calculation of consolidated own funds, and if they are positive (‘debit’) items, they shall be deducted in the calculation of consolidated own funds.

Article 213

Investment firm from the investment firm’s group in the RoC referred to in Article 210 of this Act using additional own funds II for covering capital requirements for market risks of an investment firm, except for the settlement and counterparty credit risk, shall calculate the own funds pursuant to Article 156 of this Act, in accordance with the following conditions:

1. the illiquid assets referred to in Article 161, paragraph 4 of this Act shall be deducted;

2. deductible items referred to in Article 161, paragraphs 1 and 2 of this Act which refer to holdings and subordinate instruments which an investment firm holds in respect of undertakings included in the scope of consolidation of the investment firm's group in the RoC, shall be deducted;

3. the own funds limits referred to Article 162, paragraphs 1 and 2 shall be calculated with reference to the original own funds less the deductible items referred to in item 2 of this Article, which are elements of the original own funds of those undertakings;

4. deductible items referred to in Article 161, paragraphs 1 and 2 of this Act which are included under item 3 of this Act shall be deducted from the original own funds, and not in the manner referred to in Article 161, paragraph 3 of this Act, taking into account capital limitations referred to in Article 162, paragraphs 3, 4 and 5 of this Act.

Article 214

(1) A RoC parent investment firm and an investment firm with registered office in the Republic of Croatia controlled by RoC parent financial holding from the investment firm's group in the RoC, under the condition that all investment firms in this group are referred to in Article 178, paragraph 1 of this Act, may maintain their own funds at a consolidated level which are always more than or equal to the higher of the following two amounts:

1. the sum of the capital requirements referred to in Article 176, paragraphs 1 and 2 of this Act,

2. the amount laid down in Article 177 of this Act.

(2) A RoC parent investment undertaking and an investment firm with registered office in the Republic of Croatia controlled by RoC parent financial holding from the investment firm's group in the RoC, under the condition that all investment firms in this group are referred to in Article 178, paragraphs 1 and 2 of this Act, may maintain their own funds at a consolidated level which are always more than or equal to the sum of:

1. the sum of capital requirements referred to in Article 176, items 1 and 2 of this Act;

2. the amount laid down in Article 177 of this Act.

Article 215

(1) For the purpose of calculating capital requirements on a consolidated basis the following shall be allowed:

1. offsetting of the trading book positions between one investment firm or credit institution with another investment firm or credit institution pursuant to the provisions for the calculation of capital requirements for position risk referred to in Article 180 of this Act and capital requirements for large exposure referred to in Article 182 of this Act;
2. offsetting foreign exchange positions between one investment firm or credit institution with another investment firm or credit institution pursuant to the provisions for the calculation of capital requirements for foreign-exchange risk referred to in Article 183 of this Act;

3. offsetting commodities positions between one investment firm or credit institution with another investment firm or credit institution pursuant to the provisions for the calculation of capital requirements for commodities risk referred to in Article 184 of this Act;

(2) For the purpose of calculating capital requirements on a consolidated basis, offsetting of the positions provided for in paragraph 1 of this Article, with undertakings which have registered offices in third countries, shall be allowed subject to the simultaneous fulfilment of the following conditions:

1. such undertakings have been authorised in a third country and either satisfy the definition of credit institution or are recognised third-country investment firms;

2. such undertakings comply, on an individual basis, with capital adequacy rules equivalent to those laid down in this Act and ordinances adopted on the basis of this Act; and
3. no regulations exist in the third countries in question which might significantly affect the transfer of funds within the group.

(3) For the purpose of calculating capital requirements on a consolidated basis, offsetting provided for in paragraph 1 of this Article between investment firms with a registered offices in Republic of Croatia and credit institutions with a registered offices in Republic of Croatia, shall be allowed provided that:

1. there is a satisfactory allocation of capital within the investment firm's group in the RoC; and
2. there are no material or legal impediments to the agreements whish will guarantee mutual financial support within the investment firm's group in the RoC.

(4) For the purpose of calculating capital requirements on a consolidated basis, offsetting provided for in paragraph 1 of this Article between investment firms and credit institutions within an investment firm's group in the RoC that fulfil the conditions imposed in paragraph 3 of this Article and any investment firms and credit institution included in the same investment firm's group in the ROC which has been authorised in another Member State shall be allowed provided that they fulfil the capital requirements pursuant to the legislation of the European union on an individual basis.

Section 7

Reporting requirements

Article 216

(1) Investment firms must provide the Agency with all the information necessary for the assessment of their compliance on internal strategies, policies and procedures about risk management and capital adequacy with the provisions of this Act and regulations adopted on the basis of this Act.

(2) Investment firms must ensure that internal control mechanisms and administrative and accounting procedures permit the verification of their compliance with such internal rules at all times.

Reporting about compliance with capital requirements

Article 217

Investment firms shall report to the Agency the compliance with capital requirements with the following dynamics:

1. at least once a month in case of investment firms referred to in Article 35 of this Act;

2. at least once in every three months in case of investment firms referred to in Article 32, paragraphs 1 and 2 of this Act;

3. at least once in every six months in case of investment firms referred to in Article 32, paragraph 3 of this Act,

4. at least once in every six months in case of investment firms referred to in Article 35 and Article 32, paragraphs 1 and 2 of this Act on a consolidated and sub-consolidated basis.

Article 218

The Agency shall adopt an ordinance prescribing in the types and contents of reports referred to in Articles 216 and 217 of this Act and the manner and time limits for their delivery.

Section 8

Disclosure

Article 219

(1) An investment firm must publicly disclose general information about fields of its business activity about:

1. risk management objectives and policies;

2. entities to which disclosed information relates as well as other information relating to such entities;

3. own funds;

4. compliance with capital requirements and assessment of internal capital adequacy;

5. exposure to counterparty credit risk;

6. exposure to credit risk;

7. the Standardised Approach to the measurement of credit risk;

8. measurement of credit risk under the Internal Ratings Based Approach;

9. capital requirements for market risks;

10. internal models for the calculation of capital requirements for market risks;

11.approaches and the methods and scope of application of approaches for the calculation of capital requirements for operational risks;

12. equity instruments in the non-trading book;

13. other areas prescribed by the Agency.

(2) The Agency may require from a certain investment firm one or more additional disclosures non mentioned in paragraph 1 of this Article.

(3) An investment firm must adopt a policy for complying with the disclosure requirements and the policy for the assessment of appropriateness of disclosed information, and the verification of their accuracy and frequency of disclosure.

(4) An investment firm shall publicly disclose that the Agency granted or withdrew permission for an individual approach or technique referred in Article 179 of this Act, and other information relating to such approaches and techniques.

Exemptions from disclosure

Article 220

(1) Exceptionally, an investment firm shall not be obliged to disclose one or more information referred to in Article 219, paragraph 1 of this Act if it is not material. Information shall be regarded as material in disclosures if its omission or misstatement could change or influence the assessment or an economic decision of a person relying on that information for the purpose of making economic decisions.

(2) Exceptionally, an investment firm shall not be obliged to disclose one or more information referred to in Article 219, paragraph 1 if this is information regarded as confidential business information or information the sharing of which with the public could undermine the competitive position of an investment firm or render a credit institution's investments therein less valuable.

(3) In cases referred to in paragraph 2 of this Article, the investment firm concerned shall state in its disclosures the fact that specific items of information were not disclosed, the reason for non-disclosure and publish more general information about the subject matter, except in case when such information is regarded as information referred to in paragraph 2 of this Article.

Manner and time limits for disclosure

Article 221

(1) An investment firm must disclose information referred to in Article 219, paragraph 1 of this Act at a minimum on an annual basis. Internal audit of investment firm shall regularly review the processes ensuring timeliness and accuracy of publicly disclosed information.

(2) An investment firm must assess whether more frequent publication of individual is necessary that provided for by the Agency in relation to such information where necessary, due to the scope of business, types of services and activities, presence in other countries, inclusion in other financial sectors and participation on international financial markets and payment systems, settlement and clearing systems. This obligation shall in particular refer to disclosure of information about own funds, capital requirements for market risks, credit risk and operational risk, and information about exposure and other items susceptible to rapid changes.

(4) The Agency shall adopt an ordinance prescribing the content, manner and time limits for disclosure of information referred to in Article 219 paragraph 1 of this Act.

Chapter 10

Investor protection scheme

Article 222

(1) Investor protection scheme within the meaning of this Act shall be implemented and supervised by the Agency.

(2) For the purpose of protection of investors the provisions of this chapter provide for the foundation and management of an Investor Protection Fund (hereinafter: the Fund), the definition of an insured case and the payment of covered claims.

(3) The Fund shall be founded and managed by a company authorised by the Agency (hereinafter. the Fund Operator) or the Agency.
(4) The provisions of this chapter referring to the Fund Operator shall apply mutatis mutandis to the Agency when managing the Fund.

Article 223

(1) The membership of the Fund shall be obligatory for the following companies with registered office in the Republic of Croatia when providing investment services and activities referred to in Article 5, paragraph 1 of this Act and when providing ancillary investment service referred to in Article 5, paragraph 2, item 1 of this Act:

1. an investment firm authorised to hold a client's funds and/or financial instruments

2. a credit institution providing investment services and/or carrying out investment activities on the basis of an authorization under the provisions of the law regulating the establishment and business operations of credit institutions.

(2) The membership of the Fund shall also be obligatory for a management company of an open end investment fund with a public offer where it provides investment services referred to in Article 5, paragraph 1, items 4 and 5 of this Act.

(3) Companies referred to in paragraphs 1 and 2 of this Act, within the meaning of this chapter, shall be referred to as Fund Members.

(4) The provisions of this chapter shall apply mutatis mutandis to branch offices of investment firms, credit institutions and management companies for open end investment funds with a public offer from Member States if they do not participate in the investor protection scheme in the country in which they have registered office or if such a scheme in the country where they have registered office does not provide adequate investor protection in the amount established by the Act.

Article 224

(1) The provisions of this chapter shall regulate the covering of claims of members of the Fund referred to in Article 223 of this Act which a Fund Member is not able to pay and/or repay to the client, where:

1. bankruptcy proceedings have been initiated over a Fund Member, or

2. the Agency determinates that a Fund Member is unable to meet its obligations towards its clients in the sense that it is unable to repay money owed and/or return financial instruments held on behalf of the client, administered or managed by it, and there are no prospects that it will be able to do so in the near future.

(2) The procedure and criteria for the establishment of the case referred to in paragraph 1, item 2 of this Act shall be provided for by the Agency in an ordinance.

Covered claims of clients of members in default

Article 225

(1) Claims of clients secured by the application of the provision of this chapter shall be the following:

1. monetary claims in kunas and currencies of Member States owed by a Fund Member to a client or belonging to a client, and which are held on behalf of the client in connection with investment services agreed with him;

2. financial instruments belonging to a client of a Fund Member and held by him, administered or managed on behalf of the client in connection with investment services agreed with him.

(2) Funds of clients of credit institutions – claims covered by the law regulating the protection of deposits in credit institutions for the purpose of protection of depositors in case of unavailability of deposits shall be exempt from the application of provisions of this chapter.

(3) Claims of clients of Fund Members arising out of transactions in connection with which a criminal conviction has been obtained for money laundering, shall be excluded from the application of the provisions under this Chapter.

(4) In case of suspicion that a claim of a client of a Fund Member arises out of a transaction in connection with money laundering and financing the terrorism, the payment of the claim shall not be executed until the criminal conviction on the connection of the transaction out of which the claim arose with money laundering and financing the terrorism has been obtained, regardless of the time limits referred to in Article 234, paragraph 2 of this Act.

(5) The amount of protected claims of a client at one Fund Member shall be calculated as the total amount of claims of clients referred to in paragraph 1, items 1 and 2, regardless of whether the Fund Member keeps them at one or more accounts, on one or several contractual bases or in relation to one or several investment services, in kunas and/or in the currency of a Member State, up to the secured amount referred to in Article 227 of this Act. This amount shall include interests from the date when bankruptcy proceedings were opened over a Fund Member or from the date of publication of the Agency's decision on the occurrence of the case referred to in Article 231 of this Act.

Article 226

(1) Claims relating to joint investment business to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature which has no legal personality may, for the purpose of calculating the limits be aggregated and treated as if arising from an investment made by a single investor.

(2) Where an investor is not absolutely entitled to the sums or securities held, the person who is absolutely entitled shall receive the compensation, provided that that person has been or can be identified before the date of the determination or ruling referred to in Article 231 of this Act.

(3) If two or more persons are absolutely entitled to dispose of the funds or financial instrument , the share of each under the arrangements subject to which the sums or the securities are managed shall be taken into account when the amount laid down in Article 227 of this Act is calculated. This provision shall not apply to collective investment undertakings.

(4) For the purposes of this Article, joint investment business shall mean investment business carried out for the account of two or more persons or over which two or more persons have rights that may be exercised by means of the signature of one or more of those persons.

Amount to which client's claims are covered
Article 227

(1) Claims of clients referred to in Article 228 of this Act shall be covered up to the maximum of HRK 150,000.00 per a client of a Fund Member.
(2) All secured claims up to the amount provided for in paragraph 1 shall be completely covered.

(3) In the process of compensation interests shall not be determined and paid on the established amount of the claim from the date of the opening bankruptcy proceedings over a Fund Member or from the date of the determination or ruling referred to in Article 231 of this Act until payment.

Clients of a Fund Member the claims of which are secured under the Investor Protection Scheme

Article 228

(1) Within the meaning of this chapter, a client of a Fund Member, the claims of which have been protected under the provisions of this chapter shall be any natural or legal person whose funds, prescribed under provisions of Article 225 of this Act, are held on behalf of the client, administered or managed by a Fund Member, in relation to an investment service agreed with the client.

(2) The following shall not be regarded as clients referred to in paragraph 1 of this Article, regardless of the country where the registered offices are located:

1. credit institution;

2. investment firm;

3. financial institution;

4. insurance undertaking;

5. collective investment undertakings;

6. pension funds management companies and pension funds;

7. companies making up a group with a Fund Member which is unable to meet its obligations,

8. a legal or a natural person holding more than 5 % of voting shares in the capital of a Fund Member which in unable to meet its obligations,

9. parent or subsidiary undertakings of a Fund Member which is unable to meet its obligations;

10. management board and supervisory board members of a Fund Member who is unable to meet its obligations if such persons are in the abovementioned positions or employed by a Fund Member when bankruptcy or liquidation proceedings are initiated over a Fund Member or on the date of disclosure of the Agency's ruling on the covered case, or were in these positions or employed during the current or previous financial year;

11. tied agents of an investment company which is unable to meet its obligations, and which act in such a capacity on the date of opening of bankruptcy or liquidation proceedings over an investment firm or on the date of disclosure of the Agency's ruling on the covered case, or were in these positions during the current or previous financial year,

12. persons responsible for carrying out the statutory audits of a Fund Member's financial statements, and persons responsible for preparation and archiving of accounting documents of a Fund Member and preparation of financial statements ,

13. directors, supervisory and management board members of this person holding 5 or more percent of the capital of a company which is a parent or a subsidiary undertaking in relation to a Fund Member, and persons responsible for the audit of financial reports of this company;

14. marital or extramarital partners and close relatives of persons referred to in items 10 to 13 of this paragraph or their spouses,

15. clients of a Fund Member who have contributed to the covered case by non-fulfilling their obligations towards a Fund Member.

Investor Protection Fund

Article 229

(1) Fund assets are used to pay out secured claims held by clients of the Fund Member unable to fulfil its obligations, in the event that the conditions referred to in Article 224 paragraph 1 hereof occur, after the Agency has passed the decision referred to in Article 231 hereof.

(2) The manner in which contributions are paid in and the management of Fund assets are laid down more in detail by the Fund Operator, in rules preliminary approved by the Agency.

(3) The rules from paragraph 2 of this Article must obligatory contain the following:

1. the manner in which Fund assets are managed,
2. the manner and procedure for collecting the Fund Members' contributions,
3. compensation manner and procedure,
4. procedure for informing the public, in particular clients of the Fund Member unable to fulfil its obligations,
5. the procedure for withdrawing from the Fund membership,
6. Fund management fee rate,
7. procedure for informing the Fund Operator on the operation of the Fund.

Determining the amount of secured claims

Article 230

(1) In determining the amount of a secured claim held by a single client of the Fund Member, the Fund Operator shall determine the client's claims towards the Fund Member, taking account of all legal and contractual provisions in connection with each claim, and in particular, he is obliged to calculate possible counterclaims on the date when instituting bankruptcy proceedings or publishing the Agency's decision referred to in Article 231 hereof.

(2) The amount of the client's secured claim is determined on the day when instituting bankruptcy proceedings or publishing the Agency's decision referred to in Article 231 hereof.

(3) The value of the financial instruments that the Fund Member is obliged to return to the client is determined in accordance with their market value, on the day when instituting bankruptcy proceedings or publishing the Agency's decision referred to in Article 231 hereof.

(4) By its ordinance the Agency will lay down the manner in which the value of financial instruments is to be determined, when this cannot be done in the manner as set out in paragraph 3 of this Article.

Occurrence of an insured event

Article 231

(1) In the event of the occurrence of the circumstances referred to in Article 224 paragraph 1 point 1 hereof, the competent court will submit a decision on the instituted bankruptcy proceedings against the Fund Member to the Agency and the Fund Operator without delay.

(2) Pursuant to the decision passed by the competent court referred to in paragraph 1 of this Article, and in the event of the occurrence of the circumstances provided for in Article 224 paragraph 1 point 2 hereof, the Agency shall pass a decision on the occurrence of an insured event, and shall submit it without delay to the Fund Operator and the Fund Member unable to fulfil its obligations.

(3) The decision passed by the Agency referred to in paragraph 3 of this Article will be published in the Official Gazette and on its website.

Proceedings of the Fund Operator upon the occurrence of an insured event

Article 232

(1) Having received the Agency's decision referred to in Article 231 hereof, the Fund Operator shall start a procedure in order to compensate clients of the Fund Member that is unable to fulfil its obligations and shall inform the public thereof.

(2) Information referred to in paragraph 1 of this Article shall be published by the Fund Operator at least in one daily newspaper.

(3) Within 30 days from the date of release of the Agency's decision referred to in Article 231 hereof, the Fund Operator, in co-operation with a certified auditor and an authorised representative of the Fund Member unable to fulfil its obligations, shall determine the amounts of secured claims held by clients of the Fund Member, with the balance as of the day of instituting bankruptcy proceedings or publishing the Agency's decision referred to in Article 231 hereof, and shall draw up a record signed by the same clients.

(4) As soon as the record from paragraph 3 hereof is drawn up, the Fund Operator shall submit it to the Agency.

(5) On the basis of information about clients of the Fund Member unable to fulfil its obligations, the Fund Operator shall send notification to every client, inviting them to submit a compensation claim.

(6) The client of the Fund Member unable to fulfil its obligations may submit his compensation claim within five months from the day of publishing the Agency decision referred to in Article 231 hereof in the Official Gazette.

(7) In derogation from the provision of paragraph 6 of this Article, when the client was prevented from filing a compensation claim for reasons beyond his influence within the deadline set in paragraph 6 of this Article, he is allowed to subsequently file a compensation claim within 1 year from the day of publishing the Agency's decision referred to in Article 231 hereof in the Official Gazette. In this case the client is obliged to provide evidence confirming his inability to do so.

(8) The client referred to in paragraph 6 of this Article shall lose the right to reimburse the insured amount after the expiry of 5 years from the day of publishing the Agency's decision provided for in Article 231 hereof, in the Official Gazette.

(9) The Fund Operator shall set out the content of the compensation claim in its rules.
(10) Investor with the compensation claim refused or not paid in full amount by the Fund operator shall have the right to file the complaint to the Agency.

Article 233

The Fund Member that is unable to fulfil its obligations shall promptly submit at the request of the Fund Operator the following:

1. a list of the clients of the Fund Member that have the right to compensation, with all the records relating to the clients' claims, as provided for in this Act, and possible amounts of claims for which the clients are entitled to compensation,

2. other required information.

Article 234

(1) The Fund Operator shall pay the established amounts of secured claims from the Fund to an account of the Fund Member's client.

(2) The Fund Operator shall pay the established amount of a secured claim to a client of the Fund Member unable to fulfil its obligations without delay, at the latest within 90 days from the day of establishing the right to reimburse the secured claim, or the day of determining the amount of the same claim, or exceptionally, within a further term of 90 days, pursuant to a special Agency decision.

(3) The right to payment of the insured amount referred to in Article 227 hereof is not transferable.

(4) The right to payment of the insured amount referred to in Article 227 hereof can be inherited.

Article 235

(1) From the day of payment of the insured amount referred to in Article 227 hereof, the client's claim toward the Fund Member is reduced by the reimbursed amount.

(2) The Fund is entitled to a refund of the paid secured funds in bankruptcy proceedings against the Fund Member unable to fulfil its obligations.

(3) The request referred to in paragraph 2 of this Article is submitted to the competent court by the Fund Operator on behalf of the Fund

Fund membership

Article 236

(1) Membership in the Fund is obligatory for all the companies within the meaning of Article 223 of this Act.

(2) Fund Members shall regularly calculate and pay in contributions to the Fund, pursuant to the provisions of this Act, regulations passed pursuant this Act, and rules of the Fund Operator.

(3) Exceptionally, pursuant to the Agency's decision, the obligation of the Fund Member under paragraph 2 of this Article shall cease:
1. from the day when it ceases to perform investment services referred to in Article 5 hereof.
2. when its authorisation is temporarily or permanently withdrawn.

(4) After the withdrawal of an investment firm's authorization, cover under the Article 224 and 225 shall continue to be provided in respect of investment business transacted up to the time of that withdrawal.

Fund Member's contribution

Article 237

(1) The Fund Member's contribution consists of the initial and regular contributions. The funds paid on behalf of contribution are not retrievable.

(2) The Fund Member with its registered office in the Republic of Croatia shall pay in the initial contribution to the Fund in the amount of HRK 35,000.00 within 8 days after receipt of the decision whereby registering its incorporation with the court registry.

(3) In the case that the existing company joins the Investor Protection Scheme, it shall pay in the amount referred to in paragraph 1 hereof pursuant to the Agency's decision within 8 days after receipt of the invitation to pay.

(4) The Agency shall lay down the calculation, manner and deadlines relating to the payment of regular contributions by its ordinance, with the consent of the Ministry of Finance.

(5) The manner of calculation and the amount of contribution provided for in paragraph 4 of this Article will be based on the type, scope and complexity of investment services and activities and ancillary services referred to in Article 5 hereof offered and performed by the Fund Member.

Consequences of default on the part of the Fund Member

Article 238

(1) When the Fund member fails to pay in the contribution provided for in Article 237 hereof within the set deadlines, the Fund Operator is authorised to calculate penalty interest on the amount of contribution.
(2) The Fund Operator shall inform the Agency without delay on any failure to fulfil obligations or default in settling obligations.

(3) The Agency will take the measures referred to in Article 256 paragraph 1 points 1, 2 and 3, and the specific supervisory measures referred to in Article 262 hereof, towards the Fund Member that does not fulfil its obligations towards the Fund.

Keeping the account books and reporting to the Agency and the Fund Operator

Article 239

(1) The Fund Member shall organise its operation and shall keep its account books, business files and any other records relating to the clients' claims provided for in this Act in a manner that enables checking whether the Fund Member operates in accordance with the provisions of this Section of the Act.
(2) The Fund Member that has clients whose assets are secured in accordance with the provisions of this Title of the Act shall submit to the Agency and the Fund the information referred to in paragraph 1 of this Article.

Use and protection of data

Article 240

(1) The Fund Operator shall keep the data on the balance of single claims covered by insurance pursuant to this chapter of the Act and any other data, facts and circumstances that have come to his knowledge while performing his competencies and duties from this chapter, as professional secrecy, in accordance with the regulations that enact the protection of confidentiality of data.

(2) The Fund Operator may use the data referred to in paragraph 1 of this Article that has come to his knowledge while performing his competencies and duties under this Act exclusively for the purpose for which it is provided, and shall not reveal it to third parties or enable the third parties to find it out, except in cases laid down by law.

(3) The provision of paragraph 2 of this Article relates to all natural persons who in their roles as employees or in another role work or have worked for the Fund Operator.

Supervision of the performance of the Fund Member's obligations

Article 241

(1) The performance of the Fund Manager's obligations referred to in this Title of the Act is supervised by the Fund Operator.

(2) The Fund Operator shall inform the Agency without delay about any identified irregularities and violations detected by him.

Supervision of Fund management

Article 242

(1) Fund management, in accordance with the provisions of this Chapter of the Act, is supervised by the Agency.

(2) The Agency holds all the powers over the Fund Operator and other subjects of supervision, in accordance with the provisions of 541 to 554 of this Act, in the part that relates to Fund operation and management.

Fund assets

Article 243

(1) The contributions paid into the Fund and the other income referred to in paragraph 2 of this Article realised by the Fund Operator are kept in a separate account open with the Croatian National Bank and they make up the Fund.

(2) Fund assets consist of:

1. contributions paid in by the Fund Members in accordance with the provisions of this Chapter of the Act,
2. funds collected in bankruptcy proceedings against a Fund Member,
3. income from investment in free Fund assets,
4. other income.

(3) Fund assets are used by the Fund Operator to pay off the clients' secured claims for the purpose established in this Act and they cannot be used for other purposes, neither can they be the subject of enforcement towards a Fund Member or the Fund Operator.

(4) Fund assets may be invested in:

1. securities issued by the Republic of Croatia, Member State, Member State of the OECD and central banks of these states,
2. debt securities supported by a guarantee issued by ther Republic of Croatia, Member State or Member State of the OECD,
3. debt securities issued by local authorities of the Republic of Croatia, Member State or Member State of the OECD.

(5) If Fund assets are invested in other financial instruments, this will require a separate approval by the Agency.

(6) The Agency will regulate by its rules the manner of managing, recording and reporting on Fund assets to the Agency.

Management fee

Article 244

(1) The Fund Operator is authorised by the Fund Members to charge a fee for Fund management.

(2) The fee for Fund management is paid in annually in an amount equal for every Fund Member.

(3) The fee amount is set by the Fund Operator in his regulations, in accordance with reasonable business conditions, and is approved by the Agency.

(4) The funds collected on behalf of Fund management may be used:

1. to cover the costs incurred in the procedure of reimbursing the insured amounts,
2. to cover the costs incurred by the Fund Operator in the procedure of collecting claims from the bankruptcy estate of a Fund Member,
3. for the costs associated with investments of Fund assets,
4. costs of employees of the Fund Operator and other operating costs of the Fund Operator associated with the insurance of the investors' assets.

(5) The utilisation of the assets provided for in this Article for purposes other than those laid down in paragraph 4 of this Article, requires separate approval from the Agency.

Information about the Investor Protection Scheme

Article 245

(1) In its premises intended for operation with clients, the Fund Member shall disclose in a visible place, in a clear manner and in Croatian language data relating to the Investor Protection Scheme pursuant to this Act.

(2) At the request of a client or a prospective client, the Fund Member shall provide him with information concerning the conditions under which the clients' claims are compensated through the Investor Protection Scheme.

(3) The Fund Members shall not disclose their Membership in the Investor Protection Scheme and in the Fund, with the aim of promoting themselves.

Article 246

In the event that the Fund does not have enough resources available to compensate the clients of the Fund Member unable to fulfil its obligations, the Fund Operator shall obtain proceeds from a line of credit open for that purpose with a credit institution, under normal business conditions, where the Fund Members are jointly liable for the repayment of proceeds obtained from a borrowing.

Chapter 11

Supervision of the provision of investment services and the performance of investment activities by the Agency

Section 1

Agency's competence for the operation of investment firms

Article 247

(1) The Agency is competent for supervision of the operation of investment firms with registered office in the Republic of Croatia, as regards any investment services and activities provided and performed by them in and outside the territory of the Republic of Croatia, and for the supervision, on a consolidated basis, of groups of investment firm in the Republic of Croatia.

(2) For the purpose of paragraph 1 of this Article, supervision means an inspection in order to establish whether the investment firm subject to supervision operates in accordance with the provisions of this Act, ordinances adopted pursuant to it, as well as in accordance with its own rules, standards and the codes of conducts, in a manner that enables an orderly operation of the capital market and the implementation of measures and activities aimed at eliminating the established violations and irregularities.

(3) Where in the opinion of the Agency it is necessary to perform the supervision provided for in paragraph 1 of this Article, the Agency is authorised, in accordance with this Act and other regulations, to require from the following persons to submit reports and information, carry out a review of its account books and business documentation with:

1. a person that is closely related to the investment firm,

2. a person to which the investment firm has outsourced critical and important business functions,

3. a shareholder of a qualifying holding in the investment firm.

(4) Where another supervisory body is competent for supervising the person referred to in paragraph 4 of this Article, the Agency will review the account books and business documentation of that person in co-operation with that body, in accordance with Part 6 Title 2 of this Act.

(5) The operation of credit institutions concerning provision of investment services and the performance of activities is supervised independently by the Agency or in co-operation with the Croatian National Bank.

(6) When exercising the supervision referred to in paragraph 5 of this Article, the Agency may order a credit institution supervisory measures referred to in Articles 257 - 261 hereof, as well as specific supervisory measures referred to in Article 262.

(7) Where a credit institution fails to act in accordance with the Agency's decision requesting from it to eliminate the established violations and irregularities, the Agency shall inform thereof the Croatian National Bank without delay, and shall withdraw the prior approval. From the moment when the decision on the withdrawal of preliminary consent is delivered, the credit institution shall not perform any investment services and activities and related ancillary services to which the above mentioned consent related.

(8) The provisions of Article 16 and paragraphs 5 - 7 of this Article of the Act shall not apply to credit institutions in the event when the provisions of Article 9 hereof apply to the same institutions.

Agency's competence for supervising the operation of investment firms with their registered offices in a Member State and of their branches in the Republic of Croatia

Article 248

The Agency is competent for supervising investment firms with their registered offices in a Member State as regards the investment services and activities offered and performed in the Republic of Croatia and for branches of investment firms from a Member State, within the scope established by this Act.

Competencies of the authorities of a home Member State when supervising branches of investment firms with registered offices in a home Member State

Article 249

(1) Where an investment firm with its registered office in a Member State operates through a branch in the territory of the Republic of Croatia, the competent authorities of the Member State, in the territory of the Republic of Croatia may:

1. perform an on-site inspection of operation independently or through a delegated person, subject to previous notification of the Agency, or

2. request the Agency to perform an on-site inspection in the territory of the Republic of Croatia of the operation of a branch of an investment firm with its registered office in a Member State.

(2) In derogation from paragraph 1 of this Article, the Agency is authorised to perform an on-site inspection of branches of investment firms from a Member State, with regard to the protection of the public interest or an orderly operation of the capital market.

(3) The competent authorities of the home Member State are authorised to participate in on-site inspections referred to in paragraphs 1 and 2 of this Article, irrespective of the body that performs the on-site inspection of the branch's operation.

Competencies of the Agency when supervising investment firms from a Member State

Article 250

(1) If the Agency finds that an investment firm with its registered office in a Member State which directly provides investment services and performs investment activities in the Republic of Croatia or, in the case of investment firm operating through a branch in Republic of Croatia, is in breach of provisions of Articles 54 to 91 and 100 to 114 of this Act and regulations adopted pursuant to those provisions, which could give rise to the supervisory measures referred to in Article 256 hereof, the investment firm will be required to terminate the established violations and irregularities within a certain term and present evidence in this regard to the Agency.

(2) If the investment firm referred to in paragraph 1 of this Article does not terminate the established violations and irregularities until the expiry of the term set by the Agency, and if it fails to present evidence of their termination, the Agency will inform about it the competent authorities of the home Member State.

(3) If the competent authorities of the home Member State fail to take steps within the term of 60 days after receipt of the notification referred to in the previous paragraph or if such measures are inappropriate to such an extent that the investment firm keeps on violating the provisions of this Act, the Agency will inform the competent authorities of the home Member State about the measures to be taken by the Agency in order to prevent the investment firm from violating the provisions of this Act.

(4) Having delivered the notification referred to in paragraph 3 of this Article to the competent authorities of the home Member State, the Agency shall impose upon the investment firm referred to in paragraph 1 of this Article supervisory measures within its competencies.

(5) If, in spite of the measures referred to in paragraph 4 of this Article, the investment firm continues to violate the provisions of this Act, the Agency shall issue a decision prohibiting the concerned investment firm from offering investment services and performing financial activities in the territory of the Republic of Croatia, and shall inform thereof the competent authorities of the home Member State and the European Commission.

(6) Agency may, for statistical purposes, require all investment firms with branches established in Republic of Croatia periodical reports on activities of those branches.

(7) In discharging its responsibilities, Agency may require branches of the investment firms with registered office in another Member State to provide information necessary for the monitoring of their activities, pursuant to the provisions of Article 145 paragraph 3 of this Act.

Agency's competence for supervising the operation of branches of investment firms with registered offices in a third country
Article 251

The operation of branches of investment firms with registered offices in a third country shall be supervised by the Agency in the manner and within the scope of the supervision of investment firms with registered offices in the Republic of Croatia.

Agency's competence for supervising tied agents of investment firms

Article 252

(1) The Agency is competent for supervising tied agents of investment firms entered into the registry provided for in Article 94 hereof, to the extent and scope the same as of an investment firm.

(2) When the Agency supervises a tied agent of an investment firm, the investment firm or credit institution that has appointed the tied agent shall participate in supervision.

Agency's competence for supervising another person

Article 253

The Agency is authorised to exercise the supervision of another person that contrary to the prohibition provided for in Article 6 paragraph 4 of this Act provides investment services and performs investment activities provided for in Article 5 paragraph 1 hereof.

Subject of supervision

Article 254

(1) When carrying out supervision the Agency shall particularly:

1. review the organisational conditions, strategies, policies and procedures that the investment firm has set up in order to comply with the provisions of this Act and regulations adopted pursuant to this Act.

2. evaluate the financial position and risks to which the investment firm is exposed or to which it may be exposed in its operation.

(2) Pursuant to reviews and evaluations referred to in paragraph 1 of this Article, the Agency shall establish whether the investment firm has put in place a suitable organisational structure, strategies, policies, procedures and capital that ensure a management system and coverage of the risks it is exposed to or to which it may be exposed in its operation.

(3) In determining the frequency and intensity of exercising reviews and evaluations referred to in paragraph 1 of this Article, for each investment firm, the Agency shall take into account the size and importance of the investment firm within the capital market of the Republic of Croatia, and the nature, scale and complexity of investment services and activities and related ancillary services performed by the investment firm.

(4) The reviews and evaluations referred to in paragraph 1 of this Article are performed by the Agency at least on an annual basis for each investment firm.

Supervisory measures taken by the Agency in the process of supervising the provision of investment services and the performance of investment activities

Article 255

(1) Pursuant to the record of the performed supervision, in accordance with this Act, and ordinances adopted pursuant to this Act, the Agency is authorised to impose any measures laid down in this Act against investment firms and other persons which are subject to supervision, to be able to fulfil its legal authorities, and in particular to ensure legal and orderly trading in financial instruments on a regulated market or an MTF, to protect the investors' interest and in the case of established violations and irregularities, file a complaint with competent authorities.

(2) Within the meaning of this Act, violations are conditions and practice that are not in line with this Act, ordinances adopted pursuant to this Act, other separate laws and by-laws and, where applicable, international agreements.

(3) Within the meaning of this Act, irregularities are conditions and activities that does not constitute consistent implementation of established business policies, if operation of the firm is jeopardised, especially in connection to organizational requirements and risk management.

Article 256

(1) Under conditions laid down in this Act, as a supervisory measure the Agency can:

1. order measures to the management board of an investment firm and issue a public warning,

2. order to terminate violations and irregularities,

3. temporarily prohibit the performance of professional activities,

4. withdraw its authorisation.

(2) The Agency may impose special supervisory measures on the investment firm referred to in Article 262 and/or additional supervisory measures for risk management referred to in Article 264 hereof, under conditions laid down in this Act.

Ordering measures to the management board of an investment firm and a public warning

Article 257

(1) Where the Agency identifies minor irregularities, faults and deficiencies in operation that do not have features of breaches of this Act, or regulations adopted pursuant to this Act, or if it deems it necessary in order to improve the operation, the Agency will order to the management board of the investment firm measures for the termination of established irregularities and the deadlines for performing those measures.

(2) Where the Agency in the course of supervision establishes violations and irregularities that represent a breach of the provisions of this Act, and the nature and scope of the established violations and irregularities do not have a material impact and consequences, instead of the supervisory measure provided for in Article 258 hereof, the Agency may issue a public warning to the investment firm.

(3) The Agency's public warning may contain an order to the investment firm to eliminate the established irregularities and violations and the deadline within which it is obliged to comply with it.

(4) If within the term set in paragraph 3 of this Act, the investment firm fails to eliminate the established violations and irregularities, the Agency will issue a decision to eliminate the established violations and irregularities.

Measures for the termination of established violations and irregularities

Article 258

(1) Where the Agency in the course of supervision establishes violations and irregularities which represent a breach of the provisions of this Act, it will issue a decision ordering the investment firm measures for the termination of established violations and irregularities or the termination of the act that represents a breach of the provisions of this Act.

(2) In the decision referred to in paragraph 1 of this Act, the Agency will set out the deadlines within which the investment firm shall eliminate the established violations and irregularities.

Article 259

Where the Agency established violations and irregularities in keeping the account books and other business documentation which the investment firm is obliged to keep pursuant to the provisions of this Act, and regulations and other acts adopted pursuant to this Act, or if it establishes significant breaches of provisions concerning organisational requirements for investment firms, it may order the investment firm to present a report on the termination of violations and irregularities, which should be supported by an opinion of an independent certified auditor from which it is clear that that violations and irregularities have been terminated.

Report on the termination of violations

Article 260

(1) The investment firm is obliged to eliminate the established violations and irregularities and report to the Agency on the measures it has taken to eliminate them, within the deadline set by the Agency.

(2) The investment firm should support the report referred to in paragraph 1 of this Article with documentation and other evidences from which it is clear that the established violations and irregularities have been terminated.

(3) When the report referred to in paragraph 1 of this Article is not complete or from supporting documentation it does not result that violations have been terminated, the Agency will order to supplement the report and will set a deadline within which the report has to be supplemented.

(4) When the Agency fails to order that the report referred to in paragraph 3 of this Article be supplemented within the term of 60 days from presenting the report referred to in paragraph 1 of this Article, it shall be deemed that violations and irregularities have been terminated.

Decision on the termination of violations and irregularities

Article 261

(1) If the Agency comes to a conclusion, based on the report referred to in Article 260 of this Act, the supporting documentation and other evidences, that the established violations and irregularities have

been terminated, it will pass a decision whereby establishing that violations and irregularities have been terminated.

(2) Before passing the decision under paragraph 1 of this Article, the Agency is authorised to exercise a repeated supervision of the investment firm, to the extent and scope necessary to ascertain whether the established violations and irregularities have been terminated in an appropriate manner and to an appropriate extent.
(3) If violations and irregularities have been terminated by the investment firm before the Agency completes the supervision procedure, the Agency will pass the decision referred to in paragraph 1 of this Article without a previous decision whereby it orders measures to eliminate violations.

Additional supervisory measures relating to the provision of investment services and the performance of investment activities

Article 262

(1) The Agency is authorised to impose additional supervisory measures referred to in paragraph 2 of this Article on an investment firm, if:

1. the investment firm has failed to act in accordance with the decision whereby the Agency orders the measures to terminate violations and irregularities referred to in Article 258 of this Act

2. the investment firm operates contrary to provisions of Sub-section 2 Section 3 Chapter 2 of this Title of the Act, and such a supervisory measure is necessary to protect the interests of clients of the investment firm.

(2) Should the circumstances referred to in paragraph 1 of this Article occur, the Agency is authorised to impose the following additional supervisory measures:

1. it can temporarily prohibit the investment firm from offering investment services and/or performing investment activities and/or related ancillary services,

2. temporarily prohibit the investment firm from holding and/or handling the clients' financial instruments and cash holdings,

3. take other reasonable measures necessary for the investment firm to operate in accordance with the provisions of this Act and regulations adopted pursuant to this Act.

(3) In its decision referred to in paragraph 2 of this Article, the Agency will also order measures that the investment firm should take so that the additional supervisory measures referred to in paragraph 2 of this Article could cease to apply.

(4) In its decision referred to in paragraph 2 of this Article, the Agency will set the deadline for taking the measures which shall not exceed 6 months.

(5) The Agency will inform the stock exchange and the central clearing and depositary company, the operator of the settlement and clearing system, the central register operator, as appropriate, of the decision provided for in point 1 paragraph 2 of this Article, so that pursuant to that decision they are obliged to prevent the investment firm from using its membership rights as long as the supervisory measure is effective.

(6), The Agency will inform the credit institutions with which the investment firm holds accounts, the central clearing and depositary company, the operator of the settlement and clearing system, the central register operator, as appropriate, of the decision provided for in point 2 paragraph 2 of this

Article, which, after receipt of the Agency's Decision, should prevent the investment firm from controlling its clients' cash holdings and/or financial instruments.

(7) The investment firm shall submit a report to the Agency on the termination of violations and irregularities to which in a suitable manner the provisions of Article 260 paragraphs 1 - 3 hereof shall apply.

Withdrawing authorisation of an investment firm

Article 263

(1) The Agency shall withdraw the authorisation of an investment firm if:

1. it has established that the authorisation was issued pursuant to false information,

2. the investment firm no longer meets the conditions under which the authorisation was issued.

3. the investment firm fails to act in accordance with the decision whereby the Agency orders additional supervisory measures referred to in Article 262 hereof, and/or additional supervisory measures for risk management referred to in Article 264 hereof,

4. the investment firm violates the provisions on timely and correct reporting to the Agency, more than two times in a 3-year period, or in another way prevents the Agency from supervising its operation,

5. the investment firm systematically and seriously violets technical, organisational, staffing and other conditions for providing investment services and performing investment activities laid down in Articles 36 - 43 hereof.

(2) Where the investment firm fails to meet technical, organisational, staffing and other conditions for providing investment services and performing investment activities laid down herein, instead of withdrawing its authorisation, the Agency may issue a decision prohibiting the provision of only those investment services and/or performing those investment activities for which the investment firm no longer meets the conditions laid down in this Act and regulations adopted pursuant to this Act.

(3) In the decision referred to in paragraph 1 of this Article the Agency will set a deadline within which the investment firm cannot repeatedly ask to be issued authorisation, which cannot exceed one-year period.

(4) In the decision referred to in paragraph 1 hereof, the Agency may decide that unexecuted orders, and other files of a client of the investment firm from which the Agency withdraws the authorisation, are entrusted to another investment firm, subject to the client's consent.

(5) From the date the decision on the withdrawal of the authorisation becomes final, or from the date the authorisation ceases to be in effect by force of law, the investment company shall not conclude, start performing or perform any new services and activities tied to the performance of activities for which the authorisation was issued.

(6) The Agency will inform the stock exchange and the central clearing and depository agency, central depository operator, and, where applicable, clearing and settlement operator, on the withdrawal of the authorisation.

(7) In case where authorisation withdrawal reasons referred to in paragraph 1 and 2 of this Article consider credit institution, the Agency will deliver to Croatian National Bank copy of the file on supervision with detailed proposition on withdrawal of the authorisation to provide all or particular investment services or perform investment activities for which authorisation is granted

Additional supervisory measures for risk management

Article 264

(1) The additional supervisory measures include the following:
1. committing the investment firm to hold capital in excess of the minimum capital amount referred to in Articles 176 and 178 of this Act,

2. requiring improvements in the strategies, policies and the risk management process and the rating of internal capital referred to in Articles 169 and 170 of this Act,

3. requiring from the investment firm to apply a special treatment of assets within the meaning of capital requirements,

4. limiting the business, limiting the volume of operation within a certain activity or limiting the investment firm's business network which is formed of the investment firm, a branch and a tied agent and

5. requiring to reduce the risk inherent to investment services and activities and related ancillary services, products and systems of the investment firm.

(2) The Agency orders the measure referred to in paragraph 1 point 1 hereof, in the case that:

1. in the course of supervision it establishes that the capital of the investment firm does not provide coverage for all the risks and it does not provide a suitable management of the risks to which it is or could be exposed, or

2. it establishes that it is unlikely to achieve improvements with the measures referred to in Article 256 paragraph 1 points 1 and 2 of this Act within an appropriate period of time in strategies, policies, the risk management process and the rating of internal capital referred to in Articles 169 and 170 of this Act.

Section 2

Supervision on a consolidated basis

Method of consolidation for the purposes of supervision on a consolidated basis

Article 265

(1) For the purposes of supervision on a consolidated basis, the Agency will require full consolidation of all investment firm subsidiaries, other financial institutions, credit institutions, management companies and ancillary services undertakings within a group of an investment firm in the Republic of Croatia.
(2) In derogation from paragraph 1 of this Article, the Agency may, on case by case basis, require proportional consolidation, when in its opinion, the liability of the parent investment firm and the parent financial holding company within a group of an investment firm in the Republic of Croatia, is limited only to the capital holding that is possesses, taking into account the liability of other shareholders or these companies' members whose solvency is satisfactory. The liability of other shareholders and company members must be clearly established, in a manner that the Agency is presented with a written document about mutual rights and liabilities.

(3) In the case when an investment firm with a registered office in the Republic of Croatia and other investment firms, other financial institutions, management companies and ancillary services undertakings are managed on unified basis, the Agency shall decide on the manner of consolidation.

(4) The Agency will require the proportional consolidation of participation in the group managed by an investment firm or a financial holding company included in the group of an investment firm in the RoC together with one or more undertakings not included in the group of an investment firm in the RoC, where those undertakings´ liability is limited to the share of the capital they hold.

(5) In the case of participation or capital ties other than those referred to in paragraphs 1 to 4 of this Article, the Agency shall decide whether and how consolidation is to be carried out.

(6) In the case of the inclusion in a group of an investment firm in the RoC as described in Article 207 paragraphs 1 and 2 of this Act, the Agency shall define the manner in which consolidation will be implemented.

Co-operation agreements with competent authorities regarding supervision on a consolidated basis

Article 266

(1) In order to facilitate and establish effective supervision on a consolidated basis, the Agency shall conclude written co-ordination and co-operation agreements with other competent authorities involved in supervision.

(2) Under the agreements referred to in paragraph 1 of this Article, additional tasks may be entrusted to the competent authorities for supervision on a consolidated basis and decision-making procedures for co-operation with other competent authorities may be specified.

(3) In a bilateral agreement, the Agency may delegate its responsibility for the supervision of a subsidiary investment firm with a registered office in the Republic of Croatia to the competent authority which authorised and supervise its parent investment firm.

(4) In a bilateral agreement, the Agency may assume responsibility for the supervision of an investment firm, subsidiary of an investment firm with a registered office in the Republic of Croatia, from the competent authority which authorised and supervise that subsidiary investment firm.

(5) The Agency shall notify the Council and European Commission of the existence and content of the bilateral agreements referred to in this Article.

Assumption and delegation of responsibility for supervision on a consolidated basis

Article 267

(1) The Agency is competent for supervision on a consolidated basis in cases where it has assumed the responsibility for such supervision pursuant to an agreement with the competent authority of another Member State.

(2) In particular cases, taking into account relevant importance of activities in other Member States, of individual members of a group of an investment firm in the RoC, by agreement with the competent authorities of these Member States, the Agency may delegate the responsibility for supervision on a consolidated basis to the competent authorities of the Member State where another investment firm within the group has its registered office.

(3) Before passing a decision to delegate the competence referred to in paragraph 2 of this Article, the Agency will give a possibility to an EU parent investment firm, an EU parent financial holding

company or an investment firm with the largest balance sheet amount to express their opinion on that decision.

(4) The Agency shall notify the European Commission of the delegation of responsibility referred to in paragraph 2 of this Article.

Exchange of information between the competent authorities of the Member States

Article 268

(1) The Agency shall co-operate with the competent authorities of other Member States, and shall provide them with any information which is essential or relevant for the exercise of supervisory tasks. In this regard, the Agency shall:

1. on request, provide any information which is essential or relevant for the exercise of supervisory tasks by the other respective competent authorities, or

2. on its own initiative, provide all information which is essential for the exercise of supervisory tasks by the other respective competent authorities.

(2) If the Agency exercises supervision on a consolidated basis of an EU parent investment firm or an investment firm controlled by an EU parent financial holding company, it shall provide the competent authorities in other Member States who supervise the subsidiaries of these parent companies with all relevant information. In determining the extent of relevant information, the importance of these subsidiaries within the financial system of the Member State whose competent authorities supervise the subsidiary shall be taken into account.

(3) The essential information for assessing the financial stability of a particular member of a group of investment firm in another Member State includes, in particular, the following items:

1. significant information on the group structure of all major investment firms in the group, as well as the authorities competent responsible for the supervision of the investment firms in the group;

2. procedures for collecting information from investment firms in the group, and the verification of that information;

3. adverse developments in investment firms or other members of a group, which could seriously affect other entities in the group, and

4. major violations and supervisory measures imposed on the investment firm, in accordance with this Act, including imposition of any additional supervisory measures for risk management referred to in Article 264 of this Act, and any limitation on the use of the Advanced Measurement Approach for the calculation of capital requirements for operational risk referred to in Article 190 of this Act.

(4) Where the Agency is the competent authority responsible for supervision of an investment firm controlled by an EU parent investment firm, and it needs information regarding the use of approaches and methodologies for calculating of capital requirements and limitations, it shall request from the competent authorities responsible for the supervision of the EU parent investment firm information that may already be available to that competent authority.

(5) Where the Agency is the competent authority responsible for the supervision on a consolidated basis and needs information on a group of investment firms and such information has already been given to another competent authority, whenever possible, the Agency shall request such information

from the concerned competent authorities, to prevent duplication of reporting to the various authorities involved in supervision.

(6) The Agency shall, prior to decision-making, consult other competent authorities where this decision is of importance for the exercise of supervisory tasks by the competent authorities of other Member States, on the following:

1. changes in the shareholder, organisational or management structure of investment firms in a group, which require approval or authorisation of the competent authorities, and

2. major violations or supervisory measures imposed on the investment firm, in accordance with this Act, including additional supervisory measures for risk management referred to in Article 264 of this Act, and any limitation on the use of the Advanced Measurement Approach for the calculation of capital requirements for operational risk referred to in Article 190 of this Act.

(7) In the event referred to in paragraph 6 point 2 of this Article, the Agency shall consult the competent authorities responsible for supervision on a consolidated basis.

(8) In derogation from paragraphs 6 and 7 of this Article, the Agency may decide not to consult the competent authorities in cases of urgency or where such consultation may jeopardise the effectiveness of decisions. In such case, the Agency shall, without delay, inform the other competent authorities on the adopted decision.

Exchange of information for the purposes of supervision on a consolidated basis

Article 269

(1) Where a parent undertaking and any of its subsidiaries that are investment firms have registered head offices in different Member States, the Agency and the competent authorities of other Member States shall exchange all relevant information which may allow or aid the exercise of supervision on a consolidated basis.

(2) Where the Agency does not itself exercise supervision on a consolidated basis, at the request of the competent authorities of another Member State responsible for exercising supervision, it may request the parent undertaking any information which would be necessary for the purpose of supervision on a consolidated basis and transmit it to the competent authorities of other Member States.

(3) The collection or possession of the information referred to in paragraph 2 of this Article, which does not relate to a financial holding company, other financial institutions, ancillary services undertakings, a mixed-activity holding company and its subsidiaries, that are not investment firms and companies that are not included in supervision on a consolidated basis, shall not imply the Agency's responsibility for the supervision of these companies on an individual basis.
(4) The Agency shall establish a list of parent financial holding companies with registered offices in the Republic of Croatia and shall communicate it to the competent authorities of the other Member States and to the European Commission.

Obligations of subsidiaries of an investment firm and the parent financial holding company in cases when the Agency is responsible for supervision on a consolidated basis

Article 270

(1) Where the Agency excludes a subsidiary of a RoC parent investment firm from a group of an investment firm in the RoC as set out in Article 209 paragraph 1 points 2 and 3 of this Act, the parent

investment undertaking in the Republic of Croatia shall, on request, provide information to the competent supervisory authority of the state where its subsidiary has registered office, for the needs of their supervision.
(2) The subsidiaries of an investment firm or a financial holding company within a group of an investment firm in the RoC, which are not included in supervision on a consolidated basis, shall on request provide to the Agency information necessary for the supervision of individual investment firms in a group of an investment firm in the RoC.

(3) Persons employed in the management board of a financial holding company shall be of sufficiently good repute and have sufficient experience to perform those duties.

Obligations of a mixed-activity holding company and its subsidiaries regarding supervision on a consolidated basis

Article 271

(1) Where a mixed-activity holding company is the parent undertaking of one or more investment firms, of which at least one investment firm has a registered office in the Republic of Croatia, the mixed-activity holding company and its subsidiaries shall, at the request of the Agency, either directly or via investment firm subsidiaries with a registered offices in the Republic of Croatia provide any information necessary for the purpose of supervision of the investment firm subsidiaries with their registered offices in the Republic of Croatia.

(2) The Agency or another entity, pursuant to the Agency's authorisation, may carry out on-site inspections to verify information received from a mixed-activity holding company and its subsidiaries.

(3) If a mixed-activity holding company or one of its subsidiaries is an insurance company, the Agency shall co-operate with the competent authority responsible for supervision of such company and shall exchange all relevant information which may allow or aid the supervision of the activities and general financial position of the supervised companies.

(4) If a mixed-activity holding company or one of its subsidiaries is situated in a Member State other than that in which the investment firm subsidiary is situated, an on-site inspection aimed at verifying information shall be carried out in accordance with the procedure laid down in Article 277 of this Act.

Notification of an emergency situation

Article 272

Where an emergency situation arises within a group of an investment firm in the RoC which potentially jeopardises the stability of the financial system in any of the Member States where the members of the group have been authorised, the Agency shall, without delay, alert other competent authorities of Member States and the following competent authorities of each Member State:

1. the central bank or other bodies with similar responsibilities to authorisations and competencies as monetary authorities, and

2. the state administration authority competent for legislation on the supervision of credit institutions, investment firms and other financial institutions and insurance companies.

Deciding on permissions in cases where the Agency is the competent supervisory authority

Article 273

(1) In the cases where the Agency is responsible for supervision on a consolidated basis of an EU parent investment firm or an investment firm controlled by an EU parent financial holding company, the Agency shall carry out the following tasks in addition to existing obligations under this Act:

1. coordinate gathering and dissemination of relevant and essential information between the competent authorities involved in supervision on a consolidated basis in going concern and emergency situations; and

2. plan and coordinate the exercise of supervision in accordance with this Act, in co-operation with other competent authorities in going concern as well as in emergency situations, and

3. co-operate with the competent authorities of other Member States in which other investment firms, included in a group of an investment firm in the RoC, have registered offices, for the purpose of passing a joint decision to grant the authorisation referred to in Article 179 of this Act, when the application is submitted by an EU parent investment firm and its investment firm subsidiary, or jointly by subsidiaries of an EU parent financial holding company.

(2) The Agency shall forward a complete application referred to in paragraph 1 point 3 of this Article without delay to other competent bodies responsible for supervising the investment firms which have filed the mentioned application.

(3) The Agency and other supervisory bodies shall jointly decide on the application referred to in paragraph 1 point 3 of this Article within six months after receipt of a complete application.

(4) In the absence of a joint decision, the Agency shall pass a decision within the term set out in paragraph 3 of this Article. In the explanation of the decision, the Agency shall set out the views and reasons for reservations expressed by other competent authorities.

(5) The decisions provided for in paragraphs 3 and 4 of this Article shall be submitted without delay to other competent authorities provided for in paragraph 2 of this Article.

Deciding on permissions in cases where the Agency is not the competent supervisory authority

Article 274

(1) Where the competent authorities of other Member States are responsible for supervision on a consolidated basis of an EU parent investment firm or an investment firm controlled by an EU parent financial holding company and when the application referred to in Article 179 of this Act, has been filed, the Agency shall participate in the decision-making procedure regarding the application.

(2) In the procedure set out in paragraph 1 of this Article, pursuant to a decision jointly reached by the competent authorities or pursuant to a decision passed by the competent authority to which the concerned application was submitted, in its official capacity, the Agency shall grant authorisation to the investment firm subsidiary with its registered office in the Republic of Croatia or it shall refuse the application.

(3) The Agency shall issue the decision from paragraph 2 of this Article within six months from the date of receipt of notification from the competent authority of the Member State on decision-making, unless otherwise laid down in the joint decision.

Change of the competent authority's joint decision

Article 275

The provisions that relate to the decision-making procedure for authorisation shall in an appropriate manner apply to the procedures for amending the authorisation from Article 179 of this Act.

Supervision of intra-group transactions

Article 276

(1) Where the parent undertaking of one or more investment firms, of which at least one investment firm has its registered office in the Republic of Croatia, is a mixed-activity holding company, the Agency shall, as the competent authority for supervision, exercise supervision over all transactions between investment firms and the mixed-activity holding company and its subsidiaries.

(2) The investment firms referred to in paragraph 1 of this Article shall:

1. have in place adequate risk management procedures and internal control systems, including sound reporting and accounting procedures, in order to appropriately identify, measure, monitor and control intra-group transactions with their parent mixed-activity holding company and its subsidiaries, and

2. notify the Agency of any significant intra-group transaction with the parent mixed-activity holding company and its subsidiaries, irrespective of the reporting requirements regarding large exposures laid down under Article 200 of this Act.

(3) The procedures and significant intra-group transactions referred to in paragraph 2 of this Article are the subject of supervision by the Agency.

(4) Where intra-group transactions are a threat to an investment firm's financial position, the Agency shall take appropriate measures.

(5) The Agency shall notify the other competent authorities involved in supervision on a consolidated basis and the European Commission of the measures referred to in paragraph 4 of this Article.

Powers to carry out on-site examinations

Article 277

(1) Where the competent authority of another Member State wishes in specific cases to carry out on-site examination to verify information concerning an investment firm, a financial holding company, a financial institution, a management company, an ancillary services undertaking, a mixed-activity holding company, a subsidiary of the kind covered in Article 271 of this Act or a subsidiary of the kind covered in Article 270 paragraph 2 of this Act with the registered office in the Republic of Croatia, it shall request the Agency to have the examination carried out.

(2) Upon such request of the competent authority of another Member State, the Agency may proceed in the following manner:

1. independently carry out an on-site examination,

2. allow the competent authority of another Member State who made request to carry out an on-site examination, or

3. pursuant to the Agency's authorisation, appoint a certified auditor or another professionally qualified person to carry out an on-site examination.

(3) Where the competent authority of the other Member State does not carry out the on-site examination provided for in paragraph 1 of this Article, it has a possibility to participate in examination carried out by the Agency or the certified auditor, or another professionally qualified person pursuant to the Agency's authorisation.

(4) Where in specific cases the Agency wishes to perform an on-site examination to verify information concerning an investment firm, a financial holding company, a financial institution, a management company, an ancillary services undertaking, a mixed-activity holding company, a subsidiary of the kind covered in Article 271 or a subsidiary of the kind covered in Article 270 paragraph 2 of this Act, with the registered office in another Member State, it may request the competent authority of Member State in question to have the on-site examination carried out or it can carry out the examination independently.

Imposition of supervisory measures on financial holding company and mixed-activity holding company

Article 278

(1) Where a financial holding company and a mixed activity holding company or responsible persons of these undertakings violate regulations or laws adopted for the purpose of supervision on a consolidated basis, the Agency shall impose supervisory measures of a temporary or a permanent seizure of voting rights in respect of holdings in their investment firm subsidiaries with their registered offices in the Republic of Croatia.

(2) When imposing the supervisory measures provided for in paragraph 1 of this Article, the Agency shall co-operate with the competent authorities of other Member States, when the registered office of a financial holding company or a mixed-activity holding company are in another Member State.

Co-operation arrangements with third countries

Article 279

(1) Where an investment firm with registered office in the Republic of Croatia is a subsidiary of an investment firm or a financial holding company, the registered office of which is in a third country, is not subject to supervision on a consolidated basis by the Agency or the competent authority of another Member State, the Agency shall verify whether that investment firm is subject to consolidated supervision by a third country competent authority which is equivalent to that governed by the principles laid down in this Act. The verification shall be carried out by the Agency, at the request of the parent undertaking or of any of the regulated entities authorised in a Member State or on its own initiative, on which occasion it shall consult the other competent authorities involved in supervision.

(2) On the occasion of the verification provided for in paragraph 1 of this Article, the Agency shall take into consideration the general guidelines of the Council and the European Commission on the alignment of the rules of supervision on a consolidated basis of competent authorities in the third countries in which registered offices of the parent undertakings is located comply with the principles established in this Act. For this purpose, the Agency shall consult the Council and the European Commission before adopting a final decision.

(3) When it is established that in a third country are no supervision arrangements on a consolidated basis equivalent to the principles established in this Act, the Agency shall apply to an investment firm

subsidiary the provisions of this Act as appropriate or other appropriate supervisory procedures which achieve the objectives of supervision on a consolidated basis of investment firms.

(4) In specific cases the Agency may require the establishment of a financial holding company which has its registered office in one of the Member States.

Title II.

REGULATED MARKET

Chapter 1

General provisions

Article 280

(1) The operation of the regulated market in the Republic of Croatia can only be managed by a stock exchange with its registered office in the Republic of Croatia, as a market operator, pursuant to approval from the Agency.

(2) The stock exchange shall provide and shall be responsible for compliance with the provisions of this Act and regulations adopted pursuant to this Act, relating to the operation of the regulated market managed by it.

(3) The stock exchange shall provide suitable material and financial resources and personnel necessary for the implementation and an appropriate growth of the operation of the regulated market managed by it.

(4) The activities referred to in Article 281 shall be performed by the stock exchange applying the principles of the protection of the public interest and the stability of the capital market.

Activities of the stock exchange

Article 281

(1) Pursuant to approval from the Agency, the stock exchange is entitled to perform the following activities:
1. management of the regulated market,

2. collection, processing and disclosure of information referred to in Articles 333, 335 and 337,

3. maintenance of a official register of regulated information.

(2) Pursuant to a special approval provided for in Article 122 hereof, in addition to the activity referred to in paragraph 1 point 1 of this Article, the stock exchange may operate an MTF under conditions and in the manner laid down in the provisions of Chapter 7 Title 1 of this Part of the Act.

(3) In addition to the activity referred to in paragraph 1 point 1 of this Article, the stock exchange may perform, without special approval, the following activities as well:

1. development, maintenance and control of computer programmes to perform the activities under paragraphs 1 and 2 of this Article,

2. services of organising and conducting training courses intended for counterparties on the capital market.
(4) The stock exchange shall not perform any other activity, except those referred to in paragraphs from 1 to 3 of this Article, without additional approval from the Agency.

(5) No one except the stock exchange is allowed to perform the activities under point 1 paragraph 1 of this Article.

Article 282

The stock exchange is not authorised to give advice on trading and investment in financial instruments, nor give its opinion on favourable or unfavourable aspects or acquiring or selling the same instruments.

Article 283

(1) Where the stock exchange intends to operate an MTF, it shall comply with the requirements referred to in Article 120 hereof.

(2) The organisational requirements provided for in paragraph 1 of this Article shall be deemed to be fulfilled if the stock exchange fulfils the conditions laid down in Article 292 of this Act.

(3) To persons that effectively manage the operation of an MTF of which the operator is the stock exchange, the provisions of Article 21 of this Act shall be appropriately applied.

(4) The requests to be met by the persons who effectively mange MTF operation of which the operator is the stock exchange, shall be deemed to be fulfilled if these persons who effectively manage the operation of an MTF are also the management board members of the stock exchange.

Establishment of a stock exchange

Article 284

(1) The stock exchange is set up as a joint stock company, in accordance with the provisions of this Act and the acts regulating the establishment and operation of companies.
(2) Apart from being set up as a joint stock company, the stock exchange may also be set up as a European society-Societas Europea.

(3) The bodies of the stock exchange are the general meeting, the supervisory board and the management board.

Initial capital and the shares of the stock exchange

Article 285

(1) The initial capital of the stock exchange shall amount to no less than HRK 40,000,000.00.

(2) All the shares of the stock exchange are registered shares issued in dematerialised form.

(3) The initial capital of the stock exchange shall be fully paid up in cash and the shares that form it cannot be issued before the full amount to which the shares are issued has been paid up.

(4) The shares of the stock exchange may be admitted to trading on a regulated market only subject to a special approval from the Agency, and complying with the provisions of Title 2 Chapter 4 of this Part and Title 1 Part 3 of this Act.

The management board and the supervisory board of the stock exchange

Article 286

(1) The management board of the stock exchange shall consist of at least two members. The management board members of the stock exchange must have good reputation, suitable professional qualifications and experience necessary to steer and manage a regulated market exercising due professional care.

(2) The management board members of the stock exchange must be full time employees of the stock exchange.

(3) At least one management board member must be fluent in the Croatian langue.

(4) The management board members are obliged to manage the operations of the stock exchange from the territory of the Republic of Croatia.

(5) The Agency will lay down in detail the conditions to be met by the management board members of the stock exchange, the content of the application for granting authorisation to perform the duties of a management board member, documentation to be attached to the application and the content of such documentation.

(6) The supervisory board of the stock exchange shall consist mostly of independent members who are not in business, family, or other connections with the stock exchange, majority shareholders, or a group of majority shareholders, or management board members or supervisory board members of the stock exchange or a majority shareholder.

(7) As an independent member of the supervisory board of the stock exchange shall be deemed the person who is not:

- connected with the stock exchange, is not a majority shareholder, and does not represent a majority shareholder or the group of majority shareholders, a spouse, or a relative by blood, or an in-law to the second degree of any person of the previously mentioned groups, and is not in any connection with the companies connected with the majority shareholder,
- a management board member of the stock exchange or any of its subsidiary or a company connected with it for at least five years,
- an employee of the stock exchange or any of its subsidiary or a company connected with it for at least three years,
- a person who receives or has received a significant payment from the stock exchange except for the fee for work in the supervisory board, excluding any dividends, (this in particular relates to participation in bonuses and other forms of rewarding depending on the company's performance, such as share options, but it does not relate to incomes arising from the pension scheme in respect of earlier service for the society),
- and has not been in a significant business relationship lasting for at least one year with the stock exchange or its related companies, indirectly or directly, as a partner, shareholder, management board member or a supervisory board member or a member of a senior management team of the organisation which is in a significant business relationship with the stock exchange,
- and has not been for the last three years, a partner or an employee of an audit company that offers or has offered audit services to the stock exchange or a company connected with its,

- a management board member of another company where some of the management board members of the stock exchange is a supervisory board member, neither has he any significant connections with the management board members of the stock exchange through participation in other organisations, bodies or companies,
- a supervisory board member for more than 12 years,
- a spouse, or an immediate relative by blood, or an in-law of any management board member or of natural persons in the functions mentioned in the previous items.

(8) If a supervisory board member is subjected to undue influence or limitations exerted by the majority shareholder, thus affecting the performance of his duties, the supervisory board member is obliged to inform the supervisory board thereof and notwithstanding this take an independent stance when exercising his voting rights or offer his resignation, as appropriate, under the circumstances.

(9) An independent supervisory board member who carries out this function for more than two terms of office, should give a statement in writing whereby confirming his independent status.

Approval for appointment

Article 287

(1) It is possible to appoint as a management board member of the stock exchange a person who has been granted approval from the Agency.

(2) An application to grant the approval to the authorisation provided for in paragraph 1 of this Article is submitted by the supervisory board of the stock exchange for a term that cannot exceed five years.

(3) Applicants requesting to be granted of the approval to the authorisation from paragraph 1 of this Article shall provide evidence of fulfilling the conditions provided for in Article 286 of this Act and the ordinance under Article 286 paragraph 5 of this Act.

(4) In the procedure of granting of the approval to decision-making on the authorisation provided for in paragraph 1 of this Article, the Agency may request that the candidate for a management board member of the stock exchange presents a programme of managing the stock exchange operations.

(5) The Agency will refuse to grant the approval to the appointment of management board members of the stock exchange if:

1. the proposed person does not satisfy the conditions laid down in Article 286 hereof and the provisions of the Ordinance referred to in Article 286 paragraph 5 hereof,

2. the Agency has objective and demonstrable reasons available due to which it can be presumed that the activities or operations in which this person is engaged or has been engaged could pose a threat to the management of the regulated market with due professional care,

3. if the application to grant of the approval contains incorrect or false data.

Withdrawal and lapse of the approval

Article 288

(1) The Agency will withdraw its approval to the appointment of a management board member of the stock exchange in the following cases:

1. if the management board member no longer meets the conditions under which the consent was granted,

2. if the consent was granted pursuant to incorrect or false data.

(2) if the Agency withdraws its consent to the appointment of the management board member, the supervisory board of the stock exchange shall pass a decision without delay whereby withdrawing the appointment of that management board member.

(3) In the case referred to in the previous paragraph of this article, the supervisory board shall appoint its deputies, without the Agency's consent, for a term up to three months.

(4) The approval to the appointment of the management board member of the stock exchange shall cease to be valid if:

1. the person within 1 year after granting the approval has not been appointed or has not taken up his duty to which the approval relates,
2. if this person's duty to which the approval relates terminates, from the date of the termination of the duty,
3. if the employment agreement of this person for work on the stock exchange expires, from the expiry date of the agreement.

Owners of a qualifying holding in the stock exchange

Article 289

(1) The provisions of Articles 28 and 29 and Articles 44 - 52 of this Act shall appropriately apply to the holders and any change in the ownership of a qualifying holding in the stock exchange, close links, legal consequences of acquiring a qualifying holding without the Agency's approval, and the measures taken by the Agency in cases where the management of the regulated market with due professional care is questionable, on which occasion the term „investment firm" shall be appropriately replaced by the term „stock exchange".

(2) The stock exchange shall submit data to the Agency on the ownership structure, and in particular on the owners of qualifying holdings, as well as on the identity of all the persons who could exercise significant influence over the management of the regulated market.

(3) The stock exchange shall submit to the Agency data on any changes in the ownership structure that give rise to a change in the identity of the persons exercising significant influence over the management of the regulated market.

(4) The stock exchange shall publish the data provided for in paragraphs 1 and 2 of this Article.

(5) The data provided for in paragraph 3 of this Article shall be deemed to be published if disclosed by the stock exchange at least on its website.

Other authorisations

Article 290

The Agency's preliminary authorisation is necessary for:

1. stock exchange status changes

2. setting up a branch outside the Republic of Croatia,

3. an intended acquisition of a holding with more than 25 % of the voting rights or an equity holding in another legal entity.

Reporting obligations

Article 291

(1) The stock exchange shall inform the Agency without delay on any changes in the identity of the persons referred to in Articles 286 and 287 hereof, and on any changes in the data contained in the application for authorisation.

(2) The stock exchange has the obligation to draw up annual financial statements and the annual management report, in accordance with regulations laying down the establishment and operation of companies, and entrepreneurial accounting, and the application of financial reporting standards and submit them to the Agency together with the audit report within 15 days from receipt of the audit report, at the latest however within 4 months after the closing day of the business year.

(3) The Agency is authorised to lay down by an ordinance the content and the structure of the annual financial statements of the stock exchange and the form and manner in which they are to be submitted to the Agency.

(4) When stock exchange securities are admitted to trading on the regulated market, the provisions of Title II. of this Part of the Act shall appropriately apply to the stock exchange.

(5) The stock exchange has the obligation to submit to the Agency a daily report which contains data on transactions in financial instruments executed on the regulated market managed by the stock exchange, as well as weekly reports, monthly reports and annual reports containing data on trading.

(6) The Agency shall lay down by an ordinance the form, content, deadlines and the manner in which the reports referred to in paragraph 5 of this Article are to be submitted.

(7) The stock exchange that manages an MTF shall inform the Agency of the Member State where it intends to make the MTF available.
(8) The Agency shall forward the information referred to in paragraph 7 of this Article, within 30 days, to the competent authorities of the concerned Member State.

(9) At the request of the concerned Member State, the Agency shall forward the data on MTF users within a reasonable term to the competent authorities of the MTF home Member State.

Organisational requirements

Article 292

(1) The stock exchange shall:

1. establish and implement arrangements to identify any conflict of interest between the interest of the stock exchange and/or its shareholders and the public interest for the orderly functioning of the regulated market,

2. prevent that the conflict of interest provided for in point 1 of this paragraph poses negative effects on the operation of the regulated market managed by it or on any persons that participate in trading on the regulated market, in particular, if the conflict of interest impedes the stock exchange in its orderly performance of the obligations laid down in this Act, regulations adopted pursuant to this Act, or the rules under Article 294 of this Act,

3. have available sufficient financial resources, depending on the type and scope of operations that it performs, as well as the scope and structure of risks emanating from operation, with the purpose of providing orderly operation,

4. establish and implement:

- arrangements and procedures and shall put in place systems to identify and manage all the risks that arise from its operation and to reduce these risks to a minimum level,

- arrangements and procedures to ensure that the trading system functions in a correct, uninterrupted and efficient manner, and apply suitable and efficient security measures in case of disturbances in the system,

- transparent and non-discretionary rules and procedures that provide fair and orderly trading and shall establish objective criteria for the efficient execution of orders,

- efficient measures that facilitate the smooth and timely finalisation of the transactions executed within its trading system.

(2) When the stock exchange outsources business processes that are important for its operation and the operation of the regulated market, as a consequence, this should not:

1. endanger the implementation of trading in the manner laid down in this Act and regulations passed pursuant to this Act, or

2. change the conditions under which the stock exchange was issued the authorisation, or

3. change the conditions under which the stock exchange manages the regulated market, or

4. impede supervision by the Agency.

(3) When the stock exchange outsources business processes that are important for its operation and the operation of the regulated market, it shall:

1. include these services in the internal control system,

2. inform the Agency without delay on its intention and the manner of outsourcing its business processes.

Obligation to keep secrecy

Article 293

(1) By an internal bylaw, the stock exchange shall specify the information considered to represent business secret, and the manner of using such information, save when otherwise provided in the provisions of this Act and other regulations.

(2) The management board of the stock exchange shall report to the Agency on a monthly basis on the acquisition or disposal of financial instruments held by the management board members, supervisory board members and employees of the stock exchange.

(3) The obligation referred to in paragraph 2 of this Article also relates to the acquisition and disposal of financial instruments by a spouse, a child, an adopted child, a parent, or an adoptive parent and other persons who live with a management board member, supervisory board member, or employee of the stock exchange in the common household, to the acquisition and disposal by legal persons where these persons hold a majority interest, and to the acquisition and disposal of persons which the stock exchange has outsourced as service providers.

Rules and procedures of the stock exchange

Article 294

(1) The stock exchange shall establish, implement and maintain acts which lay down the general conditions of the operation of the stock exchange and the regulated market managed by it.

(2) The acts referred to in paragraph 1 of this Article include rules and procedures for the application of the rules.

(3) The rules referred to in paragraph 1 of this article shall contain in particular:

1. the scope and organisation of operation,

2. provisions on members, in view of admission to membership, suspension and exclusion from membership,

3. provisions on the types and manner of trading, including also provisions addressing settlement and clearing systems, that the members may use in order to settle executed transactions,

4. provisions in connections with the disclosure of trading information,

5. provisions on financial instruments that can be traded on the regulated market managed by the stock exchange, including provisions on admission of financial instruments and temporary suspension and removal from trading,

6. provisions relating to the supervision of trading, detection and proceeding in connection with market abuse.

(4) The legal acts referred to in paragraph 2 of this Article and any changes in these acts are approved by the Agency.

(5) The stock exchange shall publish the acts referred to in paragraph 2 of this Article on its website and shall inform its members about the adoption and application of such communications, at least 7 days before they become applicable.

Article 295

(1) The stock exchange shall adopt its price list, guided by the principle of equality of all the users of stock exchange services and by reasonable commercial terms.

(2) The prices list and its changes are approved by the Agency.

(3) The stock exchange shall publish the approved price list on its website and shall inform the users of its services on the adoption of the price list and changes in it at least 7 days before they become applicable.

Chapter 2

Granting and withdrawing authorisation

Article 296

Granting authorisation

(1) The application for granting authorisation to perform activities referred to in Article 281 paragraph 1 of this Act is submitted by the founders of the stock exchange.

(2) The application for granting authorisation referred to in paragraph 1 of this Article shall indicate the activities specified in Article 281, paragraph 1 hereof, that the stock exchange intends to perform and the types of financial instruments that it intends to trade in on a regulated market.

(3) The application for granting approval provided for in paragraph 1 of this Article must be supported with a description of the trading system from which its is visible that it complies with the provisions of this Act and regulations adopted pursuant to it, in particular in regard to financial instruments to be traded on the regulated market, types of trading and anticipated trading volumes.

(4) The content of the application for granting approval and for extending approval, necessary documentation to be attached to the application, and the content of such documentation shall be defined by the Agency by an ordinance.

Decision-making by the Agency on the application for granting authorisation

Article 297

(1) The Agency may at the same time decide on

1. an application of the stock exchange for granting authorisation to perform activities referred to in Article 281, paragraph 1 hereof,

2. an application of prospective acquirers of qualifying holdings of the stock exchange, for granting authorisation to acquire qualifying holdings of the stock exchange,

3. an application of a candidate for a management board member of the stock exchange.

(2) The Agency will grant authorisation to the stock exchange to perform activities provided for in Article 281 paragraph 1 hereof, if the following conditions are met:

1. if it is organised in accordance with Article 284 of this Act,

2. if its initial capital meets the conditions referred to in Article 285 of this Act,

3. if the conditions of Article 288 hereof have been met,

4. if the management board members and the supervisory board members meet the conditions provided for in Article 286 of this Act,

5. if it meets the obligations referred to in Article 292 hereof,

6. the stock exchange submits the description of the trading system in accordance with Article 296 paragraph 3 hereof,

7. if it meets the conditions for keeping the official registry of regulated information laid down under this Act, when it seeks authorisation for maintenance of that registry.

(3) The authorisation referred to in paragraph 2 of this Article, will specify the types of financial instruments to which the approval relates.

(4) The authorisation is granted for an indefinite period of time, it cannot be transferred to another person and it does not apply to the legal successor.

(5) The stock exchange shall permanently meet the conditions under which the authorisation is granted.

Extension of authorisation

Article 298

(1) If after having obtained the authorisation provided for in Article 281 hereof, the stock exchange intends to perform an additional activity and/or provide trading in other financial instruments, it must be previously granted an authorisation by the Agency.

(2) The provisions of Articles 296 and 297 hereof shall appropriately apply to the extension of the authorisation. An application for extending the authorisation is submitted by the management board of the stock exchange.

Lapse of the authorisation

Article 299

(1) The authorisation shall lapse:

1. if the stock exchange has not started performing the activities for which the authorisation was issued within one year from the date of issue of the authorisation, with the lapse of the mentioned term,

2. if the stock exchange has failed to perform the activities for which the authorisation was issued for more than 6 months, with the lapse of the mentioned term,

3. at the own request of the stock exchange, by delivering the Agency’s decision,

4. with the delivery of the Agency’s decision whereby withdrawing the authorisation,

5. as of the date of instituting bankruptcy proceedings,

6. with the conclusion of a liquidation procedure.

(2) Should the reason occur referred to in points 1 and 2 paragraph 1 of this Article, the Agency will issue a decision whereby establishing the termination of the validity of the issued authorisation.

List of regulated markets

Article 300

(1) In accordance with Article 47 of the Directive 2004/39/EC, the Agency will draw up and regularly update a list of regulated markets in the Republic of Croatia.

(2) The Agency will publish the list referred to in paragraph 1 of this Article on its website and will submit it to other Member States and the European Commission.

Chapter 3

Admission and trading in a regulated market

Members

Article 301

(1) The following entities may become members of the stock exchange:

1. an investment firm and a credit institution with its registered office in the Republic of Croatia, authorised to provide investment services and perform investment activities referred to in Article 5 paragraph 1 point 2 and/or 3 hereof,

2. an investment firm and a credit institution from a Member State that:

- hold a suitable authorisation issued by the competent authority of the home Member State,

- for which the Agency has been notified by the competent home Member State, in accordance with Articles 145 and 146 hereof,

3. an investment firm and a credit institution from a third country that possess a suitable authorisation issued by competent authorities and that meet the conditions laid down by this Act and the act that regulates the establishment and operation of credit institutions.

(2) In its rules the stock exchange may define that the person that meets the following criteria may also become a member of the stock exchange:

1. it has a good reputation, possesses suitable professional knowledge, if it is professionally qualified for trading in a regulated market, and its organisation is appropriately established, where appropriate

2. it has enough resources for the activity to be performed, taking into account possible financial arrangements that the stock exchange has signed with the aim of settling transactions.

(3) The stock exchange shall submit to the Agency a list of the members, regularly updated.

Membership

Article 302

(1) In its rules provided for in Article 294 hereof, the stock exchange will lay down transparent rules for admission to membership or to a regulated market, pursuant to non-discretionary and objective criteria in connection with organisational, technical and staffing conditions.

(2) The rules referred to in paragraph 1 of this Article should contain the rights and liabilities of the members in connection with:

1. trading in a regulated market,

2. the rules of the profession to be adhered to by the employees of the stock exchange member,

3. rules and regulations for the settlement and clearing of transactions concluded in a regulated market.

Obligations of the members

Article 303

(1) When trading in a regulated market the members of the stock exchange shall act in accordance with this Act, regulations passed pursuant to this Act and the acts of the stock exchange referred to in Article 294 hereof.

(2) The members of the stock exchange shall permanently fulfil organisational, technical and staffing conditions laid down in this Act, regulations passed pursuant to this Act, and the acts of the stock exchange referred to in Article 294 hereof, with regard to the nature, scope, and complexity of the member's operation, as well as the type and scope of investment services and activities provided and performed by the member.

(3) For transactions concluded between the members of the stock exchange on a regulated market, the members are not obliged to apply to each other the provisions of Articles 54-71 and 82-91 hereof.

(4) In paragraph 3 of this Article, the members of the stock exchange shall comply with the provisions of Articles 54-71 and 82-91 hereof, when executing orders on the regulated market on behalf of their clients.

Monitoring of compliance with rules and legal obligations by the Members

Article 304

(1) The stock exchange shall establish, implement and maintain efficient procedures for regular monitoring of compliance by the members with the rules of the regulated market managed by it.

(2) The stock exchange shall supervise transactions performed by its members on the regulated market managed by it in order to identify breaches of those rules, disorderly trading conditions or conducts that involve market abuse. The supervision of trading will be supported by a suitable computer monitoring system that enables a systematic and complete collection and evaluation of trading data and data in connection with trading, facilitating required investigation proceedings.

(3) The stock exchange shall inform the Agency without delay on any significant breaches of its rules, disorderly trading conditions or conducts that involve market abuse.

(4) In the supervision procedures, the stock exchange shall submit to the Agency and the authority competent for prosecution without delay all necessary data and shall co-operate when supervising and investigating cases of market abuse.

Trading on the regulated market

Article 305

(1) Trading on the regulated market must be performed respecting the principles of efficiency, promptness, impartiality and equal treatment of all the counterparties.

(2) The stock exchange shall choose a trading system for transactions on the regulated market managed by it, guided by the principles of:

1. efficiency,

2. cost-effectiveness,

3. functionality of the trading system,

4. investors' protection.

(3) In addition to the principles laid down in paragraph 1 of this Article, the selection of the trading system and the manner of trading will also depend on the type of financial instruments traded on the regulated market and on trading volumes.

(4) In exceptional circumstances, the stock exchange may pass a decision thus determining the opening and/or closing time of trading other than the time laid down by the rules of the stock exchange, suspending or interrupting trading if this is in the public interest or is aimed at providing orderly trading on the regulated market or in the event when due to other significant circumstances it is unable to ensure orderly trading.

(5) The stock exchange shall inform the Agency without delay of the decision referred to in paragraph 4 of this Article.

(6) The law of the Republic of Croatia shall apply to any disputes arising from trading on the regulated market managed by the stock exchange.

Access to the regulated market by persons form other Member States

Article 306

The stock exchange is obliged to provide in its rules a possibility of membership of or access to the regulated market managed by it directly or by way of remote participation.

Article 307

(1) Where the stock exchange intends to allow the other Member State remote access to the members of the regulated market managed by it, if shall inform the Agency thereof.

(2) The Agency will forward the information referred to in paragraph 1 of this Article within 30 days to the competent authority of the Member State to which the stock exchange intends to enable such access.

(3) At the request of the competent authority of the home Member State the Agency will forward the data on the members of the stock exchange within a reasonable term.

(4) For the purpose of informing the competent authorities of the home Member State, in accordance with paragraph 3 of this Article the stock exchange shall provide the Agency without delay with a list of its current members.

(5) If the market operator of the regulated market from another Member State intends to enable remote access in the Republic of Croatia to its regulated market, the Agency may require data on the members of that regulated market from the competent authorities of the home member State of the regulated market.

Chapter 4

Financial instruments traded on the regulated market

Article 308

(1) The stock exchange manages the regulated market which consists the regular market and the official market. By its regulations the stock exchange may lay down other segments of the regulated market as well for which it will lay down stricter conditions for admission and investor protection, than those laid down in Article 313 hereof.

(2) Securities may be admitted to the regular market if the conditions referred to in Article 309 hereof have been met, and other financial instruments if the conditions referred to in Article 309 hereof have been met, relating to financial instruments.

(3) Securities may be admitted to the official market if the conditions referred to in Article 313 hereof have been met.

Conditions for admission to trading in the regular market

Article 309

(1) Only those financial instruments that can be traded in a fair, orderly and efficient manner can be admitted to the regular market.
(2) Securities being admitted to trading in the regular market shall satisfy the following criteria:

1. securities for which an application for admission is filed must be issued in accordance with the rules relating to them and they must be freely negotiable,

2. legal position of the issuer of securities is in accordance with regulations of the Republic of Croatia or the state of the issuer’s registered office,

3. the issuer or the offeror of securities has complied with the obligation of drawing up a prospectus in accordance with Part 3 of this Act,

4. the conditions laid down in ordinance passed in accordance with paragraph 5 of this article,

5. the conditions laid down in Article 35 of Regulation 1287/2006.

(3) Securities of an issuer with its registered office in the Republic of Croatia can be admitted to trading in the regular market only if they are issued in dematerialised form.

(4) Only those derivatives may be admitted to trading in the regular market created in a manner that enables correct pricing and the existence of effective settlement.

(5) The Agency will specify more in detail by an ordinance the characteristics of financial instruments that are taken into account when assessing whether the instruments meet the conditions for admission to trading on the regular market.

(6) Units in collective investments undertakings, in addition to the conditions laid down in this Article must meet the conditions laid down by the provisions of Article 36 of Regulation 1287/2006.

(7) Derivatives, in addition to the conditions laid down in this Article must meet the conditions laid down in the provisions of Article 37 of Regulation 1287/2006.

Article 310

(1) Trading in financial instruments in the regular market requires approval from the stock exchange.

(2) The issuer or a person authorised by the issuer may submit an application for admission to trading in the regular market.

(3) The stock exchange will issue approval for admission trading in the regular market if the following conditions are met:

1. provided for in Article 309 hereof,

2. of the ordinance passed in accordance with Article 309 paragraph 5 hereof,

3. laid down by the provisions of Regulation 1287/2006.

(4) The stock exchange will refuse the request for admission to trading of a security in the regular market if:

1. conditions laid down in paragraph 2 and/or 3 are not met,

2. according to available data it arises that admission would adversely affect the investor’s interests.

Decision-making on admission to trading in the regular market

Article 311

(1) Provisions of the Law on the General Administrative Procedure shall appropriately apply to decision-making by the stock exchange about admission of a financial instrument to trading in the regular market, unless otherwise provided for in this Act. A decision on admission of financial instruments to trading in the regular market is passed by the management board of the stock exchange.

(2) The stock exchange shall define in its rules when the request referred to in paragraph 1 hereof is deemed to be an orderly request.

(3) The decision referred to in paragraph 1 of this Article is final and the applicant may file complaint with the administrative court against it.

(4) The stock exchange shall inform the Agency of every application received for admission of financial instruments to trading, as well as of its decision on admission or refusal of the application for admission to trading.

(5) The stock exchange shall publish any data on admission of financial instruments to trading in the regulated market managed by it on its website.

Admission of securities without the consent of the issuer

Article 312

(1) In derogation from the provisions of Article 310 paragraph 2 hereof, transferable securities may be admitted to trading on the regular market even without the consent of the issuer if they have already been admitted to one of the following regulated markets:

1. another regulated market of the Republic of Croatia,

2. regulated market of a Member State,

3. stock exchange of a third country if the third country's provisions:

concerning the application for admission of securities to trading are comparable to those laid down in this Act and regulations passed pursuant to this Act,

- concerning the preparation of a prospectus in connection with the issue or a prospectus in connection with the admission of securities to trading are comparable to those laid down in this Act and regulations passed pursuant to this Act,

- if preconditions exist on this stock exchange for the transparency requirement comparable to those on the regulated market for securities admitted to trading,

- if the exchange of information has been provided for the purpose of trading with the competent authorities of that state.

(2) Where the securities are admitted to trading on the regular market, in accordance with paragraph 1. of this Article, the stock exchange shall inform the issuer that securities are traded on the regular market managed by it.

(3) When the securities are admitted to trading on the regular trading, in accordance with paragraph 1 of this Article, the stock exchange shall inform the Agency and information about the admission make public without delay.

(4) When, in accordance with paragraph 1 of this Article, securities are admitted to trading on the regular market without the issuer's consent, the issuer is free from the obligation to disclose the prescribed information to the regulated market on which its securities have been admitted without its consent.

The conditions for the admission to trading on the official market

Article 313

Securities for which admission to trading on official market is sought, in addition to the conditions set out in the provisions of Article 309 of this Act, shall also comply with the following additional conditions:

1. shares and the issuers of the shares - with the provisions of Articles 316 to 319 of this Act,

2. debt securities and the issuers of those securities - with the provisions of Articles 320 to 325 of this Act.

3. certificates representing shares may be admitted to trading only if:

- the issuer of shares on the basis of which certificates representing shares were issued fulfils the conditions set out in Article 316 of this Act,

- the certificates fulfil the conditions set out in Articles 317 and 318 of this Act,

- the issuer of the certificates representing shares guarantees appropriate safeguard for the protection of investors.

Article 314

(1) Trading in securities admitted to trading in the official market requires an approval to be issued by a stock exchange.

(2) The application for admission to trading in the official market may be submitted by the issuer or by any person empowered by the issuer to act on its behalf.

(3) A stock exchange shall issue a approval for the admission to trading on the official market in so far as the securities comply with the conditions set out in the provisions of Article 313 of this Act.

(4) A stock exchange shall reject an application for the admission to trading of a security on the official market in so far as the security concerned and/or its issuer fail(s) to comply with the conditions or where the information available implies that the admission to trading would be detrimental to investor's interests.

(5) A stock exchange may, solely in the interests of protecting the investor, make the admission to trading of a certain security on the official market subject to any special condition considered appropriate.

(6) A stock exchange shall explicitly inform the applicant of the condition referred to in paragraph 5 of this Article.

(7) Where an application for admission to trading on the official market is made in respect of securities that are already admitted to trading on the regulated market in another Member State, a stock exchange may reject an application in case the issuer of securities fails to fulfil its obligations arising from the admission to the regulated market concerned. The first sentence of this paragraph is applied appropriately where the application is made for admission to trading on the regular market.

The decision of admission to trading on the official market

Article 315

(1) The decision of admission of securities to trading on the official market, in the form of an administrative act, is brought by the Board of a stock exchange, pursuant to the provisions of the General Public Administrative Procedure Law, unless otherwise stipulated by this Act, within 30 days from the day of the receipt of a orderly application.

(2) The stock exchange shall define in its rules when the request referred to in paragraph 1 hereof is considered orderly.

(3) The decision referred to in paragraph 1 of this Article is final the applicant may file complaint with the administrative court against it.

(4) A stock exchange has the obligation to notify the Agency of each received application for the admission of securities to trading, as well as of its decision with regard to the admission or to the rejection of the application for admission trading on the official market.

(5) A stock exchange has the obligation to publish on its web site all the data regarding the admission of securities to trading on the official market operated by it.

Specific conditions for the admission of shares

The conditions that must be fulfilled by the issuers for the shares of which the application for admission to official market was submitted

Article 316

(1) The legal position of the issuer must be in conformity with the regulations of the country in which its registered office is situated, in particular as regards its formation and its operation.

(2) The foreseeable market capitalisation of the shares for which the application for admission to official listing was submitted must be at least HRK 8.000.000,00.

(3) If the foreseeable market capitalisation referred to in paragraph 1 of this Article can not be assessed, the company’s capital and reserves, including profit or loss, from the financial year which preceded the submission of the application, must be at least HRK 8.000.000,00.

(4) A stock exchange may approve the admission to trading in the official market even when the conditions referred to in paragraphs 2 and 3 of this Article are not fulfilled, provided that it is satisfied that there will be an adequate market for the shares concerned.

(5) The conditions set out in paragraphs 1 and 2 of this Article shall not be applied for the admission to trading on the official market of a further block of shares of the same class as those that have already been admitted.

(6) The issuer must have published or filed its annual financial reports in conformity with the legislation of the country in which its registered office is situated for the three financial years which preceded the submission of application for the admission to trading on the official market.

(7) By way of derogation, a stock exchange is authorised to approve the admission of shares of the issuers that fail to comply with the conditions referred to in paragraph 6 of this Article in so far as the stock exchange is satisfied that the investors have the data necessary for the assessment of the issuer and of the shares for which admission to trading on the official market is sought and in so far as it is in the interests of the issuer or in the interests of the investor.

Conditions relating to the shares for which admission to trading on the official market is sought

Article 317

(1) In so far as the admission to trading on the official market is preceded by a public issue, the first admission to trading on the official market may be made only after the end of the period of subscription and payment in a public issue.

(2) Prior to the admission of shares to trading on the official market, a sufficient number of shares must be distributed to the public.

(3) In so far as se shares are distributed to the public through a regulated market, the admission to trading on the official market may also be approved without complying with the conditions referred to in paragraph 2 of this Article, only in so far as a stock exchange is satisfied that a sufficient number of shares shall be distributed through the regulated market within a short period of time.

(4) Where the application for admission to trading on the official market is submitted for a further block of shares of the same class, the assessment referred to in paragraph 3 of this Article, with regard to a sufficient number of shares distributed to the public, may be made by a stock exchange in relation to all the shares issued, and not only in relation to this further block.

(5) A stock exchange may approve an application for admission to trading on the official market of the shares of those issuers the shares of which have already been admitted to trading on an official market in a third country, in so far as a sufficient number of shares has been distributed to the public in the third country, or in the country in which these shares have been admitted to trading on the official market.

(6) Within the meaning of this Title of the Act, a sufficient number of shares is deemed to have been distributed to the public if:

1. at least 25 % of the class of shares for which an application for admission was submitted is in the hands of the public,

2. in view of the large number of shares of the same class and the percentage of their distribution to the public, the market will be able to function properly even if the percentage of shares in the hands of the public is lower.

(7) A stock exchange shall prescribe by its rules which shares are not deemed the shares distributed to the public.
(8) The application for admission to official listing must be made in relation to all the shares of the same class that have already been issued.

(9) By way of derogation from paragraph 8 of this Article, an application for admission does not need to cover the shares that:

1. belong to blocks serving to maintain control of the company, or

2. are not negotiable, under agreement, for a certain period of time,

under the condition that the public is informed of the situations from subparagraphs 1 and 2 and that there is no danger of such situations prejudicing the interests of the holder of the shares for which an application for admission was submitted.

Article 318

(1) For the admission to trading on the official market of shares that have a physical form of the issuer whose registered office is situated in an another Member State it is necessary that their physical form is in conformity with the standards prescribed in that other Member State.

(2) In so far as the physical form is not in conformity with the regulations of the Republic of Croatia, a stock exchange makes that fact known to the public.

(3) For the admission to trading on the official market of shares that have a physical form of the issuer whose registered office is situated in a third country, the physical form of shares must afford sufficient safeguard for the protection of the investor.

Specific conditions regarding an issuer from a third country

Article 319

The shares of an issuer whose registered office is situated in a third country, and which are not listed in either the country in which the issuer's registered office is situated or in the country in which the major proportion of the shares is held, may be admitted to trading on the official market only in so far as a stock exchange is satisfied that the reasons for the absence of a listing in the country in which the registered office is situated or in the country in which the major proportion of the shares is held are not connected with the protection of the investor.

Specific conditions for the admission of debt securities

Article 320

(1) The form and content of debt securities for which an application for admission to trading on the official market was submitted must be in conformity with the regulations to which they are subject, and the securities must be freely negotiable.

(2) By way of derogation from paragraph 1 of this Article, a stock exchange may treat debt securities which are not fully paid up as freely negotiable in so far as mechanisms are in place to ensure that the negotiability of such debt securities is not restricted and in so far as the trading is made transparent and proper by providing the public with all appropriate data.

(3) In so far as the admission to trading on the official market is preceded by a public issue, the first admission to trading on the official market may be made only after the end of the period of subscription and payment in a public issue.

(4) The provisions of paragraph 3 of this Article shall not be applied in the case of tap issues of debt securities for which the closing date for subscription is not fixed.

(5) An application for admission to official listing must be made in relation to all debt securities ranking pari passu.

Article 321

(1) For the admission to trading on the official market of debt securities that have a physical form, of an issuer from another Member State, it is necessary that their physical form is in conformity with the standards prescribed in that other Member State.

(2) Where the physical form is not in conformity with the regulations of the Republic of Croatia, a stock exchange shall make that fact known to the public.

(3) The physical form of debt securities issued in a single Member State must conform to the standards that are in force in that Member State.

(4) The physical form of debt securities of an issuer from a third country must afford sufficient safeguard for the protection of the investor.

Other conditions

Article 322

(1) The nominal amount of the loan for debt securities for which an application for admission to trading on the official market was submitted may not be less than HRK 1,500,000.00.

(2) The provision set out in paragraph 1 of this Article shall not be applied in the case of tap issues of debt securities for which the nominal amount of the loan is not fixed.

Article 323

(1) Convertible or exchangeable debentures and debentures with warrants may be admitted to trading on the official market only if:

1. their related shares have already been admitted to trading on the same regulated market, or

2. their related shares have already been admitted to trading on an another regulated market, or

3. are admitted to trading simultaneously with their related shares.

(2) A stock exchange may approve the admission to trading on the official market of debt securities referred to in paragraph 1 of this Article, only when it is satisfied that their holders have at their disposal all the data necessary for the assessment of the value of the shares to which these debt securities are related.

Particular conditions relating to the admission to trading on the official market of debt securities which are issued by a State, its regional or local authorities or a public international body

Article 324

(1) Where the admission to trading on the official market is preceded by a public issue, the first admission to trading on the official market may be made only after the end of the period of subscription and payment in a public issue.

(2) The provisions of paragraph 2 of this Article do not apply to subscriptions for which the closing date of the period of subscription of those securities is not fixed.

(3) An application for admission to trading on the official market must be made in relation to all the securities ranking pari passu.

Article 325

(1) For the admission to trading on the official market of debt securities which are issued by a Member State or its regional or local bodies in a physical form, it is necessary for their physical form to be in conformity with the standards prescribed in that Member State.

(2) Where the physical form is not in conformity with the regulations in force in the Republic of Croatia, a stock exchange shall notify the public of the situation.

(3) The physical form of debt securities which are issued by a third country or its regional or local bodies or public international bodies must afford sufficient safeguard for the protection of the investor.

Obligations of the issuer whose securities are admitted to trading on the official market

Article 326

In the case of a new public issue of shares that are of the same class as the shares that have already been admitted to trading on an official market, the issuer has the obligation, except for the shares that are exempt from the obligation of admission referred to in Article 317 (9), to submit an application for their admission to trading on the official market, no later than one year after their issue or when they become freely negotiable.

Obligations of the issuer whose securities are admitted to trading on the regulated market

Article 327

(1) An issuer whose securities are admitted to trading on the regulated market has the obligation to provide a stock exchange with all information which the stock exchange considers appropriate for the protection of the investor and ensuring the smooth operation of the market.

(2) Where the protection of the investor or the smooth operation of the market requires so, a stock exchange may require that the issuer makes public information referred to in paragraph 1 of this Article, whereby it shall determine the form and time limits for the publishing of information.

(3) Should the issuer fail to make public information pursuant to paragraph 2 of this Article, a stock exchange shall make public that information, upon having received a statement from the issuer.

(4) A stock exchange shall make public the fact that an issuer fails to fulfil its obligations which result from the admission to a regulated market pursuant to the provisions of this Title of the Act.

Article 328

(1) A stock exchange has the obligation to establish and implement clear and transparent rules regarding admission of financial instruments to trading on the regulated market which it operates.

(2) The rules set out in paragraph 1 of this Article ensure that only those financial instruments may be admitted to trading on the regulated market the trading in which may be fair, proper and efficient, while transferable securities may be admitted to trading only if they are freely negotiable.

(3) In the case of derivatives, the rules set out in paragraph 1 of this Article must ensure in particular that only those derivative instruments may be admitted to trading that were created in the manner which provides for the prices to be set properly as well as for the existence of an efficient settlement.

Obligations of a stock exchange regarding the financial instruments admitted to trading

Article 329

(1) A stock exchange has the obligation to check on a regular basis whether the financial instruments admitted to trading on the regulated market which its operates comply with the conditions for the admission set out in this Act, the ordinances adopted pursuant to this Act, and the acts of the stock exchange referred to in Article 294 of this Act.

(2) A stock exchange has the obligation to establish and implement effective procedures for checking whether the issuers of transferable securities, that are admitted to trading on the regulated market which it operates, comply with the provisions set out in this Act and with the regulations adopted pursuant to this Act with regard to the information the publication of which is required pursuant to the provisions of this Act.

(3) A stock exchange shall establish procedures and arrangements to facilitate access by its members to the data and information that are made public pursuant to this Act and regulations adopted pursuant to this Act.

(4) The Agency may, by means of an ordinance, prescribe the procedures which a stock exchange, pursuant to paragraph 2 of this Article, has the obligation to establish and implement when assessing whether an issuer of negotiable securities admitted to a regulated market which it operates, complies with the provisions set out in this Act and with the regulations adopted pursuant to this Act with regard to the information which the issuers are required to make public and measures and procedures which a stock exchange, pursuant to paragraph 3 of this Article, has the obligation to establish in order to facilitate access of its members to the data and information that are published pursuant to this Act and with regulations adopted pursuant to this Act.

Suspension and removal of financial instruments from trading

Article 330

(1) A stock exchange has the obligation to suspend the trading or remove a financial instrument from trading without delay on the basis of an Agency's decision referred to in Article 341 (4) of this Act.

(2) A stock exchange has the obligation to render a decision to suspend the trading or remove a financial instrument from trading when the protection of the investor requires so, or when such a financial instrument no longer complies with the rules of the stock exchange.

(3) A stock exchange shall not suspend the trading or remove a financial instrument from trading, pursuant to paragraph 2 of this Article, if such a suspension or removal would be likely to cause significant damage to the interests of the investor or to the proper functioning of the market, of which the stock exchange has the obligation to inform the Agency without delay.

(4) A stock exchange has the obligation to inform the Agency and the public without delay of its rendering of the decision referred to in paragraph 2 of this Article.

A stock exchange making a decision to suspend or remove from trading

Article 331

(1) Unless otherwise stipulated by this Act, the provisions of the General Public Administrative Procedure Law are applied appropriately to a stock exchange's deciding to suspend or remove a financial instrument from trading on a regulated market.

(2) The decision referred to in paragraph 2 of this Article is final and a complaint may be filed with the administrative court against it.

(3) A stock exchange has the obligation to notify the Agency of any decision referred to in paragraph 1 of this Article and to make it public on its web site.

A decision to withdraw securities from listing on a regulated market

Article 332

(1) The General Assembly of a issuer whose registered office is situated in the Republic of Croatia and whose securities are admitted to trading on the regulated market in the Republic of Croatia or in an another Member State, may render a decision to withdraw the shares or other proprietary securities from listing on a regulated market.

(2) The decision referred to in paragraph 1 of this Article is rendered by votes that represent at least three quarters of the base capital represented at the General Assembly when rendering the decision. The statute may also prescribe a higher majority for rendering such a decision.

(3) The publishing of a withdrawal from listing on a regulated market, being an item on the General Assembly's agenda, is proper only when it also includes an irrevocable statement of the company by which the company commits to buy out the shares from all the shareholders who vote against such a decision at a fair price.

(4) The decision of a withdrawal from listing on a regulated market must state the firm, the head office, the data regarding the security, and other data necessary for the implementation of the decision.

(5) Each shareholder of the company who voted against the decision of a withdrawal from listing on a regulated market may require from the company that the company takes over his shares at a fair price. The shareholder who did not participate in the respective General Assembly for the reason of the General Assembly not having been convened in a proper and timely manner also has the same right.

(6) The decision of a withdrawal of securities from listing on a regulated market may not be disputed on the grounds of the financial compensation for the shares not being fair. The claim of the shareholders expires by limitation within two months from the day of the decision of a withdrawal from listing on a regulated market being entered into a court register.

(7) The decision of a withdrawal from listing on a regulated market is entered into a court register and becomes effective:

1. where the decision was adopted by a majority higher than nine tents of the votes required, on the day of the decision being entered into a court register, except where it was determined by the decision that it becomes effective only after a certain period of time has passed since the decision being entered into a court register,

2. in all other cases, within 6 months from the day of the decision being entered into a court register.

(8) The company must, following the decision on a withdrawal from listing on a regulated market being entered into a court register, inform the regulated market by submitting the decision on a

withdrawal from listing, from which the shares shall be withdrawn from listing on the first working day following the day on which the decision became effective.

(9) The average price of the shares realized on a regulated market, calculated as a weighted average of all prices realized on a regulated market within the course of three months preceding the rendering of the decision of a withdrawal from a regulated market shall be considered a fair price referred to in paragraph 5 of this Article.

Chapter 5

Obligation to make trade data public

The obligation to make public the bid and offer data

Article 333

(1) A stock exchange has the obligation to make public current bid and offer prices and the depth of trading interests regarding the shares admitted to a regulated market which is regulated by it.

(2) The data referred to in paragraph 1 of this Article must be available to the public on a continuous basis during normal trading hours, on reasonable commercial terms.

(3) A stock exchange has the obligation to make public current bid and offer and the depth of trading interests, regarding the shares admitted to a regulated market which is regulated by it, pursuant to Articles 17, 29, 30, and 32 of the Regulation No. 1287/2006, on reasonable commercial terms and on a continuous basis during normal trading hours.

Article 334

(1) The Agency may, at a request made by a stock exchange, waive the obligation for the stock exchange to make public the data referred to in Article 333 of this Act, based on the market model or the type and size of the order, under the conditions set out in the ordinance in Article 336 of this Act. The waiver of the obligation to publish relates in particular to transactions that are in larger in scale compared to normal market size prescribed for individual shares or classes of shares.

(2) The Agency may, at a request made by a stock exchange, waive the obligation for the stock exchange to make public the data referred to in Article 333 of this Act, in accordance with Articles 17 to 20 of Regulation No 1287/2006, based on the market model or the type and size of the order. The waiver from the obligation to make public the information referred to in Article 333 in particular relates to transactions that are large in scale compared with normal market size for individual classes of shares.

The obligation to make public the data on transactions

Article 335

(1) A stock exchange has the obligation to, with regard to the transactions involving the shares admitted to a regulated market which it operates, make public the price, volume and time of the transactions executed on the system of a regulated market which it operates.

(2) A stock exchange has the obligation to make public the data referred to in paragraph 1 of this Article as close to real-time of the execution as possible and on reasonable commercial basis.

(3) With regard to the transactions involving the shares admitted to a regulated market which it operates, a stock exchange has the obligation to make public the prices, volume and time of the transactions executed, as close to real-time of the execution as possible and pursuant to the provisions of Articles 27, 29, 30, and 32 of the Regulation No. 1287/2006, on reasonable commercial basis.

Article 336

(1) The Agency may issue a prior authorization to a stock exchange for a deferred publication of the data referred to in Article 335 of this Act, depending on the type or the size of transactions. The authorization for a deferred publication of the data relates in particular to the transactions that are large in scale compared with normal market size for that share or that classes of shares, pursuant to the ordinance referred to in paragraph 5 of this Article.

(2) Where the Agency, pursuant to the provisions of Article 1 of this Act issues a prior authorization to a stock exchange for a deferred publication of the data, the stock exchange may, depending on the type or size of the transaction, defer the publication of the data referred to in Article 335 of this Act. The stock exchange has the obligation to disclose the possibility of deferred publishing of the data on transactions to market participants and the investing public.

(3) The Agency may issue a prior authorization to a stock exchange for a deferred publication of the data referred to in Article 335 of this Act, depending on the type or the size of transactions. The Agency shall issue the authorization when the conditions set out in Article 28 of the Regulation No. 1287/2006 are fulfilled. The stock exchange has the obligation to disclose the possibility of deferred publishing of the data on transactions to market participants and the investing public.

(5) The Agency shall prescribe, by means of an ordinance:

1. the range of bid and offers or designated market-maker quotes, as well as the depth of the market at those prices, the publication of which is obligatory,

2. the size or type of the orders for which the obligation to disclose the data prior to trade referred to in Article 333 of this Act may be waived pursuant to Article 334 of this Act,

3. the market model for which the obligation to disclose the data prior to trade referred to in Article 333 of this Act may be waived pursuant to Article 334 of this Act, and in particular the applicability the of obligation to trading methods,

4. the content of the data on trades which a stock exchange has the obligation to make public,

5. the conditions under which a stock exchange may provide for deferred publication of the data on trades,

6. the criteria which a stock exchange has the obligation to take into account when determining the transactions for which deferred publication is allowed in view of the size of the transactions or the type of shares traded.

Article 337

(1) A stock exchange may enable access to the system it employs for making public the data pursuant to Articles 333 and 335 of this Act also to investment firms that have the obligation to publish the data pursuant to Articles 102 and 114 of this Act.

(2) When a stock exchange enables access to the system for making public the data to investment firms, pursuant to paragraph 1 of this Article, it has the obligation to do so under non-discriminatory rules and on reasonable commercial basis.

Article 338

Notwithstanding the provisions of Articles 333 and 335 of this Act, a stock exchange may provide for real-time or deferred publication of the data on bid and offers and/or transactions executed on a regulated market which it operates in so far as that is in the interests of the investors and based on the type of transactions on a regulated market.

Chapter 6

Supervision of a stock exchange and trading on a regulated market

Supervision of a stock exchange

Article 339

(1) The Agency is competent for the supervision of a stock exchange.

(2) Within the meaning of this Act, the supervision referred to in paragraph 1 of this Article means checking whether a stock exchange operates in conformity with this Act, with the regulations adopted pursuant to this Act and with its own acts.

(3) The Agency performs the supervision of a stock exchange by means of:

1. monitoring, collecting and checking the data and notifications made public,

2. monitoring, collecting and checking the reports which market participants have the obligation to submit to the Agency within the prescribed time limits, under this or any other Act,

3. monitoring, collecting and checking the reports, notifications and data obtained at the Agency's request, as well as the data and information from other sources,
4. reviewing the operation of a stock exchange and persons referred to in paragraph 6 of this Article.

(4) The Agency may decide on the following control measures regarding a stock exchange:

1. issue a public warning,

2. order that the violations and irregularities established be eliminated, or that the implementation of the provisions of general or individual acts be amended or suspended, or that new general and individual acts be drafted.

3. withdraw the authorization.

(5) When the Agency considers it necessary for performing the supervision referred to in paragraph 1 of this Article, it is authorised to request that the following persons submit reports and information, and to perform a review of financial records and business documentation:

1. the persons which are closely related to a stock exchange

2. the persons to which a stock exchange has transferred significant business processes

3. the holder of a qualified share of a stock exchange,

(6) When the Agency establishes that a market operator from a Member State which enabled remote access in the Republic of Croatia infringed the provisions of this Act, or the regulations of the Member State in which its head office is situated, adopted with the purpose of implementing the Directive 2004/39/EC into national legislation, it has the obligation to notify a competent body of the Member State in which the head office of that market operator on a regulated market is situated of the case.

(7) Should the market operator with a remote access in the Republic of Croatia continue operating in a manner in which the interests of the investors in the Republic of Croatia or proper trading on a regulated market are obviously jeopardized, the Agency may, pursuant to a prior notification to the competent body of the Member State, issue to that operator measures necessary for the protection of the interests of the investors and the proper functioning of the market, also including a remote access barring.

(8) The Agency shall without delay notify the European Community of the measure referred to in paragraph 7 of this Article.

Withdrawal of authorization

Article 340

The Agency may withdraw the authorization issued to a stock exchange in case:

1. it no longer complies with the conditions under which the authorisation was issued,

2. it seriously and systematically infringes the provisions of this part of the Act and of the ordinances adopted pursuant to them,

3. the authorization was issued on the basis of false data.

Supervision of trading on a regulated market

Article 341

(1) The Agency is competent for the supervision of trading on a regulated market.

(2) The Agency performs the supervision of trading on a regulated market for the purpose of ensuring proper and regular trading on it, and with a view to establish whether there are any market participants whose conduct on a regulated market represents market abuse.

(3) The Agency performs the supervision referred to in this Article by means of:

1. monitoring trading on a regulated market,

2. monitoring, collecting and checking the published data and notifications

3. monitoring, collecting and checking the reports which the market participants have the obligation to submit to the Agency under this or any other Act,

4. monitoring, collecting and checking the documentation, notifications and data obtained at the Agency's special request, as well as the data and information from other sources.

5. reviewing the operation of a stock exchange and supervising the trading performed by the members of a stock exchange,

6. issuing control measures to the operators subject to supervision under this Act.

(4) In addition to the control measures set out in the provisions of this Act, which the Agency is authorised to issue to market participants, the Agency may, in so far as it is necessary for the purpose of protection of the investors or ensuring normal and regular trading on a regulated market, suspend the trading in a financial instrument or remove a financial instrument from trading on a regulated market by means of a decision.

(5) The suspension referred to in paragraph 4 of this Article expires with the expiry of the term set out in the decision referred to in paragraph 4 of this Article or upon submitting evidence from which the Agency shall establish that the conditions due to which the suspension was issued no longer exist.

(6) When the Agency issues the decision of a suspension or removal of a financial instrument from trading, it shall publish it to the public it without delay.

(7) Where a financial instrument referred to in paragraph 4 of this Article is traded in on a regulated market in a Member State, the Agency has the obligation to notify the competent body of that Member State of the decision of a suspension of trading in or of a removal of the financial instrument.

(8) Where a financial instrument is traded in on a regulated market of an another Member State, the Agency has the obligation to issue the control measures referred to in paragraph 4 of this Article provided that the same control measure was issued by a competent body of the other Member State, except in case when such a measure would cause damage to the interests of the investors or proper functioning of a regulated market.

(9) The provisions of paragraphs 1 to 8 of this Article are also applied accordingly to the supervision of trading on an MTF.

PART THREE

Public offer of securities and publication of prescribed information

Title I

The Prospectus

Article 342

(1) The provisions of this Title are not applicable to:

1. Units issued by collective investment undertakings other than the closed-end type

2. Debt securities that were issued by:

a) the Republic of Croatia or an authority of local government and self-government,

b) Croatian National Bank, Croatian Bank for Reconstruction and Development, and the Croatian Privatization Fund,

c) a Member State or one of a Member State's regional or local authorities,

d) international bodies of which one or more Member States are members,

e) the European Central Bank or the central banks of the Member States;

3. Shares in the capital of the central banks of the Member States;

4. Securities, the fulfilment of the obligations of which is unconditionally and irrevocably guaranteed by a Member State or by one of a Member State's regional or local authorities;

5. Debt securities issued in a continuous or repeated manner by credit institutions under the condition that these securities:

- are not convertible or exchangeable securities or subordinated securities

- are not securities that give their holder a right to subscribe to or acquire other types of securities and that they are not linked to a derivative financial instrument;

- represent certificates of the receipt of monetary assets as a deposit which is repayable within a determined time period at a request made by the depositor of the assets,

- contain a claim of the holder which is covered by a deposit guarantee scheme pursuant to Directive 94/19 EC;

6. securities which are included in a public offer, where the total consideration of the offer is less than 2,500,000 euro, which limit shall be calculated over a period of 12 months;

7. Debt securities issued in a continuous or repeated manner by credit institutions where the total consideration of the offer is less than 50,000,000 euro, which limit shall be calculated over a period of 12 months, provided that these securities:

- are not convertible or exchangeable securities or subordinated securities,

- are not securities that give their holder a right to subscribe to or acquire other types of securities and that they are not linked to a derivative financial instrument;

(2) By way of derogation from paragraph 1 of this Article, in the cases referred to in paragraph 1 (2), (4), (6) and (7), an issuer, an offeror or a person submitting the application for admission to a regulated market is entitled, at its own choice, to draw up the prospectus pursuant to the provisions of this Title of the Act.

Definitions

Article 343

For the purposes of the provisions of this Title the following definitions apply:

1. Securities means all types of negotiable securities with the exception of money market trading instruments having a maturity of less than 12 months;

2. Negotiable securities means:

a) shares or other securities equivalent to shares which represent a share in capital or in shareholders' rights in a company, as well as the certificates on shares deposited,

b) bonds and other types of securitised debts, also including a certificate on deposit related to such securities,

c) Any other security that gives the right to its holder to:

- acquire or sell negotiable securities by a unilateral declaration of will, or
- the right to demand a cash payment in an amount which is determined in view of the value of negotiable securities, foreign currency exchange rate, interest rates or yield, commodity, or in view of any other index or factor,

3. Proprietary securities means:

a) shares,

b) other securities equivalent to shares which represent a share in capital or in shareholders' rights of a legal entity,

c) other negotiable securities that give the right to its holder to acquire, by a unilateral declaration of will, a security from subparagraphs a) and b) (hereinafter: Base security), the issuer of which is at the same time also the issuer of the Base security or an entity that belongs to the same group as the issuer.

4. Debt securities means all securities which are not proprietary securities

5. Offer of securities to the public or a public offer means any notification given in any form and by any means, which contains sufficient information on the conditions of the offer and on the securities that are offered, so as to enable an investor to decide to purchase or to subscribe to these securities. This definition also includes the placing of securities through financial intermediaries.

6. Qualified investors means:

a) legal entities, that are authorised by a relevant competent body or are subject to supervision on a regulated market, including:
- credit institutions,
- investment companies,
- other regulated financial institutions,
- insurance companies, collective investment undertakings and their management companies, pension funds and their management companies,
- dealers in commodities and commodity derivatives,
- companies that are not authorised or subject to supervision on a regulated market and whose corporate purpose is solely to invest in securities;

b) the Republic of Croatia and other countries or national or regional bodies, the Croatian National Bank and central banks of other countries, international and supranational institutions such as the International Monetary Fund, the European Central Bank, the European Investment Bank and other similar organisations;

c) legal entities that fail to comply with at least two of the criteria set out in subparagraph 7 of this Article,

d) natural persons who are resident in the Republic of Croatia, who were, at their own request, granted the status of a qualified investor by the Agency. By applying the principle of mutual recognition, the authorisation of a competent body of an another Member State issued to natural persons who are resident in the other Member State shall also be recognized.

e) small and medium-sized enterprises, whose head office is situated in the Republic of Croatia, that were, at their own request, granted the status of a qualified investor by the Agency. By applying the principle of mutual recognition, the authorisation of a competent body of another Member State issued to the enterprises whose head office is situated in an another Member State shall also be recognised.

7. Small and medium-sized enterprises means companies which, according to their last annual financial accounts or consolidated financial accounts, meet at least two of the following conditions:

- an average number of employees during the financial year of less than 250

- a total balance sheet not exceeding 43,000,000 euro

- an annual net turnover not exceeding 50,000,000 euro.

8. Issuer means a legal entity which issues or intends to issue securities

9. Offeror means a legal entity or a natural person which offers securities to the public,

10. Offering programme means a plan which permits the issuance of debt securities, including warrants in any form, of the similar type or class, in a repeated manner, during a specified period of time.

11. Issuance of securities in a repeated manner means the issuance of securities in tranches or in at least two issuances of securities of the same type or class within a 12 month period,

12. Home Member State means:

a) for the issuers whose head office is situated in an EU Member State, the Member State in which the issuer's head office is situated.

b) for the issues of debt securities:

- whose denomination per unit amounts to at least 1,000 euro, or
- which give the right to acquire negotiable securities or receive a cash amount as a consequence of their being converted or the rights conferred by them being exercised, provided that the issuer of these debt securities is not at the same time the issuer of the underlying securities, or an entity belonging to the same group.

the Member State in which the issuer's head office is situated or where the securities shall be or have been admitted to a regulated market or where they are offered to the public, at the choice of the issuer, an offeror or a person which seeks admission. This provision is also applied adequately on debt securities in a currency other than euro where the value of such denomination per unit is nearly equivalent to 1,000 euro.

c) for all the issuers of securities from third countries, to which the previous indent is not applicable, the Member State in which the securities shall be offered to the public for the first time or in which the first application for admission on a regulated market shall be submitted, at the choice of the issuer, an offeror, or a person seeking admission. Where the home Member State was in this manner chosen by an offeror or a person submitting the application for admission, the Issuer has the right to subsequent election of the home Member State among the given Member States.

13. Host Member State means the Member State in which an offer to the public is made or in which the application for admission to a regulated market is submitted, when different from the home Member State.

14. Approval means the positive decision of a competent body regarding the completeness of the prospectus, including its comprehensibility and consistency.

15. Base prospectus means the prospectus which contains all relevant information, pursuant to the provisions of Article 15 of this Act, concerning the issuer or the securities that shall be offered to the public or admitted to trading on a regulated market, and, at the choice of the issuer, the final terms of offering.

16. Guarantor means a person which guarantees for the liabilities of the issuer attached to a security.

17. The admission to a regulated market means the admission of securities to trading on a regulated market.

18. Collective investment undertakings other than the closed-end type mean collective investment undertakings other than the closed-end type defined by the provisions of Article 400 (2) of this Act.

19. Units of a collective investment undertakings means units of a collective investment undertakings defined by the provision of Article 400 (3) of this Act.

Article 344

(1) A natural person meets the conditions for being granted the status of a qualified investor when having fulfilled at least two of the following conditions:

1. carried out several transactions of a significant size on securities market at an average frequency of at least ten transactions per quarter over the previous year,

2. the value of the investor's portfolio exceeds 500,000 euro,

3. the investor has worked for at least one year or works in the financial sector, holding a professional position which requires specific knowledge of securities investment.

Article 345

(1) The Agency shall grant a legal entity, at its request, the status of a qualified investor and its entry into the register of qualified investors provided that it establishes that the entity fulfils at least two of the conditions set out in Article 343 (1) (7) of this Act.

(2) The Agency shall grant a natural person, at his request, the status of a qualified investor and its entry into the register of qualified investors provided that it establishes that the person fulfils at least two of the conditions set out in Article 344 (1) of this Act.

The register of qualified investors

Article 346

(1) The Agency maintains the register of qualified investors in the Republic of Croatia.

(2) The Agency checks whether the legal entities and natural persons fulfil the conditions for being granted the status of a qualified investor and being entered into the register of qualified investors, and makes its decision regarding the entry into the register of qualified investors, as well as the decision of removing a qualified investor's name from the register.

(3) The register of qualified investors contains the following:

1. small and medium-sized enterprises whose head offices are situated in the Republic of Croatia, who have acquired the status of qualified investors,

2. natural persons who are resident in the Republic of Croatia, who have acquired the status of qualified investors,

(4) Small and medium-sized enterprises that fulfil the conditions prescribed by this Act, and natural persons who fulfil the conditions prescribed by this Act, acquire the status of a qualified investor by being entered into the register of qualified investors.

(5) The register of qualified investors must contain the data on the basis of which a person may be identified beyond doubt, at least the first and the last name of a natural person, and the firm and the head office of a legal entity.

(6) A person entered into the register of qualified investors may request that the Agency removes it unconditionally from the register of qualified investors.

Article 347

(1) The Agency shall issue a written certificate regarding the status of a person registered as a qualified investor to that person at its request.

(2) The Agency shall provide each issuer with access to the data regarding the persons registered as qualified investors, and, at the issuer's request, shall also issue a certificate of that status regarding the persons registered as qualified investors.

(3) The Agency shall adopt an ordinance by which it shall regulate the manner of maintaining the register of qualified investors in detail.

The subscription and payment of securities through a regulated market

Article 348

(1) Where the subscription of securities in a public offer is executed through a regulated market, the subscription must be executed by persons who are, pursuant to the provisions of this Act, authorised to provide:

1. investment services referred to in Article 5 (2) (6) and (7) of this Act, or

2. auxiliary services related to investment services referred to in subparagraph 1,

and who are authorised to perform the tasks related with the subscription of securities in a particular public offer by the issuer himself.

(2) The payment of securities in the cases referred to in the previous paragraph, may be made through persons referred to in the first paragraph or through other persons authorised to perform payment transactions pursuant to the provisions of separate Act.

Obligation to publish the prospectus

Article 349

(1) No public offer of securities is allowed within the territory of the Republic of Croatia unless a valid prospectus was published with regard to the offer prior to publishing the offer, except in the cases expressively prescribed by this Act.

(2) No admission of securities to a regulated market is allowed in the Republic of Croatia unless a valid prospectus was published with regard to the admission prior to the admission, except in the cases expressively prescribed by this Act.

Article 350

It is not allowed to publish the prospectus prior to having been approved pursuant to provisions of this Act.

Exceptions from the obligation to publish the prospectus regarding a public offer

Article 351

(1) By way of derogation from the provision of Article 349 (1) of this Act, a public offer of securities is allowed without prior publication of the prospectus in the following cases:

1. an offer of securities addressed solely to qualified investors,

2. an offer of securities addressed to fewer than 100 natural persons or legal entities per Member State, other than qualified investors,

3. an offer of securities addressed to investors who acquire securities for a total consideration of at least 50,000 euro per investor, for each separate offer,

4. an offer of securities whose denomination per unit amounts to at least 50,000 euro,
5. an offer of securities with a total consideration of less than 100,000 euro, which limit shall be calculated over a period of 12 months.

6. a public offer of shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase in the base capital of the company,

7. a public offer of securities in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded as being equivalent to the information contained in the prospectus,

8. a public offer of securities which shall be allotted in connection with a merger, provided that a document regarding the securities is available containing information which is regarded as being equivalent to the information contained in the prospectus,

9. the shares which are:

- allotted to the existing shareholders, based on an increase in the base capital from the company's assets, or

- offered or shall be allotted in other cases to the existing shareholders free of charge, or as dividends paid out, under the condition that the shares be of the same class as the shares that grant the right to

further shares, and that a document is made available containing information on the number and nature of the shares and on the reasons for and details of such an offer,

10. securities which the issuer, whose securities have already been admitted to trading on a regulated market, or an undertaking affiliated with the issuer, offers or shall offer to former or existing members of the board or employees of the issuer, provided that a document is made available containing information on the number and nature of the shares and on the reasons for and details of such an offer,

11. an offer of securities addressed to fewer than 100 natural persons or legal entities in the Republic of Croatia, other than qualified investors,

(2) Any subsequent offer of securities which were previously mentioned as exceptions from the obligation to publish the prospectus in paragraph 1 (1), (2), (3), (4), (5), and (11) shall be regarded as a separate offer and the Offeror has the obligation to publish the prospectus with regard to that offer if the provisions of this Act prescribe the obligation to publish the prospectus regarding such an offer.

„(3) If the placement of securities is conducted through financial intermediaries, there shall be no obligation to publih a prospectus if conditions 1. to 5. of para 1. of this article are met.

Exceptions from the obligation to publish the prospectus at the admission to a regulated market

Article 352

(1) By way of derogation from the provision of Article 349 (2) of this Act, the admission of securities to a regulated market in the Republic of Croatia is allowed without prior publishing of the prospectus, when the application for admission is made in respect of:

1. shares which, over a period of 12 months, represent less than 10 % of the total number of shares of the same class which have already been admitted to the same regulated market,

2. shares issued in substitution for the already existing shares of the same class, which have already been admitted to the same regulated market, under the condition that the issuing of these shares did not cause an increase in the base capital of the issuer.
3. securities which were offered in connection with a takeover by means of an exchange offer, under the condition that a document is available containing information which is regarded as being equivalent to the information contained in the prospectus.

4. securities which shall be allotted in the procedure of a merger, under the condition that a document is available containing information which is regarded as being equivalent to the information contained in the prospectus.

5. shares which are:

- allotted to the existing shareholders, on the basis of an increase in the base capital from the company's assets, or

- offered or shall be allotted in other cases to the existing shareholders free of charge, or as dividends paid out, under the condition that the shares be of the same class as the shares that grant the right to further shares, and that a document is made available containing information on the number and nature of the shares and on the reasons for and details of such an offer,

6. securities which the issuer, or an undertaking affiliated with the issuer, offers or shall offer to former or existing members of the board or employees of the issuer, provided that a document is made

available containing information on the number and nature of the shares and on the reasons for and details of such an offer, and that the securities of the same class have already been admitted to the same regulated market

7. shares which resulted from the conversion or exchange of other securities or from exercising the rights conferred by other securities, provided that the said shares are of the same class as the shares of the issuer which have already been admitted to the regulated market.

Article 353

(1) By way of derogation from the provision of Article 349 (2) of this Act, the admission of securities to a regulated market in the Republic of Croatia is allowed without prior publishing of the prospectus, in case the application for admission is made in respect of securities which have already been admitted to an another regulated market, subject to the following conditions:

1. that these securities of the issuer or the securities of the same class have been admitted to another regulated market for more than 18 months, and as regards the moment of their first admission to a regulated market, they were:

- admitted to a regulated market after the date of entry into force of Directive 2003/71/EC, and their admission was associated with an approved prospectus which was made public in conformity with the provisions of the Directive, or

- admitted to an another regulated market, in the period between 30 June 1983 and the day of entry into force of Directive 2003/71, and the listing particulars and quotations were approved pursuant to the provisions of Directive 80/390/EEC or Directive 2001/34/EC;

2. that the issuer fulfilled all the obligations with regard to the admission to that other regulated market;

3. a person submitting the application for admission has drawn up a summary of the prospectus, in the Croatian language, approved by the Agency pursuant to the provisions of this Act;

4. that the document referred to in subparagraph 3 was published in conformity with the provisions of this Act on making the prospectus public;

5. that the contents of the document referred to in subparagraph 3 conforms to the provisions of Article 356 of this Act, and contains an instruction related to where the investors may obtain the most recently published prospectus with regard to these securities, as well as an instruction related to where the financial information on the issuer, which were published in accordance with the obligations of disclosing information relevant for the issuer, may be obtained.

Notifications to the Agency regarding the application of exception

Article 354

The Agency may, in the course of supervision, require the issuer, an offeror or a person submitting the application for admission of securities to a regulated market, to notify the Agency of the application of an exception referred to in Articles 351, 352, and 353 of this Act.

The prospectus

Article 355

(1) the prospectus must contain all information, taking into consideration the nature of the issuer and of the securities, that shall be offered to the public, or admitted to a regulated market, necessary for an investor to make the assessment of:

1. the assets and liabilities, the financial position, profit and loss, the prospects of the issuer, or guarantor, and

2. the rights attaching to such securities.

(2) The information contained in the prospectus must be accurate and complete and the prospectus must be coherent.

(3) the prospectus must be clear and comprehensible, and the information in the prospectus must be presented in an easily analysable manner.

(4) the prospectus must contain information on the issuer, information on the securities which shall be offered to the public, or admitted to trading to a regulated market, and a summary of the prospectus.

(5) In the case of the prospectus that relates to the admission to a regulated market of debt securities having a denomination per unit of at least 50,000 euro, it is not required to contain a summary of the prospectus.

(6) In the case referred to in paragraph 5 of this Article, the prospectus must contain a summary if admission is sought of such an issue of debt securities to regulated markets of several Member States and the Member States require for the prospect to have a summary included.

A summary of the prospectus

Article 356

(1) The summary of the prospectus shall, in a brief manner and in non-technical language, convey the essential characteristics and risks associated with the issuer, guarantor and the securities themselves, in the language in which the prospectus was originally drawn up.

(2) The persons who drew up the summary, also including the translation thereof, as well as the persons who applied for its notification, have a joint and several and unlimited liability for the damages caused by the summary if it is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

(3) The summary of the prospectus must contain a warning:

1. that it should be considered an introduction into the prospectus,

2. that each decision on an investment must be based on an investor's assessment of the prospectus as a whole,

3. that an investor shall, in the case of a claim and judicial proceedings with regard to the information contained in the prospectus, provide and bear the cost of the translation of the prospectus into the official language of the court before which the procedure is brought and bear the cost of the translating,

4. that the persons who drew up the summary, also including the translation thereof, as well as the persons who applied for its notification, have a joint and several and unlimited liability for the damages caused by the summary if it is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

Prospectus composed of a single document or of separate documents

Article 357

(1) The issuer, offeror or person that submits the application for the admission of securities to a regulated market may draw up the prospectus as:

1. a single document (prospectus composed of a single document)

2. several separate documents (prospectus composed of separate documents)

(2) In the prospectus composed of separate documents the information must be divided into:

1. a registration document, which contains the information on the issuer,

2. a note on the security, which contains the information on the securities that shall be offered to the public or admitted to a regulated market, and

3. a summary of the prospectus.

Base prospectus

Article 358

(1) The provisions of this Article are applied to the following types of securities:

1. debt securities, also including warrants in any form, which are issued under an offering programme, and

2. debt securities, which are issued by credit institutions in a continuous or repeated manner, under the condition:

- that the sums deriving from the issue of the said securities, under the legislation applicable to them, are placed in assets which provide sufficient coverage for fulfilling all the obligations of the credit institution of the issuer, which derive from the said securities until their maturity date, and

- that, in the event of the insolvency of the credit institution of the issuer, the sums referred to in the previous indent are intended, as a priority, to repay the capital and interest falling due, without prejudice to the provisions of a separate Act which regulates insolvency, receivership and liquidation of a credit institution.

(2) The issuer, offeror securities or person submitting the application for admission of securities referred to in paragraph 1 of this Article to a regulated market may draw up the prospectus as the base prospectus which must contain all the information necessary pursuant to the provision of Article 355 of this Act, to the ordinance referred to in Article 360 (1) of this Act, additional information in the prospectus supplement where this is considered necessary pursuant to the provisions of Article 379 of this Act, and the final conditions of the offer may, but need not be included, at the choice of the issuer.

(3) The information contained in the base prospectus must be supplemented, if this is considered necessary, in conformity with the provisions regarding the prospectus supplement referred to in Article 379 of this Act, by further information on the issuer and on the securities which are to be offered to the public or admitted to a regulated market.

(4) If the final terms of the offer are not included in either the base prospectus or in the prospectus supplement, the final terms must be provided to investors, made public and submitted to the Agency, as soon as practicable following the offer being made public, and if possible prior to the beginning of the offer. In any such case, the provision of Article 361 (1) (1) of this Act is applied regarding the non-disclosure of the information regarding the final price and the amount of securities offered in the prospectus. The final conditions of the offer in a base prospectus need not be made public in the same manner as the base prospectus; however, they must be made public in one of the manners set out in Article 374 of this Act.

(5) When, in the case referred to in paragraph 4 of this Article, the Republic of Croatia does not have the status of the home Member State of the issuer, the final conditions of the offer must be submitted to a competent body of a home Member State of the issuer, in conformity with the provisions of paragraph 4 of this article of the Act.

(6) The base prospectus may not be drawn up as the prospectus composed of separate documents.

Responsibility attaching to the prospectus

Article 359

(1) Persons responsible for the accuracy and completeness of the information contained in the prospectus are:

1. the issuer and its members of the board and the supervisory board, or its management board,

2. the offeror or the person submitting the application for admission, if different than the issuer,
3. the guarantor with regard to the issuing, where applicable

4. persons who assume liability for the accuracy and completeness of the information contained in the prospectus, or parts of the prospectus

(2) the prospectus must contain the information on all the persons to which the responsibility is attached for the accuracy and completeness of the information contained in the prospectus. For natural persons, the prospectus must contain their personal name and their function in the legal entity which participated in the drawing up of the prospectus, while for legal entities their firms and registered offices.

(3) The prospectus must contain a declaration made by each of the persons responsible, referred to in paragraph 1 of this Article, that, to the best of their knowledge, the information contained in the prospectus are in conformity with the actual facts, and that the facts that might affect the authenticity and completeness of the prospectus are not omitted.

(4) The persons referred to in the first paragraph, subparagraph 1. 2. and 3. have a joint and several liability for the damages caused to an investor by incomplete or inaccurate information contained in the prospectus.

(5) The persons referred to in the first paragraph, subparagraph 4. are liable only for damages caused to an investor by incomplete or inaccurate information in the part of the prospectus for which they assumed the liability.

(6) The persons who drew up only the summary of the prospectus, including the translation of the prospectus summary, have a joint and several liability only for the damages caused by the summary if it is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

Minimum information contained in the prospectus and the rules of drawing up

Article 360

(1) The Agency shall adopt an ordinance on minimum information in the prospectus, on the model of the prospectus and the publication of the prospectus and the advertisements regarding the prospectus.

(2) The prospectus must be drawn up in conformity with the provisions of the ordinance referred to in the previous paragraph.

Omission of data on final price and amount of securities offered

Article 361

(1) Where the final price and the amount of securities in a public offer can not be included in the prospectus, the issuer, or an offeror has the obligation to:

1. disclose in the prospectus the criteria and conditions under which the final price in the offer shall be determined, or disclose the maximum final price in the public offer, and disclose the criteria and conditions under which the final amount of securities offered shall be determined, or

2. guarantee in the prospectus that the investors have the right to withdraw the declaration of their acceptance of the offer, or of their subscription of securities within two working days following the day of publication of the final price and the amount of securities offered.

(2) In the case refereed to in the first paragraph of this Article, the issuer, or the offeror, has the obligation to inform the Agency of the final price and the amount of securities offered, and to make the information public in conformity with the provisions regarding the manner in which the prospectus is made public referred to in Article 374 (1) of this Act, as soon as practicable.

(3) In the case refereed to in the first paragraph of this Article, when the Republic of Croatia is not the home Member State, the issuer, or the offeror, has the obligation to inform the competent body of the home Member State of the issuer instead of the Agency of the final price and the amount of securities offered.

Omission of information with the Agency's authorisation

Article 362

(1) At a request made by the Issuer, an offeror or a person submitting the application for admission to a regulated market, the Agency shall authorise the omission of data which the prospectus must contain pursuant to the provisions of this Act and of the ordinance referred to in Article 360 (1) of this Act, under the condition that:

1. the disclosure of such information would be contrary to the interest of the public, or

2. the disclosure of such information might be seriously detrimental to the issuer, while it is not likely that the omission of such information would mislead the public as regards the facts detrimental to an informed assessment of the issuer, offeror, guarantor or the rights attached to the securities, or

3. the information is of minor importance for a specific offer or admission of securities to a regulated market, and is not such as will influence the assessment of the financial position and prospects of the issuer, offeror or guarantor.

(2) The Agency may, by means of an ordinance, determine in more detail the criteria for fulfilling the conditions from the previous paragraph of this Article.

(3) When the information, which must be contained in the prospect pursuant to the provisions of the ordinance referred to in Article 360 of this Act, is extremely inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities to which the prospectus relates, instead of such information the prospectus must contain other equivalent information if such other information exists.

(4) The Agency shall reach its decision regarding the request referred to in the first paragraph of this Article within seven working days from the day of receiving the request.

Validity of the prospectus, base prospectus and registration document

Article 363

(1) the prospectus shall be valid for 12 months after its publication for the purposes of the offers of securities to the public or the admission to a regulated market, under the condition that the information in the prospectus, where appropriate, updated by a supplement to the prospectus, containing the latest information on the issuer and securities which shall be offered to the public or admitted to trading on a regulated market.

(2) In the case of an offering programme, the base prospectus filed previously is valid for 12 months after its publication.
(3) In the case of debt securities referred to in Article 358 (1) (1) of this Act, the prospectus is valid until no more of the securities concerned are issued in a continuous or repeated manner.

(4) A registration document filed previously shall be valid for 12 months under the condition that the Issuer published the annual document containing the published information pursuant to the provisions of Article 364 of this Act. The registration document, the securities note which is, where applicable, updated by the latest information pursuant to Article 366 (3) of this Act, and the summary of the prospectus authorised by the Agency constitute a valid prospectus.

Annual document containing information published

Article 364

(1) The issuer, whose securities were admitted to a regulated market, must at least once a year create and publish a document which contains or refers to the information that were published or made available to the public by the issuer over the preceding 12 months. This document must contain or refer at least to the information which the issuer has the obligation to disclose in his annual report pursuant to the provisions of the Company Act, and the information which must be disclosed pursuant to the provisions of Chapter 2 of this part of the Act, while the issuer may include other information as

well. The annual document containing the published information must be submitted to the Agency no later than 20 working days from the day of publishing of annual financial reports pursuant to Article 403 of this Act.

(2) The issuer, whose securities were admitted to a regulated market, must at least once a year create and publish a document which contains or refers to the information that were published or made available to the public on the territory of the Republic of Croatia or of any other Member State or a third country, fulfilling by doing so his obligation under laws and subordinate regulations of the European Union, or a third country, which regulate the sphere of securities, the issuers of securities and securities markets. The issuers shall include into the document at least the information required by the company law directives and Directive 2001/34/EC of the European Commission, as well as the Regulation number 1606/2002 of the European Parliament and of the Council.

(3) Where the Republic of Croatia is the home Member State of the Issuer, the annual document containing the information published must be filed with the Agency, no later than 20 working days following the date of publication of annual financial reports pursuant to Article 403 of this Act.

(4) The obligation referred to in paragraphs 1, 2, and 3 of this Article is not applicable to the issuers of debt securities having a denomination per unit of at least 50,000 euro.

(5) Where certain information is included in the annual document containing the information published by reference to other documents, it must be stated where the latter are made available to the public.

(6) The Agency shall adopt an ordinance by which it shall prescribe in detail the manner in which the annual document containing the information published must be made public, as well as the terms of publishing and submitting the document to the Agency.

Referring to information

Article 365

(1) The information may be incorporated in the prospectus by reference to one or more documents published previously or simultaneously with the prospectus, and that have been approved by the Agency, or that were filed with the Agency in the form of the annual document containing the information published referred to in Article 364 of this Act. The information incorporated in the prospectus in this manner shall be the latest information available to the issuer.

(2) The information may be incorporated in the prospectus by reference to one or more documents published previously or simultaneously with the prospectus, and that have been approved by the Agency or a competent body of an another Member State which is the home Member State of the Issuer, or that were filed with the Agency or the competent body in the form of the annual document containing the information published referred to in Article 364 of this Act, or in accordance with the regulations of the Member States into the legislation of which Directive 2003/71/EC and Titles IV and V of Directive 2001/34/EC are introduced. The information incorporated in the prospectus in this manner shall be the latest information available to the issuer.

(3) The summary of the prospectus may not incorporate information by reference referred to in paragraphs 1 and 2 of this Article.

(4) When the information is incorporated in the prospectus by reference to one or more documents referred to in paragraphs 1 and 2 of this Article, the prospectus must also contain a clear general overview of all the documents which contain such information, with a clear indication of which part of an individual document contains the specific information.

Specific rules for the prospectus composed of separate documents

Article 366

(1) The issuer that already has his registration document approved by the Agency, when the securities are offered to the public or when the securities are admitted to a regulated market, is required to draw up both the securities note and the summary of the prospectus.

(2) The issuer that already has his registration document approved by the competent body of the home Member State, when the securities are offered to the public or when the securities are admitted to a regulated market, is required to draw up both the securities note and the summary of the prospectus.

(3) In the case referred to in paragraphs 1 and 2 of this Article, a securities note must also contain the information that would normally be provided in the registration document, if there has been a recent development which could affect the investors' decision since the publication of the registration document or the latest supplement thereto.

(4) In the case referred to in paragraphs 1 and 2 of this Article, the issuer must obtain a separate approval for the security note and the summary of the prospectus. The approval of the securities note and the summary of the prospectus are subject to the provisions of this Title of the Act regarding the approval of the prospectus appropriately.

(5) Where no decision was made regarding the issuer's application for approval of a registration document, and the issuer further submits the application for the approval of the securities note and the summary of the prospectus, the subject of the approval shall be all the documents composing the prospectus composed of separate documents, which shall also contain all potential new information referred to in paragraph 3 of this Article.

Approval of the prospectus

Article 367

(1) The Agency is competent for reaching the decision regarding the approval of the prospectus, the registration document, the securities notes and the summary of the prospectus related to the securities that shall be offered to the public or admitted to a regulated market in the Republic of Croatia.

(2) The Agency is competent for reaching the decision regarding the approval of the prospectus, the registration document, the securities notes and the summary of the prospectus related to the securities of the issuer whose home Member State is the Republic of Croatia pursuant to the provisions of Article 343 (1) (12) of this Act.

(3) The Agency is not liable for the authenticity and completeness of the information contained in the approved prospectus.

Transfer of competence

Article 368

(1) The Agency may in certain cases transfer its competence for deciding on the approval of the prospectus to a competent body of another Member State, with a consent of the body.

(2) The Agency may in certain cases assume competence for deciding on the approval of the prospectus from a competent body of another Member State, with a consent of the body.

(3) The transfer of competence pursuant to the provisions of paragraphs 1 and 2 of this Article shall be notified by the Agency to the person submitting the application for approval of the prospectus within three days from the date of the receipt of the consent of a competent body of a Member State.

(4) The time limit for reaching the decision on the approval of the prospectus in cases referred to in paragraphs 1 and 2 of this Article applies from the date of the person submitting the application for approval of the prospectus was notified of the transfer of competence pursuant to the provisions of paragraph 3 of this Article.

The person submitting the application for the approval of the prospectus

Article 369

(1) An application for the approval of the prospectus with the purpose of offering securities to the public may be submitted by the issuer, or by the offeror if different than the issuer.

(2) An application for the approval of the prospectus for the admission of securities on a regulated market may be submitted by issuer or other person authorised to submit the application for the admission to a regulated market.

Article 370

The Agency shall by means of an ordinance prescribe the form, type and number of copies of mandatory attachments to the application referred to in Article 369 of this Act as well as the mandatory content of the application.

Time limit for reaching the decision on the approval of the prospectus

Article 371

(1) The Agency shall reach a decision regarding the application for the approval of the prospectus and notify the person which submitted the application for the approval of the prospectus of its decision within 10 working days from the receipt of a proper application.

(2) In case the application for the approval of the prospectus is made in respect of securities of the issuer which previously issued no securities that would be offered to the public or admitted to trading on a regulated market, the time limit set out in paragraph 1 of this Article shall be 20 working days from the receipt of a proper application.

(3) Where the prospectus was not drawn up pursuant to the provisions of this Title, or the application is incomplete for other reasons, the Agency shall within 10 working days from the day of the receipt of the application notify the person submitting the application of the case and invite the person to correct or amend the prospectus or the application.

(4) The Agency's note on the application being incomplete or improper shall also contain a time limit within which the prospectus, or the application, must be corrected or amended.

(5) Should the Agency within the time limit set out in paragraph 3 of this Article invite the person submitting the application to correct or amend the prospectus or application, the time limit set out in paragraph 1 of this Article applies only from the date on which the Agency receives the correction or amendment provided that the person submitting the application corrects or amends the prospectus or application within the time limit.

The decision of the approval of the prospectus

Article 372

(1) The Agency shall, by means of a decision, approve the prospectus provided that the application for the approval of the prospectus was submitted by an authorised person and that the prospectus was drawn up in conformity with the provisions of this Title of the Act.

(2) The Agency shall reject the application for the approval of the prospectus if the prospectus was not drawn up in conformity with the provisions of this Title, and the person submitting the application for approval failed to amend the prospectus adequately within the time limit determined in the Agency's note.

(3) The Agency shall also reject the application for the approval of the prospectus in the following cases:

1. where the prospectus is made regarding the offer of securities to the public and the decision of a competent body of the issuer on issuing the securities is invalid or no longer effective,

2. where the person submitting the application is the issuer regarding which the Agency prescribed any of the control measures, due to the infringement of the regulations pertaining to the rules of transparency from Title 2 of this part of the Act, and the issuer failed to act in compliance with the measure prescribed.

(4) The Agency shall by conclusion reject the application for the approval of the prospectus in case:

1. the application for the approval of the prospectus was submitted by an unauthorised person,

2. the application is incomplete for reasons other than that of incompleteness and irregularities in the prospectus, and the person submitting the application failed to amend the application within the time limit determined in the note regarding amendments,
3. other preconditions for conducting the procedure are not met.

Obligation to publish the prospectus

Article 373

(1) Once the prospectus is approved, the issuer, offeror or the person submitting the application for admission to a regulated market has the obligation to file the prospectus in the electronic form with the Agency, make the prospectus public pursuant to the provisions of Article 374 of this Act, and inform the Agency on the manner of publication.

(2) The issuer, offeror or the person submitting the application for admission to a regulated market must carry out the obligation set out in paragraph 1 of this Article at the latest at the beginning of the offer or the admission of securities to a regulated market.

(3) By way of derogation from paragraph 2 of this Article, in the case of the prospectus relating to the initial public offer of a class shares which were previously not admitted to trading on a regulated market, and the admission of which is applied for the first time, the obligation set out in paragraph 1 of this Article must be executed at least six working days before the end of the time limit for the acceptance of the offer.

(4) Once the prospectus is published pursuant to the provisions of Article 374 of this Act, the issuer, offeror or the person submitting the application for admission to a regulated market has the obligation

to, on the next working day, also publish a notification on the manner in which the prospectus was made public, and where and in which manner the investors may obtain the prospectus, in a daily newspaper that is regularly circulated on the territory of the Republic of Croatia.

(5) The contents of the notification set out in paragraph 4 of this Article must be in conformity with Article 378 of this Act.

The manner of publishing the prospectus

Article 374

(1) The issuer, offeror or the person submitting the application for admission to a regulated market executed the obligation to publish the prospectus referred to in Article 349 of this Act, when the availability of the prospectus to the public is ensured in one of the following manners:

1. by insertion in one or more newspapers circulated throughout, or widely circulated within the territory of the Republic of Croatia;

2. by insertion in one or more newspapers circulated throughout, or widely circulated within the territory of another Member State in which the securities shall be offered to the public or in which the application for the admission of securities to a regulated market of that Member State shall be submitted.

3. in a printed form to be made available, free of charge, to the public at the premises in which the regulated market to which the securities shall be admitted operates, or at the premises of the head office of the issuer and all the offices of the financial intermediaries who perform the tasks related to the placing or selling the securities, including paying agents;

4. in the electronic form on the official web site of the issuer, and on the web sites of financial intermediaries, provided that they participate in the procedure of offering the securities to the public;

5. in the electronic form on the official web site of the regulated market where the admission is sought;

6. in the electronic form on the official web site of the Agency, if the Agency provides that service.

(2) The Agency shall publish on its official web site the list of all the prospects approved by it over the previous 12 month period. The list shall provide the user with an access to the prospectus published on the official web site referred to in subparagraph 4 and subparagraph 5 of the previous paragraph, in case the prospectus was not published on the official web site of the Agency pursuant to subparagraph 6 of the previous paragraph.

(3) The Agency is authorised provide the issuers, offerors and persons submitting the application for admission of securities to a regulated market, with the possibility to publish the prospectus on the official web site of the Agency, at a price which shall be determined by a special ordinance which may be adopted by the Agency. This ordinance shall prescribe in detail the conditions and manner of publishing the prospectus on the official web site of the Agency.

(4) The Agency shall prescribe additional conditions applicable to the publishing of the prospectus by means of an ordinance.

Article 375

The contents and the form of the published prospectus and the supplement to the prospectus referred to in Article 379 must be equivalent to the original which was approved by the Agency.

Specific rules for making public the prospectus composed of separate documents

Article 376

(1) In the case of the prospectus composed of separate documents and/or incorporating information in the prospectus by reference, pursuant to Article 365 of this Act, the documents, or the information, may be published separately, provided that they are made available to the public free of charge, pursuant to the provisions of Article 374 (1) of this Article.

(2) Each document referred to in paragraph 1 of this Article, must also contain a notice stating where the documents comprising the prospectus may be obtained.

Specific rules for the prospectus published in the electronic form

Article 377

(1) Where the prospectus is made available by publication in the electronic form, the Issuer, offeror and the person submitting the application for admission to a regulated market, has the obligation to deliver a paper copy of the prospectus to the investor free of charge, at the investor's request.

(2) Where the prospectus is made available by publication in the electronic form, and the selling of the securities to the public is carried out through financial intermediaries, aside from the persons referred to in paragraph 1 of this Article, the financial intermediary also has the obligation to deliver a paper copy of the prospectus to the investor free of charge, at the investor's request.

Advertisements

Article 378

(1) Any form of advertisements with regard to the offer of shares to the public or to the admission of shares to a regulated market, must be in conformity with the provisions of this Article.

(2) When, pursuant to the provisions of this Act, the obligation exists to draw up and make public the prospectus, each advertisement relating to an offer of shares to the public or the admission of shares to a regulated market must indicate that the prospectus has been published, or that it shall be published, and also indicate where and in which manner the investors may obtain the prospectus.

(3) An advertisement shall be clearly recognisable as such, and the information contained in it shall not be inaccurate, and shall not be misleading the investors. All the information in the advertisement must be in conformity with the information in the prospectus, if the prospectus was already published, or with the information which shall be included in the prospectus if the prospectus is to be published afterwards.

(4) Any information concerning the offer of securities to the public or the admission to a regulated market, must be in conformity with the information contained in the prospectus, regardless of whether it is disclosed in an oral or written form and regardless of whether it was disclosed for the purpose of advertising.

(5) Where, pursuant to the provisions of this Act, the obligation to draw up the prospectus and make it public does not exist, the issuer or offeror has the obligation to disclose all the information related to the offer and disclosed to any single one of the qualified investors, or special categories of investors to which the offer is addressed, to all of the qualified investors or special categories of investors to which the offer is addressed.

(6) The information referred to in paragraph 5 of this Article, disclosed with regard to the offer for which the obligation exists to draw up the prospectus and make it public pursuant to the provisions of this Act, such information must be included in the prospectus or a supplement to the prospectus pursuant to the provisions of Article 379 of this Act.

Supplement to the prospectus

Article 379

(1) Where within the period between the time of the approval of the prospectus and the final closing of the offer to the public, or the time when trading on a regulated market begins, a new fact arises or the existence of an inaccuracy or incompleteness is established, relating to the information contained in the prospectus, which may affect the assessment of securities, the issuer, offeror or the person submitting the application for admission to a regulated market, has the obligation to supplement the prospectus by new, accurate and complete information in the form of the supplement to the prospectus. The supplement to the prospectus must contain an instruction for the investors regarding the rights set out in paragraph 7 of this Article.

(2) The issuer, an offeror or the person submitting the application for admission to a regulated market, has the obligation to file the application for the supplement to the prospectus to the Agency, without delay, pursuant to paragraph 1 of this Article, and attach the supplement to the prospectus to the application.

(3) The Agency shall approve the supplement to the prospectus within seven working days from the receipt of the application for the supplement of the prospectus, applying adequately the provisions regarding the approval of the prospectus.

(4) Where the Republic of Croatia is not the home Member State of the issuer, the application for the supplement to the prospectus is filed with and approved by a competent body of the home Member State of the issuer, in which case the supplement to the prospectus shall be considered approved by the Agency.

(5) Upon approval, the issuer, offeror or the person submitting the application for the supplement to the prospectus has the obligation to make the supplement to the prospectus public on the next working day in the same manner in which the prospectus was made public.

(6) The summary of the prospectus, and the translation thereof, must be supplemented in the manner set out in paragraphs 1 to 3 of this Article, if this is necessary in view of the content of the supplement to the prospectus.

(7) The investors which agreed to purchase or to subscribe for the securities in a public offer prior to the publishing of the supplement to the prospectus, shall have the right to withdraw their acceptances to purchase or to subscribe for the securities within the time limit set out in the supplement to the prospectus, which shall not be shorter than two working days after the publication of the supplement to the prospectus.

Cross-border offers

Article 380

(1) The prospectus and the supplements to the prospectus, approved by a competent body of the home Member State, in case the Republic of Croatia is not the home Member State, shall be valid as the prospectus and the supplement to the prospectus approved by the Agency pursuant to the provisions of this Act, provided that the notification referred to in Article 381 of this Act was submitted to the Agency, being the competent body of the host Member State.

(2) If the prospectus and the supplement to the prospectus referred to in paragraph 1 of this Article contain inaccuracies or incompleteness, or if the Agency establishes the existence of new facts referred to in Article 379 (1) of this Act, it shall notify the competent body of the home Member State of the issuer of such an instance.

(3) If the Agency, being the competent body of the home Member State, receives a warning referred to in paragraph 2 of this Article from a competent body of a host Member State, it shall request a supplement to the prospectus pursuant to the provisions of Article 379 of this Act.

Article 381

(1) In the case of the Republic of Croatia being the home Member State of the issuer, the Agency shall, at a request made by the issuer, or the person responsible for the drawing up of the prospectus, submit a notification on the approval of the prospectus to a competent body of the host Member State, which notification shall be accompanied by:

1. a certificate of approval of the prospectus, which contains a certificate that the prospectus was drawn up pursuant to the provisions of Directive 2003/71/EC,

2. a copy of the approved prospectus, and
3. a translation of the summary of the prospectus, if this is necessary pursuant to the provisions of Article 382 of this Act, produced under the responsibility of the issuer or the person responsible for drawing up the prospectus.

(2) Where information is omitted from the prospectus pursuant to the provisions of Article 362 of this Act, the fact shall be indicated in the certificate referred to in paragraph 1 of this Article.

(3) If the application referred to in paragraph 1 of this Article was submitted simultaneously with the application for the approval of the prospectus, the Agency shall send the notification referred to in paragraph 1 of this Article on the next working day following the approval of the prospectus, and in other cases the Agency shall send the notification within three working days from the receipt of the application referred to in paragraph 1 of this Article.

(4) Paragraphs 1, 2, and 3 of this Article are also adequately applied to the notification on the certificate of the supplement to the prospectus.

Use of language in the prospectus

Article 382

(1) If the Republic of Croatia is the home Member State of the issuer, and the securities of the issuer are offered to the public only within the territory of the Republic of Croatia, or if the application for

the admission of securities to a regulated market relates only to a regulated market in the Republic of Croatia, the prospectus must be drawn up in the Croatian language.

(2) If the Republic of Croatia is the home Member State of the issuer, and the securities are offered to the public only in an another Member State, or if the application for admission to a regulated market relates only to a regulated market in any other Member State, excluding the Republic of Croatia, the prospectus must be drawn up either in a language accepted by the competent bodies of those Member States, or in a language customary in the sphere of international finance.

(3) In the case referred to in the previous paragraph, the Issuer, offeror or the person submitting the application for admission to a regulated market has the obligation to draw up the prospectus in the Croatian language or in a language customary in the sphere of international finance in the Agency's decision-making process of approving the prospectus.

(4) If the Republic of Croatia is the home Member State of the issuer, and the securities are offered to the public within the territory of the Republic of Croatia and in an another Member States, or if the application for admission to a regulated market is made in respect of a regulated market in the Republic of Croatia and in an another Member State, the issuer, offeror, or the person submitting the application for admission has the obligation to draw up the prospectus in the Croatian language. In that case, the issuer, offeror or the person submitting the application for admission to a regulated market must also draw up and make available to the public the prospectus drawn up in a language accepted by the competent bodies of the host Member State, or in a language customary in the sphere of international finance.

(5) If the Republic of Croatia is the host Member State, and the prospectus was not drawn up in the Croatian language, the Agency may require from the issuer, offeror or the person submitting the application for admission to a regulated market to translate the summary of the prospectus to the Croatian language.

(6) If an application for admission to a regulated market in a single or several Member States is made regarding debt securities having a denomination per unit of at least 50,000 euro, the issuer or the person submitting the application for admission has the obligation to draw up the prospectus in a language accepted by the competent bodies of the host Member State, or in a language customary in the sphere of international finance.

Third Countries

Article 383

(1) Where, pursuant to the provisions of this Act, the Republic of Croatia is the home Member State of issuers incorporated in a third country, the Agency may approve a prospectus for an offer to the public or for admission to trading on a regulated market, drawn up in accordance with the legislation of a third country, provided that:

1. the prospectus has been drawn up in accordance with international standards set by the International Securities Commission Organisation (IOSCO), including the disclosure standards;

2. the prospectus regarding the information it includes, including information of a financial nature, meets the requirements that are equivalent to the requirements laid down in the provisions of this Act.

(2) While deciding on the approval of a prospectus referred to in paragraph 1 of this Article, the Agency shall observe the implementing measures adopted on the basis of Article 20, paragraph 3 of the Directive 2003/71/EU.

Supervisory Powers of the Agency

Article 384

(1) The Agency shall carry out supervision over carrying out of the obligations provided for in this Title with regard to an offer to the public or admission to trading on a regulated market of securities in the Republic of Croatia.

(2) Where the Republic of Croatia is the home Member State of the issuer, the Agency shall have the powers to supervise carrying out the obligations provided for in this Title of the Act with regard to an offer to the public or admission to trading on a regulated market of securities.

(3) Where the Republic of Croatia is the host Member State of issuers, the Agency shall have the powers to supervise carrying out the obligations provided for in this Title with regard to an offer to the public or admission to trading on a regulated market of securities, within the framework defined in Article 385 of the Act.

(4) The Agency shall carry out inspections in order to verify compliance with the provisions of this Chapter of the Act by issuers, offerors or persons asking for admission to trading on a regulated market as well as by other persons.

(5) The Agency shall supervise compliance with the obligations provided for in the provisions of this Title of the Act by:

1. receiving, collecting and verifying the information published and the communications by persons who are obliged to send them to the Agency pursuant to this Act,

2. inspecting the operations of issuers and their controlling companies or subsidiaries,

3. issuing supervisory measures referred to in Article 386. of the Act.

Article 385

(1) Where the Republic of Croatia is the host Member State and the Agency finds that provisions of this Title of the Act have been infringed upon by the issuer or by the financial institutions in charge of the public offer, the Agency shall inform the competent authority of the home Member State about these infringements of the provisions of the Act.

(2) If, despite the measures taken by the competent authority of the home Member State or because such measures prove to be inadequate, the person referred to in paragraph 1 of this Article persists in breaching the provisions under this Title, the Agency, after informing the competent authority of the home Member State, shall take such measures as are necessary to protect investors. Agency shall inform the Commission of European Union of such measures, as soon as possible.

Supervisory Measures

Article 386

(1) The Agency shall be authorized to adopt the following supervisory measures:

1. require issuers, offerors or persons asking for admission to trading on a regulated market to include in the prospectus supplementary information, if this is necessary for investor protection;

2. require issuers, offerors or persons asking for admission to trading on a regulated market to provide to the Agency communications, documents and information relevant for the inspection of carrying out the obligations under this Title;

3. require auditors and managers of the issuer, offeror or person asking for admission to trading on a regulated market, as well as financial intermediaries commissioned to carry out the offer to the public or ask for admission to trading, to provide additional information and communication relevant for the inspection of carrying out the obligations under this Title of the Act;

4. suspend a public offer or admission to trading for a maximum of 10 working days if it has reasonable grounds for suspecting that the provisions of this Title of the Act have been infringed;

5. prohibit or suspend advertisements for a maximum of 10 working days if it has reasonable grounds for believing that the provisions of this Title of the Act have been infringed;

6. prohibit a public offer if it finds that the provisions of this Title of the Act have been infringed or if it has reasonable grounds for suspecting that they would be infringed;

7. suspend trading or ask the regulated market to suspend trading for a maximum of 10 working days if it has reasonable grounds for believing that the provisions of this Title of the Act have been infringed;

8. prohibit trading on a regulated market if it finds that the provisions of this Title of the Act have been infringed;

9. make public the fact that an issuer is failing to comply with its obligations under this Title of the Act.

Investor's Right to Withdraw Its Acceptance of Offer

Article 387

(1) Where one of the supervisory measures referred to in Article 386, paragraph 1 point (4) or (6) are issued, investors who subscribed for or bought securities in the relevant public offer before such measures were made public shall be entitled to withdraw their acceptance of the offer or to renounce the legal transaction of acquiring securities that resulted from their acceptance of the offer. Investors may exercise this right within 5 days from the publication of the supervisory measure issued.

(2) While issuing a supervisory measure, the Agency shall inform investors about their right from the preceding paragraph.

Supervisory Measures after the Admission of Securities to Trading on Regulated Market

Article 388

Once the securities have been admitted to trading on a regulated market, the Agency shall be authorized to carry out an audit of the operations of issuers or their controlling companies or subsidiaries in the Republic of Croatia, if this is necessary to verify and establish compliance with the provisions of this Title of the Act.

Article 389

(1) Once the securities have been admitted to trading on a regulated market, the Agency shall be empowered to:

1. require the issuer to disclose all material information which may have an effect on the assessment of the value of the securities in order to ensure protection of investors or of the market as a whole;
2. suspend or ask the relevant stock exchange to suspend the securities from trading if, in the opinion of the Agency, the issuer's situation is such that trading would be detrimental to investors' interests.

Article 390

Where necessary, the Agency may consult the stock exchange, especially when deciding on suspending or prohibiting trading on a regulated market.

Foreign Issuer

Article 391

A foreign issuer or an offeror may offer securities to the public in the Republic of Croatia in a public offer only through the intermediation of an investment firm or a credit institution commissioned for the purpose of carrying out financial intermediation activities in such public offer.

Article 392

(1) An application for the approval of a prospectus for the offer of securities of a foreign issuer, or an offeror on behalf of a foreign issuer, or an offeror, shall be submitted by the commissioned person referred to in paragraph 1 of this Article. The application shall be supported also by the contract between the foreign issuer or the offeror and the person commissioned to carry out financial intermediation activities. The commissioned entity shall, on behalf of the foreign issuer or the offeror, undertake also other activities in the process of offering securities.

(2) Even if the application is not supported by all the required documentation, or if the prospectus does not contain all the required information, the Agency may approve the publication of the prospectus of the foreign issuer or the offeror provided that:

– the commissioned person referred to in paragraph 1 of this Article has proven that, in accordance with the regulations of the issuer’s country, it is not possible to obtain such documentation and information, and the Agency believes that this will not reduce the possibility of a potential investor to objectively assess the prospects and risks involved in the investment and make a decision on investment,

– the commissioned person referred to in paragraph 1 of this Article has proven that, in accordance with the regulations of a Member State of the European Union, in which the issuer of securities is incorporated, such documentation and information are not required for the approval of the publication of a prospectus on condition of reciprocity that is assumed. The condition of reciprocity shall not apply to a foreign issuer who has is incorporated in a World Trade Organisation member country.

(3) By way of derogation, the Agency may, to a foreign issuer or an offeror who offers securities to the public simultaneously in the Republic of Croatia and in a Member State of the European Union, approve the publication of the prospectus, the publication of which has been approved in the respective Member State of the European Union by the competent body of that state, and the approval may be made conditional on supplementing the prospectus with individual information in accordance with the provisions of this Title and the Ordinance referred to in Article 360 of this Act.

(4) The authorised company referred to in paragraph 1 of this Article is also jointly and severally liable for the accuracy and completeness of information contained in the prospectus of a foreign issuer.

Offering of Securities Outside the Republic Of Croatia

Article 393

A domestic issuer who intends to offer securities to the public in the foreign market shall notify the Agency about the features of the planned issue of securities.

Article 394

(1) The notification referred to in Article 393, paragraph 1 of this Act shall contain the following information:

1. information about the securities to which the prospectus relates and about the manner of and conditions for their offering as follows:

a) indication of the type of securities and description of their features, their total number and description of rights contained in such securities,

b) opening date and duration of the subscription and payment period,

c) description of the manner of distributing securities in case of oversubscription,

d) name, registered office and business address of the financial intermediary in the issue or the offer,

e) name, registered office and business addresses of the persons guaranteeing the obligations of the issuer under the securities,

f) names and addresses of institutions through which the issuers settle financial obligations towards the owners of securities,

g) price or manner of determining the price of securities,

h) procedure for the exercise of pre-emptive rights at subscription and payment,

i) purpose for which the issuer intends to use the funds raised,

2. information about the issuer of the securities as follows:

a) name, registered office, business address, date of establishment, legal form, name of the court keeping the register in which it has been entered and the registration number (MBS) of the register entry,

b) amount of subscribed and/or authorised capital and amount of capital paid in, details about the securities comprising the capital stock in the case of a joint stock company, amount of capital not paid in and reasons for non-payment if the share capital has not been fully paid in, number of convertible securities or subscription rights for securities issued as well as conditions for their conversion or subscription,

c) information about the controlling company, if any,

d) list of shareholders holding 5% or more of the total number of votes at a general meeting of issuers and proportion of votes held by each of them.

(2) Within eight days after the expiry of the deadline for the subscription and payment of securities

offered exclusively outside the Republic of Croatia, the issuer shall submit to the Agency information about the number of securities subscribed and paid.

TITLE II

DISCLOSURE OF INFORMATION ABOUT ISSUERS OF SECURITIES

Chapter 1

General Provisions

Definition of Terms

Article 395

For the purpose of this Title the following definitions shall apply:

1. "issuer" means a legal entity, including a State, whose securities are admitted to trading on a regulated market, the issuer being, in the case of depository receipts representing securities, the issuer of the securities on the basis of which depositary receipts are issued;

2. "securities" means any transferable securities as defined in Article 3 paragraph 1 point (3) of this Act, with the exception of money-market instruments having a maturity of less than 12 months;

3. "debt securities" means bonds or other forms of transferable securitised debts, with the exception of securities which are equivalent to shares in companies or which, if converted or if the voting rights conferred by them are exercised, give rise to a right to acquire shares or securities equivalent to shares;

4. "regulated information" means all information which the issuer, or any other person who has applied for the admission of securities to trading on a regulated market without the issuer's consent, is required to disclose under:

- the provisions of this Title;

- Articles 459 to 462 of this Act; or

- under the laws, regulations or administrative provisions of a home Member State of the issuer adopted under Article 3 paragraph 1 of Directive 2004/109/EC;

5. "management company" means a company for managing open-end investment funds with a public offer that is set up and operates according to laws, regulations and administrative provisions on establishment and operations of open-end investment funds with a public offer;

6. "electronic means" are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing electromagnetic means;

7. Directive 78/660/EEC is the Fourth Council Directive of 25 July 1978 based on Article 54(3) (g) of the Treaty on the annual accounts of certain types of companies (78/660/EEC);

8. Directive 83/349/EEC is the Seventh Council Directive of 13 June 1983 based on Article 54 (3) (g) of the Treaty on consolidated accounts (83/349/EEC);

9. Regulation (EC) No 1606/2002 is the Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

Application

Article 396

The provisions of this Title shall apply in the case of issuers whose securities are admitted to trading on a regulated market that is operated by a stock exchange.

Article 397

(1) The provisions of this Title shall apply in the case of issuers whose securities are admitted to trading on a regulated market in a Member State and to whom the Republic of Croatia is their home Member State.

(2) The provisions of Articles 438 to 441 of this Act shall also apply in the case of issuers to whom the Republic of Croatia is a host Member State and whose securities are admitted to trading on a regulated market only in the Republic of Croatia.

(3) The issuer referred to in paragraph 2 of this Article shall, in accordance with Articles 438 to 441 of this Act, disclose all information it is obliged to disclose pursuant to laws and regulations of its home Member State regulating the obligations of disclosure of information about issuers whose securities are admitted to trading on a regulated market.

Competence

Article 398

(1) For the purpose of this Title the "home Member State" means:

1. in the case of an issuer of debt securities the denomination per unit of which is less than EUR 1,000.00 or in a currency other than Euro, provided that the value of such denomination per unit is, at the date of the issue, less than EUR 1,000.00 and in the case of an issuer of shares:
- where the issuer is incorporated in the Member State, the Member State in which it has its registered office;
- where the issuer is incorporated in a third country, the Member State in which it is required to file the annual document with the competent authority in accordance with Article 364 of this Act.

2. for any issuer not covered by point (1) of this paragraph, the Member State chosen by the issuer as the home Member State from among the Member State in which the issuer has its registered office and those Member States which have admitted its securities to trading on a regulated market on their territory.

(2) The issuer referred to in paragraph 1 point (2) of this Article may choose only one Member State as its home Member State.

(3) The issuer may not alter its chosen home Member State before the expiry of at least three years from the date of making a decision on its choice as referred to in paragraph 2 of this Article, unless before the expiry of this period all of its securities are no longer admitted to trading on any regulated market in Member States.

(4) The issuer referred to in paragraph 1 point (1) indent (2) and paragraph 1 point (2) of this Article shall disclose its choice of the Republic of Croatia as its home Member State in accordance with Articles 438 to 441 of this Act.

Article 399

The "host Member State" means a Member State in which securities are admitted to trading on a regulated market, if different from the home Member State.

Exemptions

Article 400

(1) The provisions of this Title do not apply to units issued by collective investment undertakings other than the closed-end type, or to units acquired or disposed of in such undertakings.

(2) For the purpose of this Title "collective investment undertaking other than the closed-end type" means undertaking:

1. the object of which is the collective investment of capital provided by the public, and which operates on the principle of risk spreading; and

2. the units of which are, at the request of the holder of such units, repurchased or redeemed, directly or indirectly, out of the assets of that undertaking.

(3) For the purpose of this Title "units of a collective investment undertaking" means securities issued by a collective investment undertaking and representing rights of the participants in such an undertaking over its assets.

Chapter 2

Issuer's Reports

Obligation

Article 401

The issuer of securities shall regularly prepare annual, half-yearly and quarterly financial and business reports and make them public in accordance with Articles 438 to 441 of this Act.

Article 402

The Agency may, for the issuers of securities with registered offices in the Republic of Croatia, adopt an ordinance laying down the content and the structure of annual, half-yearly and quarterly financial and business reports and the form and method of their submission to the Agency.

Annual Financial Report

Article 403

(1) The issuer of securities shall make public its annual financial report at the latest four months after the end of each financial year and shall ensure that it remains publicly available for at least five years from the date of its publication.

(2) The annual financial report of the issuer shall comprise:

1. the audited annual financial statements;

2. the management report;

3. the statements made by the persons responsible for drawing up annual financial report of the issuer, whose first name, family name, job and functions within the issuer shall be indicated, that, to the best of their knowledge:

- the annual financial statements prepared in accordance with the applicable set of accounting standards give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer and the undertakings included in the consolidation taken as a whole;

- the management report includes a fair review of the development and performance of the business and the position of the issuer and the undertakings included in the consolidation taken as a whole, together with a description of the principal risks and uncertainties that they face.

(3) The audit report, signed by the persons responsible for auditing the annual financial statements, shall be disclosed in full to the public together with the annual financial report referred to in paragraph 2 of this Article, pursuant to the method and the time period laid down in paragraph 1 of this Article.

(4) The provisions of paragraph 1, 2 and 3 of this Article shall apply accordingly to an issuer that is required to prepare consolidated accounts.

Article 404

(1) Where an issuer has its registered office in the Republic of Croatia, the reports referred to in Article 403 paragraph 2 point (1) and (2) of this Act shall be deemed to be reports drawn up pursuant to regulations on establishment, structure and business activities of sole traders and companies and regulations governing the accounting of enterprises and the application of financial reporting standards.

(2) If the annual financial statements are not approved by the competent body of the issuer within the time period laid down in Article 403 paragraph 1 of this Act, the issuer shall, within the time period laid down in Article 403 paragraph 1 of this Act, disclose to the public its annual financial statements indicating that the statements have not been approved by its competent body.

(3) In the case referred to in paragraph 2 of this Article, the issuer shall, within 7 days after the approval of annual financial statements by its competent body, disclose to the public the approved annual financial statements. Where the competent body of the issuer approved the annual financial statements in the full contents as they were made public in accordance with paragraph 2 of this Article, it shall be deemed that the issuer has disclosed its approved annual financial statements if it discloses to the public information that the annual financial statements previously disclose to the public are approved in full contents by its competent body.

(4) Along with the annual financial report referred to in Article 403 paragraph 2 of this Act and the auditor's report referred to in Article 403 paragraph 3 of this Act, the issuer shall publish in full decision of its competent body on approval of annual financial statements and the decision on distribution of profit or loss, if the decisions are not an integral part of the annual financial report.

Article 405

The issuer of securities who has its registered office outside the Republic of Croatia shall prepare reports referred to in Article 403 paragraph 2 point (1) and (2) of this Act in accordance with Article 404 of this Act.

Article 406

(1) The issuer of securities who has its registered office outside the Republic of Croatia in a Member State shall prepare reports referred to in Article 403 paragraph 2 point (1) and (2) of this Act according to the following requirements:

1. where the issuer is required to prepare consolidated accounts according to Directive 83/349/EEC, the audited financial statements shall comprise such consolidated accounts drawn up in accordance with Regulation (EC) No 1606/2002 and the annual accounts of the parent company drawn up in accordance with the national law of the Member State in which the parent company is incorporated;

2. where the issuer is not required to prepare consolidated accounts, the audited financial statements shall comprise the accounts prepared in accordance with the national law of the Member State in which the issuer is incorporated;

3. the financial statements of the issuer shall be audited in accordance with Articles 51 and 51a of Directive 78/660/EEC and, if the issuer is required to prepare consolidated accounts, in accordance with Article 37 of Directive 83/349/EEC;

4. the management report shall be drawn up in accordance with Article 46 of Directive 78/660/EEC if the issuer is not required to prepare consolidated accounts and in accordance with Article 36 of Directive 83/349/EEC if the issuer is required to prepare consolidated accounts.

(2) An issuer of securities who has its registered office outside the Republic of Croatia in a third country shall prepare reports referred to in Article 403 paragraph 2 point (1) and (2) of this Act in accordance with Article 404 of this Act.

Half-Yearly Financial Report

Article 407

(1) The issuer of shares or debt securities shall make public its half-yearly financial report covering the first six months of the financial year as soon as possible after the end of the half-year period, but at the latest two months thereafter, and shall ensure that the half-yearly financial report remains publicly available for at least five years from the date of its publication.

(2) The half-yearly financial report of the issuer shall comprise:

1. the condensed set of half-yearly financial statements;

2. the interim management report;

3. a statements made by the persons responsible for drawing up the half-yearly financial report of the issuer, whose first name, family name, jobs and functions within the issuer shall be indicated, that, to the best of their knowledge:

- the condensed set of half-yearly financial statements prepared in accordance with the applicable set of accounting standards gives a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer, or the undertakings included in the consolidation taken as a whole;

- the interim management report includes a fair review of the development and performance of the business and of the position of the issuer and the undertakings included in the consolidation taken as a whole, together with the description of the principal risks and uncertainties that they face.

(3) If the half-yearly financial statements referred to in paragraph 2 of this Article have been audited, the audit report shall be disclosed in full pursuant to the method and the time period laid down in paragraph 1 of this Article. The same obligation shall apply in case of an auditor's review. If the half-yearly financial statements have not been audited or reviewed by auditors, the issuer shall make a statement to that effect in its half-yearly report.

(4) The provisions of paragraphs 1, 2 and 3 of this Article shall apply accordingly to an issuer that is required to prepare consolidated accounts.

Article 408

The issuer of shares and debt securities shall prepare reports referred to in Article 407 paragraph 2 point (1) and (2) of this Act in accordance with Article 404 paragraph 1 of this Act.

Article 409

(1) The issuer of shares and debt securities shall prepare reports referred to in Article 407 paragraph 2 point (1) and (2) of this Act according to the following requirements:

1. where the issuer is required to prepare consolidated accounts, the condensed set of half-yearly financial statements shall be prepared in accordance with the accounting standard applicable to the interim financial reporting adopted pursuant to Article 6 of Regulation (EC) No 1606/2002;

2. where the issuer is not required to prepare consolidated accounts, the condensed set of half-yearly financial statements shall at least contain a condensed balance sheet, a condensed profit and loss account and explanatory notes on these accounts; the issuer shall follow the same principles for recognising and measuring as when preparing annual financial statements;

3. the interim management report shall include at least an indication of important events that have occurred during the first six months of the financial year, and their impact on the condensed set of half-yearly financial statements, together with a description of the principal risks and uncertainties for the remaining six months of the financial year; for issuers of shares, the interim management report shall also include information referred to in paragraphs 2 and 3 of this Article on major related parties transactions prepared in accordance with the relevant financial reporting standards.

(2) Information on major related parties' transactions referred to in paragraph 1 point (3) of this Article shall be deemed, as a minimum, the following information:

1. related parties’ transactions that have taken place in the first six months of the current financial year and that have materially affected the financial position or the performance of the enterprise during that period;

2. any changes in the related parties’ transactions described in the last annual report that could have a material effect on the financial position or performance of the enterprise in the first six months of the current financial year.

(3) Where the issuer of shares is not required to prepare consolidated accounts, it shall, as the information referred to in paragraph 1 point (3) of this Article on major related party transactions state at least the information laid down in Article 43(1)(7b) of Directive 78/660/EEC.

(4) Where the issuer does not prepare the condensed set of half-yearly financial statements in accordance with the financial reporting standard applicable to the interim financial reporting adopted pursuant to Article 6 of Regulation (EC) No 1606/2002, it shall prepare the condensed set of half-yearly financial statements in the following manner:

1. the condensed balance sheet and the condensed profit and loss account shall show each of the headings, subtotals and items included in the most recent annual financial statements of the issuer; additional line items shall be included if, as a result of their omission, the half-yearly financial statements would give a misleading view of the assets, liabilities, profit and loss, financial position and performance of the issuer;

2. the condensed balance sheet shall comprise comparative information as the end of the first six months of the current financial year and the information as at the end of the immediate preceding financial year;

3. the condensed profit and loss account shall comprise comparative information for the first six months of the current financial year and the information for the same period of the preceding financial year;

4. the explanatory notes shall include the following:

- sufficient information to ensure the comparability of the condensed half-yearly financial statements with the annual financial statements;

- sufficient information and explanations to ensure an investor's proper understanding of any material changes in amounts and of any developments which are reflected in the balance sheet and the profit and loss account.

Quarterly Financial Report and Management Statement

Article 410

(1) The issuer of shares who has its registered office in the Republic of Croatia shall prepare and make public its quarterly financial report as soon as possible, but at the latest within 30 days after the end of a three-month period, and shall ensure that it remains publicly available for at least five years from the date of its publication.

(2) Article 407 paragraph 2 of this Act shall apply accordingly to the quarterly financial report referred to in paragraph 1 of this Article.

(3) The issuer shall prepare the reports referred to in paragraph 2 of this Article in accordance with Article 408 of this Act.

(4) The issuer shall prepare the reports referred to in paragraph 2 of this Article in accordance with Article 409 of this Act.

(5) The provisions of paragraphs 1 and 2 of this Article shall apply accordingly to an issuer that is required to prepare consolidated accounts.

Article 411

(1) An issuer of shares who has its registered office outside the Republic of Croatia shall, without prejudice to Articles 459 to 462 of this Act, make public a statement by its management during the first six-month period of the financial year and another statement by its management during the second six-month period of the financial year.

(2) The management statement referred to in paragraph 1 of this Article shall be made public in a period between ten weeks after the beginning and six weeks before the end of the relevant six-month period.

(3) The management statement referred to in paragraph 1 of this Article shall contain information covering the period between the beginning of the relevant six-month period and the date of publication of the statement.

(4) The management statement referred to in paragraph 1 of this Article shall provide:

1. an explanation of material events and transactions that have taken place during the relevant six-month period and their impact on the financial position of the issuer and its controlled undertakings;

2. a general description of the financial position and performance of the issuer and its controlled undertakings during the relevant six-month period.

(5) Issuers which, under either national legislation or the rules of the regulated market or of their own initiative, publish quarterly financial reports in accordance with such legislation or rules are not required to make public statements by the management referred to in paragraph 1 of this Article.

(6) The issuer referred to in paragraph 5 of this Article shall make public its quarterly financial reports pursuant to the periods and contents laid down in the laws or rules on the basis of which it prepares quarterly financial reports.

Exemptions

Article 412

The provisions of this Chapter shall not apply to the following issuers:

1. the Republic of Croatia, the Croatian National Bank and the Croatian Bank for Reconstruction and Development;

2. a Member State;

3. third country;

4. local government or self-government units of the Republic of Croatia;

5. local government or self-government units of a Member State;

6. public international bodies of which at least one Member State is a member;

7. the European Central Bank and Member States' national central banks;

8. issuers of debt securities, the denomination per unit of which is at least EUR 50,000.00 or, in the case of debt securities denominated in a currency other than Euro, the value of such denomination per

unit is, at the date of the issue, equivalent to at least EUR 50,000.00, provided that these are the only securities of the issuer admitted to trading on a regulated market.

Chapter 3

Information on Changes in the Proportion of Voting Rights

Obligation

Article 413

(1) Where a natural person or a legal entity directly or indirectly reaches, exceeds or falls below the thresholds of 5%, 10%, 15%, 20%, 25%, 30%, 50% and 75% of voting rights in an issuer of shares, it shall notify the issuer and the Agency of such reaching, exceeding or falling below the threshold.

(2) The obligation referred to in paragraph 1 of this Article applies to each situation where reaching, exceeding or falling below the threshold laid down in paragraph 1 of this Article is the result of:

1. acquiring, disposing of or exercising voting rights in accordance with Articles 415, 416 and 417 of this Act; and/or

2. the change in the number of shares to which voting rights are attached and to which the capital stock of the issuer is broken down, or the change in the number of voting rights resulting from such shares.

Calculating the Proportion of Voting Rights

Article 414

(1) For the purpose of Article 413 of this Act, the proportion of voting rights held by a natural person or a legal entity shall be calculated on the basis of all the shares of an issuer of the same class to which voting rights are attached, including an issuer's own shares and shares where the exercise of voting rights is excluded or restricted by law or as a result of a legal act, and according to the latest information disclosed in accordance with Article 429 of this Act.

(2) For the purpose of Article 413 of this Act, the number of voting rights held by a natural person or a legal entity in an issuer shall be calculated in a manner that all voting rights which are held by that natural person or a legal entity in accordance with Articles 415, 416 and 417 of this Act are aggregated.

(3) By way of derogation from the provision referred to in paragraph 2 of this Article, where Article 416 paragraph 3 point (1) of this Act applies, the number of voting rights held by a natural person or a legal entity in an issuer shall be calculated in a manner that only voting rights which are held by that natural person or a legal entity through financial instruments referred to in Article 416 paragraph 1 of this Act are counted.

Persons Obliged to Meet Requirements

Article 415

The obligation referred to in Article 413 of this Act shall apply to a shareholder (a natural person or a legal entity) who holds, directly or indirectly, in its own name and on its own account or in its name but on behalf of another natural person or legal entity:

1. shares of the issuer to which voting rights are attached;

2. depository receipts of the underlying shares represented by the depository receipt.

Article 416

(1) The obligation referred to in Article 413 of this Act shall apply to a natural person or legal entity who holds, directly or indirectly, financial instruments referred to in Article 3 paragraph 1 point (2) of this Act that result in an unconditional entitlement to acquire, on such holder's own initiative alone, under a formal agreement binding under the applicable law, shares of an issuer to which voting rights are attached, already issued and which are the underlying shares for issuing the relevant financial instrument.

(2) The financial instruments referred to in paragraph 1 of this Article shall give the holder a right to choose, on maturity, whether to acquire shares of an issuer to which voting rights are attached, already issued and which are the underlying shares for issuing the relevant financial instrument, or cash.

(3) The obligation referred to in Article 413 of this Act shall apply to a natural person or legal entity who holds, directly or indirectly, financial instruments referred to in paragraph 1 of this Article, where reaching, exceeding or falling below the threshold laid down in Article 413 of this Act is the result of:
1. only voting rights held through financial instruments held by such natural person or legal entity; and

2. all voting rights held by such natural person or legal entity in accordance with this Article and Articles 415 and 417 of this Act.

(4) When calculating the number of voting rights held by a natural person or a legal entity in one issuer though financial instruments referred to in paragraph 1 of this Article, all financial instruments held by a natural person or a legal entity that relate to the same underlying shares to which the voting rights are attached shall be taken into account.

(5) If a financial instrument referred to in paragraph 1 of this Article relates to more than one underlying shares, the notification referred in Article 413 of this Act shall be made to each issuer of the underlying shares.

Article 417

(1) The obligation referred to in Article 413 of this Act shall apply to a natural person or legal entity to the extent it is entitled to acquire, to dispose of, to exercise or transfer the exercise of voting rights in an issuer in any of the following cases or a combination of them:

1. voting rights held by a third party with whom that person or entity has concluded an agreement, which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the issuer in question;

2. voting rights held by a third party under an agreement concluded with that person or entity providing for the temporary transfer for consideration of the voting rights in question;

3. voting rights attaching to shares which are lodged as collateral with that person or entity, provided the person or entity controls the voting rights and declares its intention of exercising them;

4. voting rights attaching to shares in which that person or entity has the life interest;

5. voting rights which are held, or may be exercised within the meaning of points 1 to 4 of this paragraph, by an undertaking controlled by that person or entity;

6. voting rights attaching to shares deposited with that person or entity which the person or entity can exercise at its discretion in the absence of specific instructions from the shareholders;

7. voting rights held by a third party in its own name on behalf of that person or entity;

8. voting rights which that person or entity may exercise as a proxy where the person or entity can exercise the voting rights at its discretion in the absence of specific instructions from the shareholders.

(2) Where the obligation referred in Article 413 of this Act arises in accordance with paragraph 1 of this Article, each natural person or legal entity referred to in paragraph 1 points 1 to 8 of this Article to which the obligation applies, is individually required to notify the issuer and the Agency pursuant to Article 413 of this Act. It shall be deemed that the obligation has been fulfilled if a single common notification is made to the issuer.

Controlled Undertakings

Article 418

(1) For the purposes of this Title, "controlled undertaking" means any undertaking:

1. in which a natural person or legal entity has a majority of the voting rights; or

2. of which a natural person or legal entity is a shareholder in, or member of the undertaking in question and who at the same time has the right to appoint or remove a majority of the members of the administrative, management or supervisory body; or

3. of which a natural person or legal entity is a shareholder or member and alone controls a majority of the shareholders' or members' voting rights, respectively, pursuant to an agreement entered into with other shareholders or members of the undertaking :in question; or

4. over which a natural person or legal entity has the power to exercise, or actually exercises, dominant influence or control.

(2) A natural person or legal entity referred to in paragraph 1 of this Article is a controlling entity.

(3) In the case provided for in paragraph 1 point 2 of this Article, voting rights of the controlling entity shall be aggregated with the voting rights of any other undertaking controlled by the controlling entity and those of any natural person or legal entity acting, albeit in its own name, on behalf of the controlling entity or of any other undertaking controlled by the controlling entity.

Article 419

An undertaking shall not be obliged to file the notification referred to in Article 413 of this Act with the issuer and the Agency if the notification is filed by its parent undertaking or where the parent undertaking is itself a controlled undertaking, by its own parent undertaking.

Exemptions in Calculating Proportion of Voting Rights

Article 420

(1) Voting rights held in accordance with Articles 415, 416 and 417 of this Act by the parent undertaking of a management company shall not be aggregated with the voting rights attached to shares and financial instruments referred to in Article 416 paragraph 1 of this Act that are managed by the management company under the conditions laid down in laws, regulations and administrative provisions on establishment and operations of management companies for managing open-end investment funds with a public offer, provided that such management company exercises its voting rights independently from the parent undertaking.

(2) Voting rights held in accordance with Articles 415, 416 and 417 of this Act by the parent undertaking of an investment firm shall not be aggregated with the voting rights attached to shares and financial instruments referred to in Article 416 paragraph 1 of this Act which such investment firm manages by providing portfolio management services, provided that:

1. the investment firm is authorised by the Agency or the competent authority of the Member State to provide such portfolio management;

2. it may only exercise the voting rights attached to such shares under instructions given in writing or by electronic means or it ensures that individual portfolio management services are conducted independently of any other services under conditions equivalent to those provided for in laws, regulations and administrative provisions on establishment and operations of management companies for managing open-end investment funds with a public offer by putting into place appropriate mechanisms;

3. the investment firm exercises its voting rights independently from the parent undertaking.

(3) The exemptions referred to in paragraphs 1 and 2 of this Article shall not apply where a management company or investment firm manages voting rights attached to shares or financial instruments referred to in Article 416 paragraph 1 of this Act of its parent undertaking or another controlled undertaking of this parent undertaking, provided that such voting rights may not be exercised by a management company or investment firm independently, at its discretion, but only under direct or indirect instructions from the parent undertaking or another controlled undertaking of the parent undertaking.

Article 421

(1) The parent undertaking of a management company or investment firm may make use of an exemption under Article 420 paragraph 1 and/or 2 of this Act, provided that the following conditions are met:

1. the parent undertaking must not interfere by giving direct or indirect instructions, or in any other way, in the exercise of the voting rights held by that management company or investment firm;

2. the management company or investment firm must be free to exercise, independently of the parent undertaking, the voting rights attached to the assets it manages.

(2) For the purposes of paragraph 1 point 1 of this Article and Article 420 paragraph 3 of this Act, "direct instruction" means any instruction given by the parent undertaking, or another controlled undertaking of the parent undertaking, specifying how the voting rights are to be exercised by the management company or investment firm in particular cases. "Indirect instruction" means any general or particular instruction, regardless of the form, given by the parent undertaking, or another controlled undertaking of the parent undertaking, that limits the independence of the management company or

investment firm in relation to the exercise of the voting rights in order to serve specific business interests of the parent undertaking or another controlled undertaking of the parent undertaking.

(3) A parent undertaking of the management company or investment firm that wishes to make use of the exemption under Article 420 paragraph 1 and/or 2 of this Act shall, without delay, and at any rate before the obligation under Article 413 of the Act arises, notify the following to the Agency:

1. a list of the names of those management companies and investment firms, indicating the competent authorities that supervise them or indicating that no competent authority supervises them, but with no reference to the issuer with regard to whom the exemption would be used;

2. a statement that, in the case of each such management company or investment firm, the parent undertaking complies with the conditions laid down in paragraph 1 of this Article.

(4) Where the parent undertaking intends to benefit from the exemptions referred to in Article 420, paragraph 1 and/or 2 of this Act only in relation to the financial instruments referred to in Article 416, paragraph 1 of this Act, it shall notify, without delay, and at any rate before the obligation under Article 413 of the Act arises, to the Agency the list referred to in paragraph 3 point 1 of this Article.

(5) The parent undertaking shall update the list referred to in paragraph 3 point 1 of this Article on an ongoing basis.

(6) Where a parent undertaking of the management company or investment firm intends to benefit from the exemptions referred to in Article 420 paragraph 1 and/or 2 of this Act, it shall be able to demonstrate to the Agency on request that:

1. the organisational structures of the parent undertaking and the management company or investment firm are such that the voting rights are exercised independently of the parent undertaking; the parent undertaking and the management company or investment firm must establish written policies and procedures reasonably designed to prevent the distribution of information between the parent undertaking and the management company or investment firm in relation to the exercise of voting rights;

2. the persons who decide how the voting rights are to be exercised act independently;

3. if the parent undertaking is a client of its management company or investment firm or if the voting rights of the parent undertaking are a holding in the assets managed by the management company or investment firm, there is a clear written mandate for an arms-length customer relationship between the parent undertaking and the management company or investment firm.

Article 422

(1) The exemptions under Article 420 paragraph 1 and 2 of this Act shall also apply in the case of an undertaking whose registered office is in a third country, which, if it had its registered office in the Republic of Croatia or in a Member State, would have required an authorisation for portfolio management services pursuant to laws and regulations on establishment and operations of investment companies and/or management companies, provided that it complies with conditions of independence equivalent to those set out in Article 421 of this Act.

(2) For the purposes of paragraph 1 of this Article, a third country shall be deemed to set conditions of independence equivalent to those set out in Article 421 of this Act, where, under the law of that country, an undertaking referred to in paragraph 1 of this Article is required to meet the following conditions:

1. it must be free in all situations to exercise, independently of its parent undertaking, the voting rights attached to the assets it manages;

2. it must disregard the interests of the parent undertaking or of any other controlled undertaking of the parent undertaking whenever conflicts of interests arise.

(3) The parent undertaking of an undertaking referred to in paragraph 1 of this Article shall, without delay, and at any rate before the obligation under Article 413 of the Act arises, make a statement and filed it with the Agency, that in the case of each undertaking referred to in paragraph 1 of this Article, the parent undertaking complies with the requirements laid down in paragraph 2 of this Article.

(4) Article 421 paragraph 3 point (1) and paragraph 4, 5 and 6 of this Act shall apply to the parent undertaking of an undertaking accordingly.

Contents of Notification

Article 423

(1) The notification referred in Article 413 of this Act shall, to the extent to which the information refers to the relevant disclosure to the public, include the following information:

1. firm, registered office and business address of the issuer of shares;

2. the information on a natural person or a legal entity that has reached, exceeded or fallen bellow the threshold laid down in Article 413 of this Act;

3. the information on controlled undertakings through which voting rights are held by a natural person or a legal entity referred to in point 2 of this paragraph;

4. the information on shareholder, if the shareholder is different from the natural person or a legal entity referred to in point 2 and 3 of this paragraph and the information on the natural person or legal entity exercising voting rights on behalf of that shareholder according to Article 417 paragraph 1 of this Act;

5. the information on what led to reaching, exceeding or falling bellow the thresholds laid down in Article 413 paragraph 2 of this Act;

6. the information on the document on the basis of which a threshold provided for in Article 413 of this Act is reached, exceeded or fallen bellow;

7. the information on the total number of voting rights (in absolute and relative terms) reaching, exceeding or falling bellow the threshold laid down in Article 413 of this Act;

8. the information on the total number of voting rights (in absolute and relative terms) that has been reached, exceeded or fallen below; for each issued class of shares separately, if the issuer issued more classes of shares to which voting rights are attached;

9. the date on which the threshold was reached, exceeded or fallen below.

(2) The notification referred to in paragraph 1 of this Article shall include for a natural person, the first name, family name and residence, and for a legal entity, the firm, legal form, registered office, business address, registration number and the information on the responsible persons in the legal entity.

(3) Where the document referred to in paragraph 1 point (6) of this Article is a proxy referred to in Article 417 paragraph 1 point (8) of this Act in relation to one shareholder meeting, the notification referred to in paragraph 1 of this Article shall include the information on the total number of voting rights (in absolute and relative terms) that will be held by a shareholder or a proxy after the shareholder meeting takes place, when the proxy may no longer exercise the voting rights independently at its discretion.

(4) Where the document referred to in paragraph 1 point (6) of this Article is a financial instrument referred to in Article 416 paragraph 1 of this Act, the notification referred to in paragraph 1 of this Article shall include the information on the date of maturity or expiration of the financial instrument and an indication of the date or time period when a natural person or legal entity may acquire shares of the issuer to which voting rights are attached that are the underlying shares for issuing the relevant financial instrument.

(5) Copies of documents referred to in paragraph 1 point (6) of this Article shall be attached to the notification referred to in paragraph 1 of this Article which is filed with the Agency.

(6) The Agency may adopt an ordinance laying down the contents and the structure of forms for the notification referred to in paragraph 1 of this Article and the form and method of its submission to the Agency.

Time Period for Notifications

Article 424

(1) A natural person or legal entity shall file the notification referred to in Article 413 paragraph 1 of this Act with the issuer and the Agency without delay, but not later than four trading days from the date on which a natural person or legal entity:

1. learns of the acquisition or disposal or of the possibility of exercising voting rights, or on which, having regard to the circumstances, should have learned of it, regardless of the date on which the acquisition, disposal or possibility of exercising voting rights takes effect; or

2. is informed about the latest information disclosed to the public in accordance with Article 429 of this Act.

(2) It shall be deemed that a natural person or legal entity learned or could have learned of the acquisition, disposal or of the possibility to exercise voting rights not later than two trading days from the date of transaction.

(3) By way of derogation from paragraph 1 of this Article, where Article 417 paragraph 1 point (8) of this Act apply, a shareholder or a proxy shall make the notification referred to in Article 413 paragraph 1 of this Act to the issuer and the Agency on the date of giving or receiving the proxy.

Calendar of Trading Days

Article 425

(1) For the purpose of this Title, trading days are the trading days of a regulated market that is operated by a stock exchange on which securities of an issuer are admitted.

(2) For the purpose of this Title, trading days are the trading days of a regulated market of the home Member State of the issuer.

(3) The Agency shall publish on its Internet site the calendar of trading days of each regulated market situated or operating in the Republic of Croatia.

Exemptions

Article 426

(1) The provisions of Articles 415 and 417 paragraph 1 point (3) of this Act shall not apply to shares provided to or by the members of the ESCB in carrying out their functions as monetary authorities, including shares provided to or by members of the ESCB under a pledge or repurchase or similar agreement for liquidity granted for monetary policy purposes or within a payment system.

(2) An exemption from paragraph 1 of this Article shall apply only in cases of a short period and provided that the voting rights attaching to such shares are not exercised.

Article 427

(1) The provisions of Articles 415 and 416 of this Act shall not apply to shares and financial instruments:
1. that are acquired only for the purpose of clearing and settling within the usual time period for clearing and settling of three trading days following the transaction;

2. that are held by a custodian in its custodian capacity, provided that a custodian may exercise voting rights only under a instruction given in writing or by electronic means;

3. that are positions in the trading book of a credit institution or an investment firm according to regulations on the trading book of a credit institution or an investment firm, if:

- voting rights held in the trading book do not exceed 5%; and

- a credit institution or an investment firm neither exercise voting rights nor use them to interfere in managing the issuer.

4. that are acquired or disposed of by a person who acts as a market maker, where such acquisition or disposal results in reaching, crossing or falling below the threshold of 5% of voting rights, provided that the market maker:

- is authorized by a competent authority to provide investment services and perform investment activities;

- neither interferes in managing the issuer nor exercises any kind of influence on the issuer to acquire such shares or to back the share price.

(2) A market maker who wishes to make use of the exemption referred to in paragraph 1 point (4) of this Article, shall, not later than within the time period laid down in Article 424 paragraphs 1 and 2 of this Act, notify the Agency that it conducts or intends to conduct as a market maker with regard to a certain issuer.

(3) Where a market maker ceases to conduct as a market maker with regard to a certain issuer, it shall notify the Agency thereof in the time period laid down in Article 424 paragraphs 1 and 2, of this Act.

(4) A market maker who wishes to make use of the exemption referred to in paragraph 1 point (4) of this Article, shall, on request by the Agency, provide evidence on shares and/or financial instruments

referred to in Article 416 paragraph 1 of this Act, that it holds or intends to hold for the market maker activity purposes. Where a market maker is not able to identify the shares and/or financial instruments it holds, the Agency is authorised to request from it to keep such shares and/or financial instruments on separate accounts for the purposes of that identification.

(5) A market maker shall, on request by the Agency, submit a market making agreement concluded with a stock exchange or with the issuer, if such an agreement was concluded.

Chapter 4

Obligations of the Issuer

Obligations Concerning Changes in Voting Rights

Article 428

An issuer of shares receiving a notification referred to in Article 413 of this Act shall make public the information contained in the notification without delay, but no later than three trading days upon receipt.

Article 429

At the end of each month during which a change has occurred in the number of shares to which voting rights are attached and to which the capital stock of the issuer is broken down, or the change in the number of voting rights resulting from such shares, the issuer of shares shall disclose to the public the information on the changes that have occurred and on the new total number of shares to which voting rights are attached.

Article 430

(1) Where an issuer of shares acquires or disposes of its own shares, either directly or through a person acting in his own name but on the issuer's behalf, it shall make public the number of its own shares (in absolute and relative terms) that it holds after each acquisition or disposal of its own shares, as soon as possible, but not later than four trading days from the acquisition or disposal of shares.

(2) For the purpose of paragraph 1 of this Article, the proportion of its own shares held by the issuer shall be calculated on the basis of the total number of shares to which voting rights are attached.

(3) In the case referred to in paragraph 1 of this Article, Article 424 paragraph 1 shall apply accordingly.

Article 431

(1) The issuer of shares shall make public without delay any change in the rights attaching to issued shares, for each class of shares separately, including changes in the rights attaching to derivative securities issued by the issuer and entitling to acquire shares of that issuer.

(2) The issuer of securities other than shares shall make public without delay any changes in the rights of holders of such issued securities, including changes in the terms and conditions that could indirectly affect the rights resulting from such issued securities, in particular changes in loan terms or interest rate.

(3) Paragraph 2 of this Article shall not apply to changes in the terms and conditions that may be objectively determined and that occur regardless of the will of the issuer (e.g. LIBOR or EURIBOR changes).

Other Obligations

Article 432

(1) The issuer of securities shall make public without delay any new issues of debt securities and in particular any new security or guarantee in respect thereof.

(2) Without prejudice to Articles 459 to 462 of this Act, the obligation referred to in paragraph 1 of this Article shall not apply to public international bodies of which at least one Member State is member.

(3) The obligation referred to in paragraph 1 of this Article shall not apply to securities issued by the Republic of Croatia or its local government or self-government units.

Article 433

The issuer of securities shall communicate any proposals to amend its statutes or its memorandum of incorporation to the Agency and the regulated market on which its securities have been admitted to trading, without delay, but at the latest on the date of calling the general meeting which is to vote on, or be informed of, the proposal.

Information for Shareholders

Article 434

(1) The issuer of shares shall ensure equal treatment for all shareholders who hold shares of the issuer of the same class.

(2) The issuer shall ensure that all the mechanisms and information necessary to enable holders of shares to exercise their rights are available in the Republic of Croatia and that the integrity of data is preserved.

(3) The issuer shall ensure that all the mechanisms and information necessary to enable holders of shares to exercise their rights are available in the home Member State of the issuer and that the integrity of data is preserved.

(4) The issuer shall ensure that shareholders may exercise their rights by proxy, subject to the law of the country in which the issuer is incorporated.

(5) In order to meet its obligations towards holders of shares, the issuer shall in particular:

1. provide information on the place and time of shareholders' meetings, the agenda with the reasons for the proposed decisions, the total number of issued shares to which voting rights are attached and the total number of voting rights, as well as the rights of holders to participate in meetings;

2. make available a proxy form, on paper or by electronic means under the conditions laid down in paragraph 6 of this Article, to each person entitled to vote at a shareholders' meeting, together with the

notice concerning the meeting; the issuer shall also make available a proxy form after an announcement of the meeting on request of any person entitled to vote at the shareholders' meeting;

3. designate a credit or a financial institution through which it performs its financial obligations towards shareholders;

4. publish notices or distribute circulars concerning the allocation and payment of dividends and the issue of new shares, including information on any arrangements for allotment, subscription, cancellation or conversion rights or waiver of such rights and redemption of shares.

(6) For the purposes of conveying information to shareholders referred to in paragraph 5 of this Article, the issuer may use electronic means, provided such a decision is taken in a shareholders' meeting and meets at least the following conditions:

1. conveying information by electronic means shall in no way depend upon the location of the residence of a natural person or a seat of a legal entity referred to in Articles 415 and 417 of this Act;

2. the issuer shall put in place identification arrangements so that the natural persons or legal entities referred to in Articles 415 and 417 of this Act are effectively informed by electronic means;

3. the issuer shall contact the natural persons or legal entities referred to in Articles 415 and 417 paragraphs 1 points (1) to (5) of this Act in writing to request their consent for the future use of electronic means for conveying information and, if they do not object within a reasonable time period, their consent shall be deemed to be given; the natural persons or legal entities referred to in Articles 415 and 417 paragraphs 1 points (1) to (5) of this Act shall be able to request later, at any time in the future, that information be conveyed in writing;

4. any apportionment of the costs entailed in the conveyance of such information by electronic means shall be determined by the issuer in compliance with the principle of equal treatment laid down in paragraph 1 of this Article.

Information for Holders of Debt Securities

Article 435

(1) The issuer of debt securities shall ensure that all holders of debt securities ranking pari passu are given equal treatment in respect of all the rights attaching to those securities.

(2) The issuer shall ensure that all the mechanisms and information necessary to enable debt securities holders to exercise their rights attaching to those debt securities are publicly available in the Republic of Croatia and that the integrity of data is preserved.

(3) The issuer shall ensure that all the mechanisms and information necessary to enable debt securities holders to exercise their rights attaching to those debt securities are publicly available in the home Member State and that the integrity of data is preserved.

(4) The issuer shall ensure that debt securities holders may exercise their rights by proxy, subject to the law of the country in which the issuer is incorporated.

(5) In order to meet its obligations towards debt securities holders, the issuer shall in particular:

1. publish notices, or distribute circulars, concerning the place and time of meetings of debt securities holders, the agenda with reasons for proposed decisions, the payment of interest, the exercise of any conversion, exchange, subscription or payment rights with regard to debt securities holders, or

cancellation rights, and redemption, as well as the right of those debt securities holders to participate in meetings of debt securities holders;

2. make available a proxy form on paper or by electronic means under the conditions laid down in paragraph 7 of this Article, to each person entitled to vote at a meeting of debt securities holders, together with the notice concerning the meeting; the issuer shall also make available a proxy form after an announcement of the meeting, on request of any person entitled to vote at a meeting of debt securities holders;

3. designate a credit or financial institution through which it performs its financial obligations towards debt securities holders.

(6) If only holders of debt securities whose denomination per unit amounts to at least EUR 50,000.00 or, in the case of debt securities denominated in a currency other than Euro whose denomination per unit is, at the date of the issue, equivalent to at least EUR 50,000.00, are to be invited to a meeting, the issuer may choose as venue any Member State, provided that all the mechanisms and information necessary to enable such holders to exercise the rights attaching to those securities are made available in that Member State.

(7) For the purpose of conveying information to debt securities holders referred to in paragraph 5 of this Article, the issuer may use electronic means, provided such a decision is taken in a meeting of holders of debt securities and meets at least the following conditions:

1. conveying information by electronic means shall in no way depend upon the location of the seat or residence of the debt security holder or of a proxy representing that holder;

2. the issuer shall put in place identification arrangements so that debt securities holders are effectively informed by electronic means;

3. the issuer shall contact debt securities holders in writing to request their consent for the use of electronic means for conveying information and if they do not object within a reasonable time period, their consent shall be deemed to be given; debt securities holders shall be able to request later, at any time in the future, that information be conveyed in writing;

4. any apportionment of the costs entailed in the conveyance of information by electronic means shall be determined by the issuer in compliance with the principle of equal treatment laid down in paragraph 1 of this Article.

(8) The obligation referred to in paragraphs 2 to 7 of this Article shall not apply to securities issued by the Republic of Croatia or its local government or self-government units.

Third countries

Article 436

(1) Where the registered office of an issuer is in a third country, the Agency is authorised to exempt that issuer from requirements under Articles 403, 407, 410, 411, 413, 428 to 432, 434 and 435, provided that the law of the third country in question lays down equivalent requirements or such an issuer complies with requirements of the law of a third country that the Agency considers as equivalent.

(2) Where paragraph 1 of this Article applies, the issuer shall file at the same time with the Agency all the information that it discloses to the public according to the law of the country where it is

incorporated, including the information that are not deemed to be regulated information according to this Title, and it shall disclose that information in accordance with Articles 438 to 441 of this Act.

Article 437

The Agency may adopt an ordinance laying down conditions under which it is considered that the requirements laid down in the law of a third country of the registered office of the issuer are equivalent to the requirements laid down in Articles 403, 407, 410, 411, 413, 428 to 432, 434 and 435 of this Act.

Chapter 5

Disclosure

Language of Disclosures

Article 438

(1) Where securities are admitted to trading on a regulated market that is operated by a stock exchange, regulated information shall be disclosed in the Croatian language.

(2) Where the Republic of Croatia is the home Member State of the issuer and securities of the issuer are admitted to trading on a regulated market only in the Republic of Croatia, regulated information shall be disclosed in the Croatian language.

(3) Where the Republic of Croatia is the home Member State of the issuer and securities of the issuer are admitted to trading on a regulated market in the Republic of Croatia and in one or more host Member States, regulated information shall be disclosed:

1. in the Croatian language; and

2. depending on the choice of the issuer, either in a language designated as the language of disclosure by its host Member State or in a language customary in the sphere of international finance.

(4) Where the Republic of Croatia is a home Member State of the issuer and securities of the issuer are admitted to trading on a regulated market in one or more host Member States, but not in the Republic of Croatia, regulated information shall, depending on the choice of the issuer, be disclosed either in a language designated as the language of disclosure by those host Member State or in a language customary in the sphere of international finance.

(5) Where the issuer referred to in paragraph 4 of this Article chooses a language of disclosure designated by its host Member State, regulated information shall, depending on the choice of the issuer, be disclosed either in Croatian or in a language customary in the sphere of international finance.

(6) By way of derogation from paragraphs 2, 3, 4 and 5, of this Article, where securities of the issuer whose denomination per unit amounts to at least EUR 50,000.00 or, in the case of debt securities denominated in a currency other than Euro equivalent to at least EUR 50,000.00 at the date of the issue, are admitted to trading on a regulated market in the home Member State and in one or more host Member States, regulated information shall be disclosed to the public, depending on the choice of the issuer, either in a language of disclosure designated by its home Member State and the host Member States, or in a language customary in the sphere of international finance.

(7) Where the Republic of Croatia is the host Member State of the issuer, regulated information disclosed to the public according to the law of the home Member State of the issuer, shall be disclosed to the public in a language that, according to the law of the home Member State of the issuer, is designated as the language of disclosure and depending on the choice of the issuer, either in the Croatian language or in a language customary in the sphere of international finance.

Article 439

(1) A natural person or legal entity referred to in Article 415, 416 and 417 of this Act shall file the notification referred to in Article 413 of this Act with the Agency and the issuer in the Croatian language.

(2) A natural person or legal entity referred to in Article 415, 416 and 417 of this Act shall file the notification referred to in Article 413 of this Act with the Agency and the issuer in the Croatian or in a language customary in the sphere of international finance.

(3) If the issuer receives the notification referred to in Article 413 of this Act in a language customary in the sphere of international finance, the Agency may not request the issuer to provide a translation into Croatian language.

Manner of Disclosure to the Public

Article 440

(1) The issuer shall disclose regulated information to the public in a manner ensuring fast access of the public to regulated information on a non-discriminatory basis.

(2) In order to disclose regulated information to the public, the issuer shall use the media as may reasonably be relied upon for the effective dissemination of information to as wide a public as possible and as close to simultaneously as possible in the Republic of Croatia and in other Member States, and the issuer shall use only those media whose operators are incorporated in the Republic of Croatia.

(3) In order to disclose regulated information to the public, the issuer shall use the media as may reasonably be relied upon for the effective dissemination of information to as wide a public as possible and as close to simultaneously as possible in the Republic of Croatia and in other Member States, and the issuer shall not be obliged to use only the media whose operators are incorporated in the Republic of Croatia.

(4) The issuer shall communicate regulated information to the media in their unedited full regulated content. In the case of the reports referred to in Article 403, 407, 410 and 411 of this Act being disclosed to the public, this requirement shall be deemed fulfilled if the announcement relating to the regulated information is communicated to the media indicating on which website, in addition to the official registers of regulated information, the reports referred to in Article 403, 407, 410 and 411 are available to the public in full.

(5) When communicating regulated information to the media, the issuer shall indicate that the information is regulated information and identify clearly the issuer, the subject matter of the disclosure to the public and the date and time of the communication of the regulated information to the media by the issuer.

(6) The issuer shall choose a manner of communicating regulated information to the media that, to the largest extent possible, prevents unauthorized access, minimises the risk of data corruption and unauthorised access, and provides certainty as to the source of regulated information.

(7) It shall be deemed that the issuer has fulfilled its obligation of communicating regulated information to the media after it receives the acknowledgement of the media to which regulated information was communication that regulated information was received in full.

(8) All costs of disclosure to the public shall be borne by the issuer.

(9) The issuer shall communicate to the Agency without delay a proof of fulfilling its obligation of disclosure and the manner of disclosure to the public.

(10) Upon request, the issuer shall be able to communicate to the Agency, in relation to any disclosure of regulated information, the following:

1. the name of the person who communicated the information to the media;

2. the time and date on which the information was communicated to the media;

3. the security validation details and technical details relating to the procedure of communicating the information to the media;

4. the details on the name and type of the medium and the manner in which it disclosed the communicated regulated information to the public;
5. if applicable, details of any embargo placed by the issuer on the regulated information.

Article 441

(1) Whenever the issuer communicates regulated information to the media, it shall at the same time file that information in its unedited full regulated content with the Agency and into the official register of regulated information.

(2) The issuer whose securities are admitted to trading on a regulated market that is operated by a stock exchange shall at the same time file regulated information, in addition to the media, the Agency and the official register of regulated information, with the stock exchange.

(3) The Agency may publish regulated information received in accordance with paragraph 1 of this Article on its Internet site.

Liability for Information Disclosure

Article 442

The issuer, members of its management and/or supervisory bodies and persons who are responsible within the issuer for fulfilling individual obligations of the issuer laid down in Article 403, 407, 410, 411, 431 and 432 of this Act shall be jointly and severally liable to an investor for the damage an investor suffers as a result of irregularities in fulfilling such obligations, except where it can be proven that in their fulfilment of such obligations they exercised care of a good expert.

Article 443

(1) Where securities of the issuer are admitted to trading on a regulated market without the issuer’s consent, each obligation of the issuer laid down in this Title and in Articles 459 to 462 of this Act, shall be, instead by the issuer, fulfilled in full by a person who has applied for the admission of securities to trading on a regulated market without the issuer’s consent.

(2) A person who has applied for the admission of securities to trading on a regulated market without the issuer's consent shell be liable to an investor for the damage an investor suffers as a result of irregularities in fulfilling obligations referred to in Article 442 of this Act, except where it can be proven that in their fulfilment of such obligations that person exercised care of a good expert.

Official Register of Regulated Information

Article 444

(1) The official register of regulated information is a system for collection, storage, processing and publication of regulated information.

(2) The official register of regulated information shall comply with minimum quality standards of protection of integrity of the collected and stored information, certainty as to the source of communicated information, recording the time of receipt of the information and easy access by end users to the information stored.

Article 445

(1) The official register of regulated information shall be maintained by the Agency. The Agency may transfer the task of maintaining the official register of regulated information to another legal entity.

(2) The Agency shall adopt an ordinance laying down technical, security, organisational and other conditions for maintaining the official register of regulated information.

(3) The Agency shall also adopt an ordinance laying down the documentation to be provided by a legal entity to prove it complies with the requirements referred to in paragraph 1 and 2 of this Article.

(4) Before introducing any changes to the official register of regulated information, the legal entity maintaining the official register of regulated information shall obtain consent by the Agency.

(5) The legal entity maintaining the official register of regulated information may charge a fee affordable to end users for disseminating of the stored information.

(6) The legal entity maintaining the official register of regulated information shall obtain consent of the Agency for the fee and any changes to the fee referred to in paragraph 5 of this Article.

Chapter 6

Powers of the Agency and Supervisory Measures

Article 446

(1) The Agency shall supervise the fulfilments of all the obligations laid down in the provisions of this Title.

(2) In order to supervise the fulfilments with the provisions of this Title, the Agency shall be empowered to:

1. require auditors, issuers, persons who admitted securities of the issuer to trading on a regulated market without its consent, natural persons and legal entities referred to in Articles 415, 416 and 417 of this Act to provide information, documents, statements and declarations;

2. require undertakings that control or are controlled by natural persons and legal entities referred to in point 1 of this paragraph, as well as from other natural persons and legal entities that might have knowledge of interest for supervision, to provide information, documents, statements and declarations;

3. require the issuer to make public the information, statements and declarations referred to in point 1 and 2 of this paragraph by the means and within the time limits determined by the Agency;

4. make public the information, statements and declarations referred to in point 1 and 2 of this paragraph in the event the issuer, or the persons that control it or are controlled by it, or the person who admitted securities of the issuer to trading on a regulated market without the issuer's consent, fail to do so, after the Agency receives a statement to that effect from the issuer or the person who admitted the issuer's securities to trading on a regulated market without the issuer's consent;

5. require managers of the issuers, or person who admitted the issuer's securities to trading on a regulated market without the issuer's consent, or natural persons and legal entities referred to in Articles 415, 416 and 417 of this Act, to make regulated information public, in the event regulated information was not disclosed to the public;

6. suspend, or request the relevant regulated market in the Republic of Croatia on which securities of the issuer are admitted to trading, to suspend trading in securities for a maximum of ten days if it has reasonable grounds for suspecting that the provisions on the obligation of disclosure to the public have been infringed by the issuer;

7. prohibit trading with securities of the issuer on a regulated market in the Republic of Croatia, if it finds that the provisions on the obligation of disclosure to the public have been infringed, or if it has reasonable grounds for suspecting that they have been infringed;

8. monitor that the issuer, or the person who admitted securities of the issuer to trading on a regulated market without the issuer's consent, discloses timely information with the objective of ensuring effective and equal access to the public on the whole territory of the Republic of Croatia;

9. monitor that the issuer, or the person who admitted securities of the issuer to trading on a regulated market without the issuer's consent, discloses timely information with the objective of ensuring effective and equal access to the public in all Member States where the securities are traded;

10. take appropriate action towards the issuer, or the person who admitted securities of the issuer to trading on a regulated market without the issuer's consent, in the event they, when disclosing information to the public, do not comply with the principle of effective and equal access to disclosed information on the territory referred to in point (8) and (9) of this paragraph;

11. make public the fact that an issuer, or a person who admitted securities of an issuer to trading on a regulated market with the issuer's consent, or a natural person or legal entity referred to in Articles 415, 416 and 417, is failing to comply with its obligations under the provisions of this Title;

12. examine whether regulated information is drawn up in accordance with the content and form laid down in this Act;

13. take appropriate measures if regulated information is not drawn up in accordance with the content and form laid down in this Act;

14. carry out direct supervision in the territory of the Republic of Croatia in order to verify compliance with the provisions of this Title; where necessary, the Agency shall carry out supervision in cooperation with the judicial authority and/or other authorities.

(3) The disclosure to the Agency by the auditors of information or documentation in accordance with paragraph 2 point (1) of this Article shall not constitute a breach of any restriction on disclosure of information imposed on the auditors by contract or by law, regulation or administrative provision and shall not involve such auditors in liability of any kind.

(4) Where securities of the issuer are admitted to trading on a regulated market that is operated by a stock exchange and where the Agency finds irregularities and/or infringements of the law within the meaning of the provisions of this Title, the Agency shall issue a decision ordering what actions are to be taken to contribute to establishing compliance with the law or it shall impose a measure within the powers laid down in paragraph 2 of this Article with the time limit for its implementation and for the submission of proof on what has been done.

(5) Where the Republic of Croatia is the home Member State of the issuer and where the Agency finds irregularities and/or infringements of the law within the meaning of the provisions of this Title, the Agency shall issue a decision ordering what actions are to be taken to contribute to establishing compliance with the law or it shall impose a measure within the powers laid down in paragraph 2 of this Article with the time limit for its implementation and for the submission of proof on what has been done.

(6) All measures referred to in paragraph 2 of this Article shall be notified by the Agency to the issuer, shareholders or holders of debt securities through the issuer, to the regulated market on which securities of the issuer are admitted to trading and to the competent authority of the regulated market on which securities of the issuer are admitted to trading.

(7) If a person or entity referred to in paragraph 2 point (1) and (2) of this Act does not comply with the decision of the Agency referred to in paragraph 4 and 5 of this Article, the Agency may issue a new decision ordering the implementation of a new or of the same measure.

Article 447

(1) Where the Republic of Croatia is the host Member State of the issuer and the Agency finds irregularities and/or infringements of the provisions on disclosure of information to the public, the Agency shall refer its findings with regard to such irregularities and/or infringements to the competent authority of the home Member State of the issuer.

(2) If, despite the measures taken by the competent authority of the home Member State, the issuer or the person who admitted securities of the issuer to trading on a regulated market without the issuer's consent, and/or a natural person or legal entity referred to in Articles 415, 416 and 417 of this Act, persists in infringing the provisions on disclosure of information to the public, the Agency is empowered, for the protection of investors, and after informing the competent authority of the home Member State, to impose measures within the powers provided for in Article 446 paragraph 2 of this Act that contribute to establishing compliance with the provisions of the law.

(3) The Agency shall inform the European Commission of the measures referred to in paragraph 2 of this Article that were taken at the earliest opportunity.

Article 448

The Agency may disclose to the public every measure taken or penalty imposed for irregularities and/or infringements of the obligations to make information public in connection with individual issuers, save where such disclosure would seriously affect the financial markets or cause disproportionate damage to the persons or entities involved in the measures taken or penalties imposed.

Obligations of the Agency

Article 449

The Agency shall lay down detailed guidelines and implementing measures in an ordinance in connection with the obligations provided for in this Title, observing at the same time the implementing measures adopted by the European Commission in accordance with Article 27, paragraph 2 of Directive 2004/109/EC.

Part four

Market Abuse

Title I

Application of this part

Article 450

(1) Provisions of Articles from 450 to 487 of this Act shall apply to any financial instrument admitted to trading on a regulated market in the Republic of Croatia, or for which a request for admission to trading on such a market has been made, irrespective of whether or not the transaction itself actually takes place on or outside that market.

(2) Provisions of Articles 456, 457 and 458 of this Act shall apply to any financial instrument not admitted to trading on a regulated market in the Republic of Croatia, but whose value depends on a financial instrument as referred to in paragraph 1 of this Article.

(3) For the purposes of Articles from 455 to 458, Articles 465, 466, 468, 469 and 470, Articles 480, 481 and 482 of this Act, the term regulated market also includes the multilateral trading platform.

Article 451

(1) Provisions of Articles from 450 to 487 of this Act shall apply to any financial instrument admitted to trading on a regulated market in at least one Member State, or for which a request for admission to trading on such a market has been made, irrespective of whether or not the transaction itself actually takes place on or outside that market.

(2) Provisions of Articles 456, 457 and 458 of this Act shall apply to any financial instrument not admitted to trading on a regulated market in the Member State, but whose value depends on a financial instrument as referred to in paragraph 1 of this Article.

(3) For the purposes of Articles from 455 to 458, Articles 465, 466, 468, 469 and 470, Articles 480, 481 and 482 of this Act, the term regulated market also includes the multilateral trading platform.

Article 452

Provisions of Articles from 459 to 463 of this Act shall not apply to the issuer who has not requested or approved admission of his financial instruments to trading on a regulated market.

Article 453

Prohibitions and requirements provided for in this part of the Act shall apply to:

1. actions carried out on the territory of the Republic of Croatia or abroad concerning financial instruments that are admitted to trading on a regulated market situated or operating within the territory of the Republic of Croatia or for which a request for admission to trading on such market has been made;

2. actions carried out on the territory of the Republic of Croatia concerning financial instruments that are admitted to trading on a regulated market in the third country or for which a request for admission to trading on such market has been made;

3. actions carried out on the territory of the Republic of Croatia concerning financial instruments that are admitted to trading on a regulated market in another Member State or for which a request for admission to trading on such market has been made.

Exceptions to the application of this part of the Act

Article 454

(1) Trading in own shares in 'buy-back' programmes or stabilisation of financial instruments shall not be considered market abuse, subject to conditions prescribed by a special Ordinance to be adopted by the Agency.

(2) Trading in own shares in 'buy-back' programmes or stabilisation of financial instruments shall not be considered market abuse in accordance with Commission Regulation (EC) No. 2273/2003.

(3) Articles from 450 to 487 of this Act shall not apply to transactions carried out by the Republic of Croatia and the Croatian National Bank or any other institution or any person acting on their behalf with regard to carrying out monetary, exchange-rate or public debt management policy.

(4) Articles from 450 to 487 of this Act shall not apply to transactions carried out by Member States, the European System of Central Banks, national central banks or other officially designated body, or person acting on their behalf with regard to carrying out monetary, exchange-rate or public debt management policy.

Title II

Inside Information

Article 455

(1) Inside information is the information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of financial instruments of to one or more financial instruments and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments. Such likelihood of a significant effect shall be deemed existing if a reasonable investor would be likely to use such information as part of the basis of his investment decisions.

(2) In relation to derivatives on commodities, inside information shall mean information of a precise nature which has not been made public, relating, directly or indirectly, to one or more such derivatives

and which users of markets on which such derivatives are traded would expect to receive in accordance with accepted market practices on these markets.
(3) For the purposes of applying Paragraph 2. of this Article users of markets on which derivatives on commodities are traded are deemed to expect to receive information relating directly or indirectly to one or more such derivatives which is:
- routinely made available to the users of those markets, or
- required to be disclosed in accordance with legal or regulatory provisions, market rules, contracts or customs on the relevant underlying commodity market or commodity derivatives market.

(4) Information referred to in paragraphs 1 and 2 of this Article shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence or an event which has occurred or may reasonably be expected to do so and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of financial instruments or related derivative financial instruments.

(5) For persons charged with the execution of orders concerning financial instruments, inside information shall also mean information conveyed by a client and related to the client's pending orders, which is of a precise nature, which relates directly or indirectly to one or more issuers of financial instruments or to one or more financial instruments, and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price or related derivative financial instruments.

Article 456

(1) Any person referred to in the second paragraph of this Article who possesses inside information is prohibited from using that information by acquiring or disposing of, or by trying to acquire or dispose of, for his own account or for the account of the third party, either directly or indirectly, financial instruments to which that information relates.

(2) The previous paragraph shall apply to any person who possesses that information:

1. by virtue of his membership of the administrative, or supervisory bodies of the issuer; or

2. by virtue of his holding in the capital of the issuer; or

3. by virtue of his having access to the information through the exercise of his employment, profession or duties; or
4. by virtue of committed criminal offence.

(3) Where the person referred to in paragraph 1 of this Article is a legal person, the prohibition laid down in that paragraph shall also apply to the natural persons who take part in the decision to carry out the transaction for the account of the legal person concerned.

(4) This Article shall not apply to transactions conducted in the discharge of an obligation that has become due to acquire or dispose of financial instruments where that obligation results from an agreement concluded before the person concerned possessed inside information.

Article 457

Any person subject to the prohibition laid down in Article 456 of this Act shall be prohibited from:

1. disclosing or making accessible inside information to any other person unless such disclosure or accessibility is made in the normal course of the exercise of his employment, profession or duties;

2. recommending or inducing another person, on the basis of inside information, to acquire or dispose of financial instruments to which that information relates.

Article 458

Articles 456 and 457 of this Act shall also apply to any person, other than the persons referred to in those Articles, who possesses inside information while that person knows, or ought to have known, that it is inside information.

Public disclosure of inside information directly concerning the issuer

Article 459

(1) The issuer of financial instrument shall ensure that the inside information which directly concerns the said issuer is made public as soon as possible, whereby he shall ensure that such information is complete, truthful and substantially accurate.

(2) The issuer shall not be allowed to make the information referred to in this Article public in the frames of his marketing activities in a manner likely to be misleading.

(3) The issuer shall make the information public according to provisions of this Article in a manner which enables fast access and complete, correct and timely assessment of the information and shall do so by applying in an appropriate manner provisions of Article 438 to 445 of this Act. The issuer shall, for an appropriate period, post on his Internet sites all inside information that they are required to disclose publicly.

(4) The Agency shall, by virtue of an Ordinance, prescribe more closely which information is likely to be taken into consideration when making decision on disclosure of inside information referred to in paragraph 1 of this Article.

Article 460

Any significant changes concerning already publicly disclosed information referred to in Article 459 of this Act shall be publicly disclosed promptly after these changes occur, in the same manner as the one used for public disclosure of the original information.

Article 461

(1) An issuer may under his own responsibility delay the public disclosure of inside information, as referred to in Article 459 of this Article, such as not to prejudice his legitimate interests provided that such delay would not be likely to mislead the public and provided that an issuer is able to ensure the confidentiality of that information.

(2) The Agency shall, by virtue of an Ordinance, prescribe more closely the circumstances likely to indicate the existence of legitimate interests referred to in paragraph 1 of this Article

Article 462

Whenever an issuer, or a person acting on his behalf or for his account, discloses any inside information to any third party in the normal exercise of his employment, profession or duties, he must make complete and effective public disclosure of that information, simultaneously in the case of an intentional disclosure of that information and promptly in the case of a non-intentional disclosure, except if the person receiving the information owes a duty of confidentiality, regardless of whether such duty is based on a regulation, articles of association or on a contract.

List of insiders

Article 463

(1) Issuers or persons acting on their behalf or for their account shall draw up list of persons working for them under a contract of employment or otherwise and having access to inside information relating, directly or indirectly, to the issuer, on a regular basis or occasionally (lists of insiders).

(2) Issuers or persons acting on their behalf or for their account shall update the list regularly and submit it to the Agency upon its request and keep them for at least five years after being drawn up or updated.

(3) Lists of insiders shall state at least: first and last name, date of birth, address of permanent residence or temporary residence if this is applicable, of the person having access to inside information, the reason why a person has been included in the list, and the date on which the list of insiders was drawn up or updated.

(4) Lists of insiders shall be promptly updated whenever there is a change in the reason why any person is already on the list, whenever any new person has to be added to the list whether and when any person already on the list has no longer access to inside information.

(5) Persons required to draw up lists of insiders shall take the necessary measures to ensure that any person on such a list that has access to inside information acknowledges the legal and regulatory duties entailed and is aware of the sanctions attaching to the misuse or improper circulation of such information.

Article 464

(1) Person discharging managerial responsibilities within an issuer shall mean a person who is:

1. a member of the administrative or supervisory body of the issuer;

2. a senior executive, who is not a member of the bodies as referred to in point 1 of this paragraph, having regular access to inside information relating, directly or indirectly, to the issuer, and the power to make managerial decisions affecting the future developments and business prospects of this issuer.

(2) Person closely associated with a person discharging managerial responsibilities within an issuer of financial instruments shall mean:

1. the spouse of the person discharging managerial responsibilities, or any person which is considered by national law as equivalent to the spouse;

2. according to national law, dependent children of the person discharging managerial responsibilities;

3. other persons, who have shared the same household as the person discharging managerial responsibilities for at least one year on the date of the transaction concerned;

4. any legal person, trust or partnership, whose managerial responsibilities are discharged by a person referred to in point 1 of this Article or in points 1, 2 and 3 of this paragraph, or which is directly or indirectly controlled by such a person, or that is set up for the benefit of such a person, or whose economic interests are substantially equivalent to those of such person.

(3) Persons referred to in paragraphs 1 and 2 of this Article shall notify to the Agency all acquisitions or disposals conducted on own account for the shares of the issuer admitted to trading on a regulated market in the Republic of Croatia, as well as acquisitions or disposals of derivatives or other financial instruments linked to those shares, in which the person referred to in paragraph 1 discharges managerial responsibilities, within 5 working days from the day of the acquisition or disposal concerned.

(4) The Agency shall, the information from the notification, as referred to in the paragraph 3 of this Article, deliver without delay to the Official Register of Regulated Information from the Article 444. of this Act:

- for the issuer with registered office in and outside of the Republic of Croatia,
- for the issuer with registered office in the Republic of Croatia and for the issuer which is obliged to deliver to the Agency the annual information in relation to the shares from the Article 364. of this Act.

(5) The notification from the previous paragraph shall contain the following information:

1. name of the person discharging managerial responsibilities within the issuer, or, where applicable, name of the person closely associated with such a person;

2. reason for responsibility to notify;

3. name of the relevant issuer;

4. description of the financial instrument;

5. nature of the transaction;

6. date and place of the transaction;
7. price and volume of the transaction.

(6) Where the total amount of acquisitions or disposals has reached 40,000 00 HRK at the end of a calendar year, no notification is required by persons referred to in paragraph 1 and 2. The total amount of acquisitions or disposals shall be computed by summing up the value of such acquisition or disposals of persons referred to in paragraphs 1 and 2 of this Article.

(7) Obligations prescribed by this Article shall not apply to the shares of the issuer who has not requested or approved admission of financial instruments to trading on a regulated market.

Title III

Market Manipulation

Article 465

Any form of market manipulation shall be forbidden.

Article 466

(1) Market manipulation shall mean:

1. transactions or orders to trade which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments, or which secure, by a person, or persons acting in collaboration, the price of one or several financial instruments at an artificial level;

unless the person who entered into the transactions or issued the orders to trade establishes that his reasons for so doing are legitimate and that these transactions or orders to trade conform to accepted market practices on the regulated market concerned;

2. transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance;

3. dissemination of information through the media, including the Internet, or by any other means, which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading. In respect of journalists when they act in their professional capacity such dissemination of information is to be assessed taking into account the rules governing their profession, unless those persons derive, directly or indirectly, an advantage or profits from the dissemination of the information in question.

(2) In particular the following activities and conduct derived from the definition of market manipulation from the previous paragraph of this Article shall be deemed market manipulation:

1. activities by a person, or persons acting in collaboration, to secure a dominant position over the supply of or demand for a financial instrument which has the effect of fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions;

2. the buying or selling of financial instruments at the close of the market with the effect of misleading investors acting on the basis of closing prices;

3. taking advantage of occasional or regular access to the traditional or electronic media by voicing an opinion about a financial instrument or indirectly about its issuer while having previously taken position on that financial instrument and profiting subsequently from the impact of the opinion voiced on the price of that instrument, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way.

Article 467

The stock exchange shall prescribe and implement procedures and measures aimed at detecting and preventing market manipulation practices on the regulated market on which it operates.

Article 468

Investment firms and credit institutions authorised by the competent authorities to provide investment services and carry out investment activities shall notify the Agency, on the basis of information accessible to them, of cases for which they reasonably suspect to constitute market abuse.

Article 469

The Agency shall, by virtue of an Ordinance, prescribe more closely procedures that can be deemed market abuse and obligations of the Agency and market participants aimed at prevention and detection of such procedures.

Accepted Market Practices

Article 470

(1) Accepted market practices are practices that are reasonably expected in one or more financial markets and are accepted by the Agency in accordance with the procedure adopted, which is to be prescribed in detail by virtue of a special Ordinance.

(2) The Agency shall consult, before accepting or changing the already adopted market practice, appropriate relevant bodies such as representatives of issuers, financial services providers, consumers, other authorities and market operators, which will be specially prescribed by virtue of an Ordinance from the paragraph 1 of this Article.
(3) Accepted market practices from the paragraph 1. of this Article the Agency passes in the form of a special Ordinance.

Title IV

Recommendations

Article 471

For the purposes of this Title of the Act, the following definitions shall mean:

1. Recommendation means research, or other information recommending or suggesting, explicitly or implicitly, an investment strategy, concerning one or several financial instruments or the issuers of financial instruments, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public.Explicitly recommending or suggesting an investment strategy shall mean recommendations such as “buy”, “hold” or “sell”. Implicitly recommending or suggesting an investment strategy shall mean the recommendation by reference to a price target or otherwise.

2. Research or other information recommending or suggesting investment strategy means:

a) information produced by an independent analyst, an investment firm, a credit institution, any other person whose main business is to produce recommendations or a natural person working for them under a contract of employment or otherwise, that, directly or indirectly, expresses a particular investment recommendation in respect of a financial instrument or an issuer of financial instruments;

b) information produced by persons other than the persons referred to in item a) of this paragraph which directly recommends a particular investment decision in respect of a financial instrument.

3. Provider of recommendations means a natural or legal person producing or disseminating recommendations in the exercise of his profession or the conduct of his business.

4. ‘Issuer’ means the issuer of a financial instrument to which a recommendation relates, directly or indirectly.

5. Appropriate regulation shall mean regulation, including self-regulation, by which it is ensured that the Provider of recommendations which produces or disseminates recommendations take reasonable care to ensure that these recommendations are fairly presented and disclose his interests or indicate conflict of interest concerning the financial instruments to which recommendations relate.

Identity of producers of recommendations

Article 472

(1) Any recommendation shall disclose clearly and prominently the identity of the person responsible for its production, in particular, the name and job title of the individual who prepared the recommendation and the name of the legal person responsible for its production. Where the Provider of recommendation is an investment firm or a credit institution, the recommendation shall disclose the identity of the relevant competent authority. Where the relevant person is neither an investment firm nor a credit institution, but is subject to self-regulatory standards or codes of conduct, the recommendation shall disclose a reference to those standards or codes.

(2) In the case of non-written recommendations, requirement laid down in paragraph 1 of this Article shall be deemed complied with if such recommendation includes a reference to the place where such disclosures can be directly and easily accessed by the public, such as an appropriate internet site of the Provider of recommendations.

(3) Paragraph 1 of this Article shall not apply to journalists subject to Appropriate regulation, provided that such regulation achieves similar effects as those of paragraph 1.

General standard for fair presentation of recommendations

Article 473

(1) Provider of recommendations shall take reasonable care to ensure that:

1. facts are clearly distinguished from interpretations, estimates, opinions and other types of non-factual information;

2. all sources are reliable or, where there is any doubt as to whether a source is reliable, this is clearly indicated;

3. all projections, forecasts and price targets are clearly labelled as such and that the material assumptions are indicated:
- which are based on such projections, forecasts and price targets,
- which are used for the production of these projections, forecasts and price targets.

(2) In the case of non-written recommendations, standards laid down in paragraph 1 of this Article shall be deemed complied with if such recommendation includes a reference to the place where such disclosures can be directly and easily accessed by the public, such as an appropriate Internet site of the Provider of recommendations.

(3) Upon request by the Agency, a relevant person shall explain the grounds for the recommendation.

(4) Paragraphs 1 and 3 of this Article shall not apply to journalists subject to Appropriate regulation, provided that such regulation achieves similar effects as those of paragraph 1 and 3. of this Article.

Additional obligations in relation to fair presentation of recommendations

Article 474

(1) In addition to the obligations laid down in Article 473 of this Act, where the Provider of recommendation is an independent analyst, an investment firm, a credit institution, any related legal person, any other Provider of recommendation whose main business is to produce recommendations, or a natural person working for them under a contract of employment or otherwise, such persons shall take reasonable care to ensure that at least:

1. all relevant sources of information are indicated, which have been used as a basis for the recommendation, as appropriate, including the name of the issuer to whom the recommendation is related and whether the recommendation has been disclosed to that issuer and amended following this disclosure before its dissemination;

2. any basis of valuation or methodology used to evaluate a financial instrument or an issuer of a financial instrument, or to set a price target for a financial instrument, is adequately summarised;

3. the meaning of any recommendation made (such as ‘buy’, ‘sell’ or ‘hold’) which may include the time horizon of the investment to which the recommendation relates, is adequately explained and any appropriate risk warning, including a sensitivity analysis of the relevant assumptions, indicated;

4. reference is made to the planned frequency, if any, of updates of the recommendation and to any major changes in the coverage policy previously announced;

5. the date at which the recommendation was first released for distribution is indicated clearly and prominently, as well as the relevant date and time for any financial instrument price mentioned;

6. where a recommendation differs from a previous recommendation concerning the same financial instrument or issuer, issued during the 12-month period immediately preceding its release, this change and the date of the earlier recommendation are indicated clearly and prominently.

(2) Where the requirements laid down in points 1, 2 and 3 of the paragraph 1 of this Article would be disproportionate in relation to the length of the recommendation distributed, it shall suffice to make clear and prominent reference in the recommendation itself to the place where the required information can be directly and easily accessed by the public, such as a direct Internet link to that information on an appropriate internet site of the Provider of recommendation, provided that there has been no change in the methodology or basis of valuation used.

(3) In the case of non-written recommendations, standards laid down in paragraph 1 of this article shall be deemed complied with if such recommendation includes a reference to the place where such disclosures can be directly and easily accessed by the public, such as an appropriate Internet site of the Provider of recommendation.

General standard for disclosure of interests and conflicts of interest

Article 475

(1) Provider of recommendations shall disclose all relationships and circumstances that may reasonably be expected to impair the objectivity of the recommendation, in particular where relevant persons have a significant financial interest in one or more of the financial instruments which are the subject of the recommendation, or a significant conflict of interest with respect to an issuer to which the recommendation relates.

(2) Where the Provider of recommendation on is a legal person, requirement from paragraph 1 of this Article shall apply also to any legal or natural person working for it, under a contract of employment or otherwise, who was involved in preparing the recommendation.

(3) Where the Provider of recommendation is a legal person, the information to be disclosed in accordance with paragraph 1 and 2 of this Article shall at least include the following information on its interests and conflicts of interest:

1. interests or conflicts of interest of the Provider of recommendations or of related legal persons that are accessible or reasonably expected to be accessible to the persons involved in the preparation of the recommendation;

2. interests or conflicts of interest of the Provider of recommendations or of related legal persons known to persons who, although not involved in the preparation of the recommendation, had or could reasonably be expected to have access to the recommendation prior to its dissemination to customers or the public.

(4) Recommendation itself shall include disclosures referred to in paragraphs 1, 2 and 3 of this Article. Where such disclosures would be disproportionate in relation to the length of the recommendation distributed, it shall suffice to make clear and prominent reference in the recommendation itself to the place where such disclosures can be directly and easily accessed by the public, such as a direct Internet link to the disclosure on an appropriate internet site of the Provider of recommendations.

(5) In the case of non-written recommendations, standards laid down in paragraph 1 and 2 of this Article shall be deemed complied with if such recommendation includes a reference to the place where such disclosures can be directly and easily accessed by the public, such as an appropriate Internet site of the Provider of recommendations.

(6) Paragraphs 1 to 4 of this Article shall not apply to journalists subject to Appropriate regulation, provided that such regulation achieves similar effects as those of paragraph 1 to 4. of this Article.

Additional obligations in relation to disclosure of interests or conflicts of interest

Article 476

(1) In addition to the obligations laid down in Article 475 of this Act, where the recommendation is produced by an independent analyst, an investment firm, a credit institution, any related legal person, or any other Provider of recommendations whose main business is to produce recommendations, the recommendation shall clearly and prominently disclose the following information on their interests and conflicts of interest:

1. major shareholdings that exist between the Provider of recommendations or any related legal person on the one hand and the issuer on the other hand. These major shareholdings include at least the following instances: when shareholdings exceeding 1 % of the total issued share capital in the issuer are held by the Provider of recommendations or any related legal person, or when shareholdings exceeding 1 % of the total issued share capital of the Provider of recommendations or any related legal person are held by the issuer;

2. other significant financial interests held by the Provider of recommendations or any related legal person in relation to the issuer;

3. where applicable, a statement that the Provider of recommendations or any related legal person is a market maker or liquidity provider in the financial instruments of the issuer;

4. where applicable, a statement that the Provider of recommendations or any related legal person has been lead manager or co-lead manager over the previous 12 months of any publicly disclosed offer of financial instruments of the issuer, as referred to in Article 5. paragraph 1. point 6. and 7. of this Act;

5. where applicable, a statement that the Provider of recommendations or any related legal person is party to any other agreement with the issuer relating to the provision of investment banking services, provided that this would not entail the disclosure of any confidential commercial information and that the agreement has been in effect over the previous 12 months or has given rise during the same period to the payment of a compensation or to the promise to get a compensation paid;

6. where applicable, a statement that the Provider of recommendations or any related legal person is party to an agreement with the issuer relating to the production of the recommendation.

(2) Investment firms and credit institutions shall, in general terms, disclose organisational and administrative arrangements for the prevention and avoidance of conflicts of interest with respect to recommendations, including information barriers.

(3) For natural or legal persons working for an investment firm or a credit institution, under a contract of employment or otherwise, and who were involved in preparing the recommendation, the requirement under Article 475, paragraph 2 of this Act shall include, in particular, disclosure of whether the remuneration of such persons is tied to investment banking transactions performed by the investment firm or credit institution or any related legal person. Where those natural persons acquire the shares of the issuers prior to a public offering of such shares, the price at which the shares were acquired and the date of acquisition shall also be disclosed.

(4) Investment firms and credit institutions shall disclose, on a quarterly basis, the proportion of all recommendations that are "buy", "hold", "sell" or equivalent terms, as well as the proportion of issuers corresponding to each of these categories to which the investment firm or the credit institution has supplied material investment banking services over the previous 12 months.

(5) Recommendation itself shall include disclosures required by this Article, paragraph 1 to 4. Where such requirements would be disproportionate in relation to the length of the recommendation distributed, it shall suffice to make clear and prominent reference in the recommendation itself to the place where such disclosure can be directly and easily accessed by the public, such as a direct Internet link to the disclosure on an appropriate internet site of the investment firm or the credit institution.

(6) In the case of non-written recommendations, standards laid down in paragraph 1 of this Article shall be deemed complied with if such recommendation includes a reference to the place where such disclosures can be directly and easily accessed by the public, such as an appropriate Internet site of the investment firm or the credit institution.

Dissemination of recommendations produced by third parties

Article 477

(1) Whenever a Provider of recommendations under his own responsibility disseminates a recommendation produced by a third party, the recommendation shall indicate clearly and prominently the identity of that Provider of recommendations.

(2) When the person disseminating recommendations produced by the third party substantially alters the recommendation, that person shall clearly and in detail indicate that alteration.

(3) Whenever the substantial alteration from paragraph 2. of this Article consists of a change of the direction of the recommendation (such as changing a "buy" recommendation into a "hold" or "sell"

recommendation or vice versa), the requirements laid down in Articles 472 to 475 on producers are met by the disseminator, to the extent of the substantial alteration.

(4) Provider of recommendations - legal persons who themselves, or through natural persons, disseminate a substantially altered recommendation have to adopt a formal written policy so that the persons receiving the information may be directed to where they can have access to the identity of the producer of the recommendation, the recommendation itself and the disclosure of the producer's interests or conflicts of interest, provided that these elements are publicly available.

(5) Paragraphs 2 to 4 of this Article do not apply to news reporting on recommendations produced by a third party where the substance of the recommendation is not altered.

(6) In case of dissemination of a summary of a recommendation produced by a third party, the Provider of recommendations disseminating such summary shall ensure that the summary is clear and not misleading, mentioning the source document and where the disclosures related to the source document can be directly and easily accessed by the public, provided that they are publicly available.

Additional obligations for investment firms and credit institutions

Article 478

(1) In addition to the obligations laid down in Article 477 of this Act, whenever the Provider of recommendations is an investment firm, a credit institution or a natural person working for such persons under a contract of employment or otherwise, and disseminates recommendations produced by a third party, they are obliged:

1. to clearly and prominently indicate the name of their competent authority;

2. fulfil requirements laid down in Article 476 of this Act, when the person producing the recommendation did not disseminate it through a distribution channel;

3. fulfil requirements laid down in Articles 472 to 476 of this Act when the investment firm or credit institution substantially alters the recommendation.

Article 479

Public institutions disseminating statistics liable to have a significant effect on financial markets shall disseminate them in a fair and transparent way.

Title V

Supervisory measures

Article 480

(1) The Agency is authorised to supervise the compliance with the prohibitions and requirements from the Articles from 450 to 487 of this Act.

(2) The Agency performs the supervision of the compliance with provisions of the Articles from 450 to 487 of this Act in order to prevent and detect the activities which represent the market abuse according to the provisions of this Act, and the adherence to the obligations prescribed by this part of the Act.

(3) The Agency performs the supervision from this article:

1. by monitoring, collecting and checking the disclosed data and information, and reports which the market participants are obliged to deliver to the Agency on the basis of this Act or other Act,

2. collecting data and carrying on-site inspections,

3. passing the supervisory measures from the paragraph 6. of this Article.

(4) If this is necessary for the purposes of supervision of compliance with provisions of the Articles from 450 to 487 of this Act, the Agency can, from any physical or natural person request:

1. access to any document in any form whatsoever, and receiving a copy of it;

2. require data traffic records, including telephone records;

(5) The Agency can, from any physical or natural person, including those who are successively involved in the transmission of orders or conduct of the operations concerned demand all information which are necessary to the Agency for the supervision. If necessary for the purpose of the supervision, the Agency is authorised to summon such persons to hearing.

(6) If the Agency, through supervision of the compliance with the provisions of this Act determines the breach of the provisions of the Articles from 450 to 487 of this Act, it is authorised to pass the following supervisory measures:

1. order to the legal or natural person the cessation of any activity that is contrary to the provisions of this part of the Articles from 450 to 487 of this Act,

2. pass the admonition to the legal or natural person who acts contrary to the provisions of the Articles from 450 to 487 of this Act,

3. order to the market operator the suspending of trading with the financial instrument concerned, to cancel the suspension already ordered, at the extent in which this is necessary for the elimination or prevention of harmful consequences on the regulated market;

4. order to the central clearing depositary company, or operator of the central register the temporary freezing of financial instruments;

5. propose to the authorised body the passing of the order for freezing or sequestration of assets and other measures, when applicable;

6. temporarily ban the conduct of professional activity to the subjects of supervision.

(7) Without prejudice to the provisions of the paragraph 6 of this Article, the Agency may, for the purposes of supervision of the application of the Articles from 450 to 487 of this Act order adequate measures which contribute to the establishment of the lawful conduct.

(8) If the person who is obliged to disclose the inside information according to the provisions of the part four of this Act do not make public the inside information, or if he or she make public such information incorrectly or not in the manner stipulated in provisions of the Articles from 450 to 487 of this Act, the Agency may make public such information at the expense of this person.

(9) The Agency may take all necessary measures to ensure that the public is correctly and exactly informed in accordance with the Articles 459 to 464 and Articles from 471 to 478 of this Act.

(10) In relation to the Articles from 471. to 478. of this Act, the measure from the paragraph 9. of this Article relates particularly to ordering the Provider of the recommendation to disclose the revised recommendation which is in accordance with the provisions of these articles, in the same way in which the previous recommendations was disclosed.

(11) Any activity of journalists which is contrary to the provisions of this part of the Act, the Agency shall, without delay, report to the appropriate professional journalist organisation.

Article 481

(1) Measure referred to in Article 480 paragraph 6 item 4 of this Act may be adopted where there at least a basis for suspicion exists that a person has committed a criminal act of using, disclosing and recommending the inside information, or the criminal act of market manipulation. That measure may last up to 60 days.
(2) The Agency cooperates with authorised bodies in detecting criminal acts referred to in paragraph 1 of this Article.

(3) Measure from the Article 480 paragraph 6 point 6 of this Act the Agency may pass when it refers to criminal acts of using, disclosing and recommending the inside information, or the criminal act of market manipulation, which measure may last at the longest up to the end of the supervisory proceedings before the Agency.

Article 482

The Agency may disclose to the public every measure or sanction that will be imposed for infringement of the provisions of this Act, unless such disclosure would seriously jeopardise the financial market or cause disproportionate damage to the parties involved.

Title VI

International cooperation in relation to the supervision regarding the requirements and prohibitions from the Part four of this Act

Article 483

(1) The Agency, pursuant to the agreements concluded for the purpose of supervision regarding the application of requirements and prohibitions from the Articles from 450 to 487 of this Act and the appropriate requirements and prohibitions from the laws and regulations of the third countries, provides assistance and cooperates with competent authorities of third countries, especially with respect to exchange of information and cooperation regarding supervisory and investigatory activities, in relation to activities which are carried out on the territory of the Republic of Croatia or abroad concerning financial instruments that are admitted on a regulated market in the Republic of Croatia or for which a request for admission has been made, as well as concerning activities which are carried out on the territory of the Republic of Croatia concerning financial instruments admitted on a regulated market in the third countries or for which a request for admission on such market has been made, and concerning the financial instruments admitted to other market, different than this regulated market, on which similar requirements and prohibitions apply. When concluding such agreements, the Agency shall apply, in the appropriate way, the provisions of Article 485, Article 487 paragraph 4, Article 560 and Article 562 of this Act.

(2) The Agency, according to provisions of this Title of the Act, for the purpose of supervision regarding the application of requirements and prohibitions from the Articles from 450 to 487 of this Act and the appropriate requirements and prohibitions from the laws and regulations of the Member States, provides assistance and cooperates with competent authorities of Member States, especially with respect to exchange of information and cooperation regarding supervisory and investigatory activities, in relation to activities which are carried out on the territory of the Republic of Croatia or abroad concerning financial instruments that are admitted on a regulated market in the Republic of Croatia or for which a request for admission has been made, as well as concerning activities which are carried out on the territory of the Republic of Croatia concerning financial instruments admitted on a regulated market in the Member State or for which a request for admission on such market has been made, and concerning the financial instruments admitted to other market, different than this regulated market, on which similar requirements and prohibitions apply. The Agency may conclude agreements with competent authorities of other Member States in order to regulate in more detail the way of cooperation within the frames prescribed by the provisions of this Title of the Act.

(3) The competent authority, in the meaning of paragraphs 1 and 2 of this Article, shall mean the authority competent for supervision over laws and regulations which in respective states regulate, appropriately, the regulations and prohibitions from the Articles from 450 to 487 of the part four of this Act.

Article 484

(1) The Agency shall, on request of competent authority of other Member State, immediately supply any information required for the purpose referred to in Article 483 paragraph 2 of this Act. Where necessary, the Agency shall immediately take the necessary measures in order to gather the required information. If the Agency is not able to supply the required information immediately, it shall notify the requesting competent authority of the other Member State of the reasons for not supplying such information.

(2) For the information supplied for the purposes of Article 483 paragraph 2 of this Act, the obligation of professional secrecy applies, for the persons employed or had been employed by the competent authorities of other Member States receiving such information, or to which persons such jobs have been transferred, or persons that are hired as experts by such competent authorities, and other persons receiving such information. The provision of this paragraph shall be appropriately applied when competent authority of the Member State supplies the information to the Agency.

Article 485

(1) The Agency may refuse to act on a request for information referred to in Article 483 of this Act where:

1. communication might adversely affect the sovereignty, security or public policy of the Republic of Croatia,

2. judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the Republic of Croatia,

3. where a final judgment has already been delivered in relation to such persons for the same actions in the Republic of Croatia.

(2) In cases from previous paragraph, the Agency shall notify the requesting competent authority of the other Member State which has submitted the request, providing as detailed information as possible on this proceeding or the judgment.

Article 486.

When the competent authority of the other Member State do not act upon the request for information of the Agency within a reasonable time or whose request for information is rejected, the Agency may bring that non-compliance to the attention of the Committee of European Securities Regulators, where discussion will take place in order to reach a rapid and effective solution.

Article 487.

(1) Without prejudice to the obligations to which they are subject in judicial proceedings under criminal law, the Agency and the competent authorities of other Member States which receive information pursuant to Articles 483 and 484 of this Act may use it only for the exercise of their functions according to the Articles 450 to 487 of this Act and in the context of administrative or judicial proceedings specifically related to the exercise of those functions. The Agency and competent authorities of Member States receiving the information may use it for other purposes or forward it to other competent authorities of third states, only if the Agency or the competent authority of the Member State communicating information consents to it.

(2) Where the Agency has evidence that acts, contrary to the provisions of this Act or the appropriate provisions of foreign regulation, are being, or have been, carried out on the territory of another Member State or that acts are affecting financial instruments traded on a regulated market situated in another Member State, it shall give notice of that fact in as specific a manner as possible to the competent authority of the other Member State. The competent authority of the other Member State shall take appropriate action. It shall inform the Agency which has informed it, of the outcome and, so far as possible, of significant interim developments. This paragraph shall not prejudice the competences of the Agency which has forwarded the information. The competent authorities of the various states that are competent for the purposes of Article 453 of this Act shall consult each other on the proposed follow-up to their action.

(3) A competent authority of the other Member State may request that a supervision be carried out by the Agency, on the latter's territory, in the same way as the Agency may request that the supervision be carried out on the territory of the competent authority of the other Member State. In that case, it may request that members of its own personnel or the personnel of the other Member State be allowed to accompany the personnel of each other during the course of the supervision. The supervision shall, however, be subject throughout to the overall control of the state on whose territory it is conducted.

(4) The Agency may refuse to act on a request for a supervision to be conducted as provided for in the paragraph 3 of this Article:

1. where such a supervision might adversely affect the sovereignty, security or public policy of the Member State addressed; or
2. where judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the state addressed; or
3. where a final judgment has already been delivered in relation to such persons for the same actions in the state addressed.

(5) In case referred to in the previous paragraph the Agency shall notify the competent authority of the other Member State which has submitted the request, providing as detailed information as possible on those proceedings or judgment.

(6) The Agency’s application to open a supervision or whose request for authorisation for its officials to accompany those of the other Member State's competent authority in the supervisory proceedings is not acted upon within a reasonable time or is rejected may bring that non-compliance to the attention

of the Committee of European Securities Regulators, where discussion will take place in order to reach a rapid and effective solution.

PART FIVE

Chapter 1

Dematerialized Securities and Other Financial Instruments

Central Depository

Article 488

(1) The central depository shall be the central register of dematerialized securities into which the rights resulting from dematerialized securities shall be entered, the holders of those rights and the rights of third persons to securities.

(2) The central depository of dematerialized securities shall be managed by the central clearing and depository agency.

Central Register

Article 489

(1) The central register shall be the central register of dematerialized financial instruments, other than dematerialized securities, into which data on holders of dematerialized financial instruments shall be entered.

(2) The central register shall be managed by the operator in accordance with the provisions of this Act (hereinafter: the central register operator). The provisions of this Act which refer to the central clearing and depositary agency shall apply mutatis mutandis to the central register operator.

(3) Paragraphs 1 and 2 of this Article shall apply mutatis mutandis to financial instruments which are issued as materialized financial instruments, which are in a joint safekeeping in the central register.

(4) The provisions of this Act which refer to the central depository shall apply mutatis mutandis to the central register.

Dematerialized Securities

Article 490

(1) A dematerialized security shall be an electronic record of a securities account in the computer system of the central depository with which its issuer shall undertake to fulfill the obligation towards the legal holder contained in the dematerialized security.

(2) Securities of the issuer with the registered office in the Republic of Croatia shall be issued or offered in a public offer in the territory of the Republic of Croatia only as dematerialized securities.

(3) Credit institutions, investments companies established as joint stock companies, insurance companies and collective investment undertakings of closed-end type shall undertake to issue only dematerialized securities.

(4) Dematerialized securities that within the same issue and the same class ensure the same rights in legal operations shall be convertible without limitations, so that obligations of any kind can be fulfilled by the transfer of any security of the same issue and the same class, and therefore the creditor cannot individually claim particular dematerialized securities.

Dematerialized Securities Account

Article 491

(1) On dematerialized securities accounts, data are kept on the classes, types, quantities, property rights and holders of these rights, limitations of property rights, and the history of entries of dematerialized securities.
(2) A dematerialized securities account can be in the name of a single person, or several persons who can be holders or co-holders of dematerialized securities (joint account).

(3) Notwithstanding the provisions of paragraph 2 of this Article, a dematerialized securities account may be:

1. in the name of an investment firm or a credit institution which provides services under Article 5 paragraph 2 item 1 of this Act, and may be in the name, under code and joint account, or

2. opened as an agency account, or

3. opened as a portfolio account, or

4. opened as a trustee account.

(4) A trustee account referred to in paragraph 3 item 4 of this Article shall be the account of securities or financial instruments the holder of which is the central clearing and depository agency which, pursuant to a trust contract, keeps registered securities on that account in the name and for the account of a person determined by a trust contract.

(5) The provision of Article 529 of this Act shall apply to securities on accounts referred to in paragraphs 2 and 3 of this Article.

(6) The central clearing and depository agency may by its bylaws determine other kinds of dematerialized securities accounts.

To Whom the Right from a Security Belongs

Article 492

(1) Claims or the rights attached to dematerialized securities shall belong to their legal holder.

(2) The legal holder of a dematerialized security (hereinafter: holder) shall be the person in whose name a securities account is opened with the central depository, on which a dematerialized security is entered, unless there is no valid legal basis to perform the entry of a dematerialized security for his or her account.

(3) By way of exception from the provision of paragraph 2 of this Article, in cases referred to in Article 491 paragraph 3 items 1, 2 and 4 of this Act, the holder shall be the person for whose account securities are kept or managed.

Fundamental Elements of a Dematerialized Security

Article 493

(1) A dematerialized security shall have the following fundamental elements entered in the central depository:

1. the indication of the class of a security,

2. identification data on the issuer,

3. the total number of issued securities entered in the central depository,
4. if a security is with a nominal value, the total nominal value of issued securities entered in the central depository,

5. a date of the entry of a security in the central depository.

(2) A dematerialized share shall, in addition to the elements referred to in paragraph 1 of this Article, have the following fundamental elements entered in the central depository:

1. the indication of the type,

2. its nominal value, or an indication that it is a share without a nominal value,

3. the information whether it provides its holder a voting right,

4. if the share provides special rights, the content of those special rights.

(3) A dematerialized bond or other dematerialized security, based on which the holder is entitled to claim the payment of the principal and possible interests (a debt security), in addition to the elements referred to in paragraph 1 of this Article, shall have the following fundamental elements entered in the central depository, when applicable:

1. its nominal value, the value of the principal,

2. if the holder is entitled to the payment of interests, data on the interest rate and data on the method and periods of the interest calculation,

3. data on the maturity of liabilities of the issuer from the security,

4. if the holder is entitled to a premature repurchase:

- data on the repurchase value for which he or she may exercise that right or the method for determination of the repurchase value,

- data on the method for the exercise of that right,

- possible other conditions for the exercise of that right,

5. data on the due date for the right to the payment of a principal installment or interest.

(4) A dematerialized security which gives the holder the right to replace it for another security, in addition to the elements referred to in paragraph 1 of this Article, shall have the following fundamental elements entered in the central depository, when applicable:

1. the content of right resulting from the security for which it is possible to replace it,

2. the ratio in which it is possible to make the replacement,

3. data on the method for the exercise of the right to the replacement,

4. a deadline for the exercise of the right to the replacement, if the right is related to a deadline,

5. possible other conditions for the exercise of the right to the replacement.

(5) Dematerialized securities other than those referred to in paragraphs 2 to 4 of this Article shall have the exact content of the rights they provide entered in the central depository.

Acquisition of Dematerialized Securities

Article 494

(1) A dematerialized security and the rights resulting from a dematerialized security shall be acquired at the moment of its entry in the dematerialized securities account of the acquirer or the person who, for the purpose of Article 491 paragraph 3 items 1 and 2 of this Act, holds a dematerialized security for the acquirer's account, unless the moment of acquisition is otherwise regulated by a separate law.

(2) A dematerialized security and the rights resulting from a dematerialized security shall be acquired on the basis of a valid formal agreement through its transfer from the transferor’s dematerialized securities account to the acquirer’s dematerialized securities account, or a judicial decision or a decision of some other competent authority, by inheritance and on the basis of the law.

(3) The provisions of this Article shall apply mutatis mutandis to the disposal of a dematerialized security.

Lien on Dematerialized Securities

Article 495

(1) Lien on a dematerialized security shall be established on the basis of a valid formal agreement by the appropriate entry of that right in the dematerialized securities account or on the basis a judicial decision or pursuant to the law.

(2) Only one lien may be established on a dematerialized security on the basis of a formal agreement.

(3) Out-of-court settlement of a secured claim by pledge shall always be allowed on a dematerialized security.

(4) Notwithstanding the legal foundation of termination, lien on a dematerialized security shall be terminated at the moment of its release.

Transfer of Dematerialized Securities

Article 496

(1) Transfer of a dematerialized security from the transferor’s dematerialized securities account to the acquirer's dematerialized securities account on the basis of a transaction executed on a regulated market or a MTF shall be performed by clearing and settlement system.

(2) Transfer of a dematerialized security from the transferor’s dematerialized securities account to the acquirer's dematerialized securities account and transfer of the rights of a dematerialized security on the basis of valid formal agreement concluded outside a regulated market or a MTF, on the basis of a judicial decision or a decision of some other competent authority, by inheritance and on the basis of the law shall be performed by appropriate re-booking procedure.

Accessibility of Data from the Central Depository

Article 497

(1) The holder of dematerialized securities, or an investment firm and a credit institution providing services referred to in Article 5 paragraph 1 of this Act shall have the right of access to the data referred to in Article 491 paragraph 1 of this Act, which regard his/her dematerialized securities account, or data on the classes, types, quantities, property rights and holders of these rights, limitations of property rights of other holders of the same dematerialized securities by the same issuer.

(2) The issuer of dematerialized securities shall have the right of access to the data referred to in Article 491 paragraph 1 of this Act, whose issuer he is and the data on the holders of these securities.

(3) The issuer or the central clearing and depository agency shall allow each holder of dematerialized securities, at his/her demand, access to the data referred to in paragraph 1 of this Article.

(4) The central clearing and depository agency shall have the right to remuneration for the costs of elaboration and delivery of reports in accordance with the tariff. The holder shall neither communicate nor make accessible to other persons the information on holders and securities referred to in paragraph 3 of this Article.

(5) Each person who proves his legal interest, and subject to a reasonable commercial fee, shall have the right of access to the data referred to in Article 491 paragraph 1 of this Act, and the right to a copy of documents which were a basis for performed entries.

(6) The Agency shall have the right of access to the data referred to in Article 491 paragraph 1 of this Act and to all other data and documents kept in the central clearing and depository agency.

(7) On the basis of a request and within the scope of authority pursuant to provisions of a separate law, judicial and administrative bodies shall have the right of access to the data and documents kept in the central clearing and depository agency.

(8) The central clearing and depository agency shall keep data from the central depositary as business secret, unless otherwise regulated by this Act.

Obligation to Inform

Article 498

(1) The central clearing and depository agency shall, in the manner and scope prescribed by its rules, inform:

1. the issuers of dematerialized securities on dematerialized securities they issued and on holders of these securities,

2. the holders on the balance and changes in their dematerialized securities account,

3. members on data that are fundamental for transactions with dematerialized securities they have made for their own account or for the client's account.

(2) The central clearing and depository agency shall elaborate and submit to the Agency monthly reports on its work, within the period and with the content prescribed by the Agency.

Clearing and Settlement of Transactions with Dematerialized Securities

Article 499

(1) Clearing is the procedure of comparison of information on concluded legal transactions with dematerialized securities, determination of deadlines for payments related to legal transactions and calculation of obligations for settlement.

(2) Settlement is the mediation and control of transfer of securities and/or payment associated with legal transactions with securities.

Article 500

The provisions of Articles 490 to 499 of this Act shall apply mutatis mutandis to dematerialized financial instruments entered in the central register.

Clearing and Settlement System

Article 501

(1) The clearing and settlement system shall be the system that:

1. manages or is operated by a central counterparty or another legal person authorized by the Agency (hereinafter: clearing and settlement system operator),

2. enables clearing and settlement of transactions with financial instruments executed on a regulated market or a MTF, or outside a regulated market and a MTF, in accordance with the rules of that system regulated in advance,

3. has legal relations between its members, and between that members and the operator of that system, which arrange their mutual rights and obligations in relation to clearing and settlement of transactions with financial instruments.

(2) In addition to the elements referred to in paragraph 1 of this Article, the clearing and settlement system shall have elements pursuant to separate law that regulates settlement finality in payment and financial instrument settlement systems.

Clearing and Settlement System for Transactions with Securities Executed on a Regulated Market and a MTF in the Republic of Croatia

Article 502

(1) Clearing and settlement of transactions executed on a regulated market or a MTF in the Republic of Croatia with dematerialized securities which are entered in the central depository, shall be performed through the clearing and settlement system operated by the central clearing and depository agency, unless the stock exchange or the operator of a MTF chooses the clearing and settlement system managed by another operator pursuant to the provisions of Article 535 of this Act.

(2) The provisions of paragraph 1 of this Article shall apply mutatis mutandis to the depositary receipt issued in order to ensure clearing and settlement pursuant to the provisions of Chapter 2 Section 5 of this Act.

Clearing and Settlement System for Transactions with Other Financial Instruments Executed on a Regulated Market or a MTF in the Republic of Croatia

Article 503

The stock exchange or the operator of a MTF, in order to enable clearing and settlement of transactions with financial instruments other than securities referred to in Article 502 of this Act executed on the regulated market or the MTF it operates, shall conclude a contract with the clearing and settlement operator pursuant to the provisions of Article 535 of this Act.

Article 504

(1) The Agency may lay down in the ordinance:

1. detail organizational requirements for operating the central depository, the central register and the clearing and settlement system.

2. rules for clearing and settlement of transactions with securities and other financial instruments,

3. conditions to be fulfilled by the clearing and settlement system operator who assumes the position of a central counterparty or undertakes other affairs by which he assumes a credit risk of other counterparty.

Chapter 2

Central Clearing and Depository Agency

Section 1

General Provisions

Article 505

(1) The central clearing and depository agency shall be established and shall operate as a joint stock company in accordance with the provisions regulating the establishment and operation of companies, unless otherwise provided by this Act.

(2) The central clearing and depository agency may be established as the European Society – Societas Europea (SE) with the registered office in the Republic of Croatia.

(3) The bodies of the central clearing and depository agency shall be the assembly, the supervisory board and the board of directors.

Professional Activities of the Central Clearing and Depository Agency

Article 506

(1) The central clearing and depository agency may perform the following professional activities:

1. operating the central depository of dematerialized securities,

2. operating the central register of financial instruments,

3. operating the clearing and settlement system of transactions executed on a regulated market or a MTF or outside a regulated market and a MTF,

4. services related to corporate actions of the issuer of dematerialized securities,

5. safekeeping of shares related to the takeover of joint stock companies,

6. activities related to payments and other returns from dematerialized securities,

7. trust services,

8. services of voting as proxies at general assemblies,

9. determination of a unique identification mark of a dematerialized security,

10. sale and maintenance of computer programmes it develops for performing the services referred to in items 1 to 7 of this paragraph, and other related operations,

11. activities of the operator of the Investors Protection Fund pursuant to the provisions of Article 222 paragraph 3 of this Act,

12. maintaining the Official Register of Regulated Information pursuant to the provisions of Article 444 of this Act,

13. other activities related to transactions with dematerialized securities or other financial instruments, by meeting obligations under them, and determination and exercise of the rights deriving from them.

(2) The central clearing and depository agency shall obtain an authorisation from the Agency for performing the activities referred to in paragraph 1 items 1, 2, 3, 11, 12 and 13 of this Article.

(3) The operating the central depository means performing the following entries in the central depository:

1. entry related to the issue, termination or replacement of dematerialized securities,

2. entry related to the transfer of dematerialized securities from one account to the other,

3. entry related to the entry, change or release of rights of third parties to dematerialized securities and other legal effects the subject of which are dematerialized securities.

(4) The central clearing and depository agency may not carry on any professional activity other than those referred to in paragraph 1 of this Article.

(5) The central clearing and depository agency shall perform services referred to in paragraph 1 of this Article under reasonable commercial conditions and guided by the principle of equality of all persons.

Initial Capital

Article 507

(1) The initial capital of the central clearing and depository agency shall amount to no less than HRK 20,000,000.00.

(2) The initial capital referred to in paragraph 1 of this Article shall be fully paid up in cash and the shares that form it cannot be issued before the full amount to which the shares are issued has been paid up.

Shares

Article 508

(1) All shares of the central clearing and depository agency shall be registered shares and shall be issued in a dematerialized form.

(2) The shares of the central clearing and depository agency shall not be admitted to trade on a regulated market, a MTF or other organized market.

Board of Directors and Supervisory Board of the Central Clearing and Depository Agency

Article 509

The provisions of Articles 286 and 287 of this Act shall apply mutatis mutandis to the board of directors and the supervisory board of the central clearing and depository agency, whereby the term “stock exchange” shall be replaced by the term “central clearing and depository agency” as appropriate.

Shareholders of a Qualified Holding of the Central Clearing and Depository Agency

Article 510

The provisions of Articles 28 and 29 and Articles 44 to 52 of this Act shall apply mutatis mutandis to the shareholders and the change of shareholders of a qualified holding of the central clearing and depository agency, close links, legal consequences of the acquisition of a qualified share without the approval of the Agency and the measures taken by the Agency in the event when sound and prudent management of the central depository and the clearing and settlement system is jeopardized, whereby the term “investment firm” shall be replaced by the term “central clearing and depository agency” as appropriate.

Section 2

Organizational Requirements for Operating the Central Depository And the Clearing and Settlement System

Conflict of Interest

Article 511

(1) The central clearing and depository agency shall establish and implement appropriate arrangements for determination of a conflict of interest between the interest of the central clearing and depository agency, members of the management and supervisory bodies and shareholders, and the interest that the central clearing and depository agency properly performs services of operating the central depository, clearing and settlement of transactions and other services, guided by the principle of equality of all persons.
(2) The central clearing and depository agency shall establish and implement efficient arrangements with the view to prevent and manage the conflict of interest, including all reasonable steps for the prevention of the opposed interests referred to in paragraph 1 of this Article to have an adverse effect to the safe, proper and efficient clearing and settlement of transactions with securities.

Management System

Article 512

(1) The central clearing and depository agency shall establish and implement a stable and safe management system including:

1. a sound organizational structure with minutely regulated, well laid out and consistent internal relations regarding responsibility,
2. efficient procedures for determination, measurement or evaluation, management and control of risks to which the central clearing and depository agency is exposed or could be exposed while performing its operations,
3. an efficient internal control system which includes appropriate administrative and accounting procedures.

(2) The organizational structure, procedures and systems referred to in paragraph 1 of this Article shall be determined in a sound and comprehensive manner and proportionate to the type, volume and complexity of operations performed by the central clearing and depository agency.

Risk Management

Article 513

(1) Risk management shall encompass determination, measurement or evaluation, management and control of risks, including informing responsible persons on risks to which the central clearing and depository agency is exposed or could be exposed while performing its activities.

(2) The central clearing and depository agency shall establish and implement the rules of procedures for risk management for each and every kind of risk to which it is exposed while performing its operations.

(3) The central clearing and depository agency shall establish and implement arrangements and establish systems for determination and management of risks which derive from its operations and their reduction to the least possible extent.

(4) With the aim of ensuring proper operating, the central clearing and depository agency shall dispose of sufficient financial resources, depending on the type and volume of operations it performs, and of the volume and structure of risks which derive from its operations.

(5) In the case of a serious jeopardy of the risk management system, the central clearing and depository agency shall inform the Agency thereof without delay.

Outsourcing of Operational Functions

Article 514

(1) When the central clearing and depository agency outsources the important operational functions, this may not have the following consequences:

1. jeopardy of safekeeping and implementation of clearing and settlement as prescribed by this Act and the ordinances adopted pursuant to this Act, or
2. a change of conditions under which authorisation as central clearing and depository agency was granted, or
3. a change of conditions under which the central clearing and depository agency operates the central depository and the clearing and settlement system, or
4. inability of supervision by the Agency.

(2) When the central clearing and depository agency separates business processes which are important for its operations, it shall:

1. include those services in the internal control system,

2. inform the Agency without delay on the intention of and method for the separation of business processes.

The Central Depository System

Article 515

(1) The central depository system shall consist of a computer system and a set of procedures which enable:

1. operating the central depository,

2. operating the clearing and settlement procedure,

3. support in performing other operations and services referred to in Article 506 paragraph 1 item 1 to 6 of this Act.

(2) The central clearing and depository agency shall establish and implement measures and procedures in order to ensure correct, continuous and efficient functioning of the central depository system, and apply appropriate and efficient safety measures for possible disturbances in the system.

(3) The system referred to in paragraph 1 of this Article shall enable at all times checking on whose behalf and to whose account a particular entry was made.

(4) The central clearing and depository agency shall take all appropriate measures which are necessary to ensure continuous and regular performance of its operations, using appropriate systems, means and procedures which are proportionate to the type and volume of services and operations it performs.

(5) The agency may lay down in the ordinance in more detail the conditions which the central clearing and depository agency system must fulfill.

Data Keeping and Safekeeping

Article 516

The central clearing and depository agency shall be required to protect the data against unauthorized use and against change and loss, and to preserve in a safe place and in the original form the original documentation used for making entries for at least five years. Data recorded on electronic media shall be kept permanently.

Article 517

(1) With regard to clearing and settlement of transactions on a regulated market, a MTF or outside a regulated market or a MTF, and other transactions with securities or payment of obligations deriving from securities, the central clearing and depository agency may not grant credit to a member of the clearing and settlement system, issuer or other persons or perform other operations by which it would take over a credit risk of the counterparty.

(2) The central clearing and depository agency shall establish an internal audit department in charge of the check and supervision of efficiency, reliability and safety of all systems and procedures of the central clearing and depository agency.

(3) The central clearing and depository agency shall not have a position of a central counterparty in terms of this Act.

Article 518

(1) The central clearing and depository agency shall inform the Agency without delay on all changes of persons referred to in Articles 509 and 510 of this Act, and on all changes of data from the application for the authorisation.

(2) The central clearing and depository agency shall elaborate annual financial reports and annual reports pursuant to the provisions regulating the establishment and business of companies and accounting of entrepreneurs and the application of financial reporting standards and file them with the Agency together with the audit report within 15 days from the day of receiving the audit report, and not later than 4 months from the last day of the business year.

(3) The Agency may lay down in the ordinance the content and structure of annual financial reports of the central clearing and depository agency, and the form of and method for their filing with the Agency.

Obligation to Keep Secrecy

Article 519

(1) The central clearing and depository agency shall keep confidential all information on a particular issuer, holder, member or any other person, regardless of the manner it obtained the data. The central clearing and depository agency shall by its internal act specify the information considered to represent business secret, and the manner of using such information, unless otherwise regulated by the provisions of this Act and other regulations.

(2) The board of directors of the central clearing and depository agency shall once a month present to the Agency a report on acquisition and disposal of financial instruments of members of the board of directors, members of the supervisory board and employees of the central clearing and depository agency.

(3) The obligation from the paragraph 2 of this Article shall also apply to acquisitions and disposals of financial instruments by the spouse, child, adoptive child, parent or adoptive parent and other persons who live with the member of the board of directors, member of the supervisory board or employee in a common household, and to acquisitions and disposals by legal persons in which such persons have a major holding.

(4) Members of the board of directors and employees of the central clearing and depository agency shall not be members of managing and supervisory bodies of investment firm.

Disclosure of Information on Dematerialized Securities

Article 520

(1) The central clearing and depository agency shall disclose and daily update the following information on its Internet sites:

1. the issue, replacement and deletion of dematerialized securities in the central depository,

2. all dematerialized securities entered in the central depository,

3. corporate actions performed through the central clearing and depository agency,

4. identity of the holder of the first 10 accounts on which the largest amount of any security is entered and the information on the amount of securities on those accounts (in absolute and relative indicators).

(2) The Agency may lay down in ordinance the content of information referred to in paragraph 1 items 2 and 4 of this Article.

Rules and Instructions

Article 521

(1) The central clearing and depository agency shall establish and implement the rules (hereinafter: the rules of the central clearing and depository agency) and implementation measures (the instructions of the central clearing and depository agency) in which it shall determine in detail the method for performing the operations referred to in Article 506 of this Act, and in particular:

1. provisions on members,

2. provisions on operating the central depository and/or the central register,

3. provisions on the clearing and settlement,

4. provisions on entry and irrevocability of a transfer order pursuant to separate law that regulates settlement finality in payment and financial instrument settlement systems,

5. provisions on the procedures with regard to safekeeping of shares related to a takeover offer pursuant to separate law that regulates the conditions and procedure for the takeover of joint stock companies,

6. provisions on depositing of securities of issuers from other countries.

(2) The acts referred to in paragraph 1 of this Article and all their amendments shall be approved by the Agency.

(3) The central clearing and depository agency shall disclose the approved acts referred to in paragraph 1 of this Article on its Internet sites, and inform its members on their adoption or amendments not later than 7 days from the beginning of their application.

Remuneration for the Central Clearing and Depository Agency Services

Article 522

(1) The central clearing and depository agency shall be remunerated for its services in accordance with the tariff defined by the central clearing and depository agency.

(2) The central clearing and depository agency shall bring the tariff referred to in paragraph 1 of this Article, guided by equality of positions of all users of its services and under reasonable commercial conditions.

(3) The tariff and all its amendments shall be approved by the Agency.

(4) The central clearing and depository agency shall disclose the approved tariff on its Internet sites, and inform its members on their adoption or amendments not later than 7 days from the beginning of their application.

Section 3

Granting and Withdrawing Authorisation

Granting Authorisation as Central Clearing and Depository Agency

Article 523

(1) The application for the authorisation referred to in Article 506 paragraph 2 of this Act shall be submitted by the founders of the central clearing and depository agency.

(2) The application for the authorisation referred to in paragraph 1 of this Article shall indicate which professional activities referred to in Article 506 paragraph 2 of this Act the central clearing and depository agency intends to perform, and for which types of financial instruments.

(3) The central clearing and depository agency shall, before commencing operating the clearing and settlement of transactions with financial instruments which are not covered by authorisation, request the extension of authorisation by the Agency.

(4) The Agency shall lay down in ordinance the content of the application for the authorisation and the extension of the authorisation, the necessary documentation which is attached to the application, and the content of that documentation.

The Agency's Decision-Making on the Application for the Authorisation

Article 524

(1) The Agency may simultaneously decide upon:

1. the application by the central clearing and depository agency for the authorisation for performing professional activities referred to in Article 506 paragraph 2 of this Act,

2. the application by proposed acquirer of qualified holdings of the central clearing and depository agency for the authorisation for acquiring qualified holdings of the exchange,

3. the application by candidates for members of the board of directors of the central clearing and depository agency.

(2) The Agency shall grant authorisation to perform professional activities referred to in Article 506 paragraph 2 of this Act to the central clearing and depository agency if the following conditions are fulfilled:

1. it is established pursuant to Article 505 of this Act,

2. the initial capital meets the conditions referred to in Article 507 of this Act,

3. members of the board of directors and of the supervisory board fulfil the conditions referred to in Article 509 of this Act,

4. the conditions referred to in Article 510 of this Act are fulfilled,

5. it fulfils the obligations referred to in Articles 511 to 515 of this Act,

6. it fulfils the conditions for the operator of the Investors Protection Fund referred to in Part 2 Title I Chapter 10 of this Act (Investor Protection Scheme), when applicable,

7. it fulfils the conditions for maintaining the Official Register of Regulated Information stipulated by this Act and ordinances adopted pursuant to this Act, when applicable,

8. the clearing and settlement system it intends to operate fulfils the obligations referred to in Article 501. of this Act.

(3) The authorisation referred to in paragraph 2 of this Article shall indicate the types of financial instruments to which the authorisation refers.

(4) The authorisation shall be granted for an indefinite time, it cannot be transferred to another person and it shall not be valid for a legal successor.

(5) The central clearing and depository agency shall permanently fulfil the conditions under which the authorisation is granted.

(6) The Agency shall inform the European Commission on the authorisation for operating the clearing and settlement system.

Extension of the Authorisation

Article 525

(1) If, after obtaining the authorisation referred to in Article 506 paragraph 2 of this Act, the central clearing and depository agency seeks to perform an additional professional activity and/or the same professional activity which refers to additional types of financial instruments, it must the authorisation by the Agency.

(2) The provisions of Article 523 and 524 of this Act shall apply mutatis mutandis to the extension of the authorisation. The application for the extension of the authorisation shall be submitted by the board of directors of the central clearing and depository agency.

Lapse of the Authorisation

Article 526

(1) The authorisation shall lapse:

1. if the central clearing and depository agency has not started performing the activities for which the authorisation was issued within one year from the date of issue of the authorisation, with the lapse of the mentioned term,

2. if the central clearing and depository agency has failed to perform the activities for which the authorisation was issued for more than 6 months, with the lapse of the mentioned term,

3. at the own request of the central clearing and depository agency, by delivering the Agency’s decision,

4. with the delivery of the Agency’s decision whereby withdrawing the authorisation

5. as of the date of instituting bankruptcy proceedings,

6. with the conclusion of a liquidation procedure.

(2) Should the reason occur referred to in points 1 and 2 paragraph 1 of this Article, the Agency will issue a decision whereby establishing the termination of the validity of the issued authorisation.

Section 4

Members of the Central Clearing and Depository Agency

Types of Members

Article 527

(1) Members of the central clearing and depository agency may be the persons who are members of the stock exchange, a MTF, management companies of investment funds and issuers of dematerialized securities, and other persons if they fulfil the conditions for membership.

(2) Members of the central clearing and depository agency shall be:

1. members users of the safekeeping services (members of the depository),

2. members participants in the clearing and settlement system (members participants).

(3) A member of the depository shall be a member to whom the central clearing and depository agency enables the use of the information system of the central depository for keeping a dematerialized securities account.

(4) A member participant shall be a member using clearing and settlement of transactions executed on a regulated market or a MTF.

(5) The central clearing and depository agency shall bring transparent rules on membership which are based on unambiguous and objective criteria and particularly the rules on the admission to membership, termination of membership, conditions for membership, and the rights and obligations of members.

(6) The central clearing and depository agency may by its rules regulate types of membership other than those referred to in paragraph 2 of this Article.

(7) The central clearing and depository agency shall inform the Agency on a regular basis on each new member and termination of membership and submit an updated list of members.

(8) The law of the Republic of Croatia shall apply to mutual rights and obligations between the central clearing and depository agency and its members.

Monitoring by the Central Clearing and Depository Agency of its Members

Article 528

(1) The central clearing and depository agency shall establish, implement and maintain arrangements for monitoring whether its members fulfil the conditions for membership.

(2) The central clearing and depository agency shall inform the Agency, the stock exchange and/or the operator of MTF without delay on each non-fulfillment of obligation by a member participant relating to clearing and settlement of transactions on a regulated market and/or a MTF, and on each serious violation of rules of the central clearing and depository agency by a member participant.

Property of Members

Article 529

Financial instruments and funds of investors and members of the central clearing and depository agency shall not be included either in property of the central clearing and depository agency, or in its bankruptcy or liquidation estate, nor can they be used for distraint levied on the central clearing and depository agency.

Insolvency

Article 530

As regards the insolvency procedure for a member participant of the central clearing and depository agency and legal consequences of insolvency, the provision of the separate law that regulates settlement finality in payment and financial instrument settlement systems shall apply to a participant in the system.

Guarantee Fund

Article 531

(1) The central clearing and depository agency shall create a guarantee fund.

(2) The assets of the guarantee fund shall consist of payments made by the members of the central clearing and depository agency that use its clearing and settlement services.

(3) The assets of the guarantee fund shall be used for settlement of obligations of the members when there are no sufficient funds or enough financial instruments for settlement under contract; such assets shall not be used for any other purpose and cannot be the object of seizure either in the case of members or in the case of the central depository agency.

(4) The rules of payment of contributions and the usage of the guarantee fund shall be prescribed by the central clearing and depository agency, subject to approval by the Agency.

Section 5

Issuance of Depository Receipts

Article 532

A depository receipt means a security containing the right of a holder of that security toward the issuer of depository receipt to request:

1. the fulfillment of obligation from security to which the receipt refers (basic security); or

2. for his account the exercise of the right from the basic security with regard to the issuer of the basic security.

Article 533

The issuer of a depository receipt may be:

1. the issuer of a basic security, or

2. an investment firm or a credit institution which is authorized directly or through a branch office in the Republic of Croatia to provide investment services referred to in Article 5 paragraph 1 item 7 of this Act.

Issuance of Depository Receipts as Dematerialized Securities
Article 534

(1) A depository receipt shall be issued as a dematerialized security.

(2) For the issuance of a depository receipt, all the following conditions shall be fulfilled:

1. basic securities are:

- issued as dematerialized securities entered in the appropriate central depository, or

- they are in a joint safekeeping in such central depository,

2. basic securities are entered in the central depository referred to in item 1 of this paragraph in favour of the account of the issuer of the depository receipt,

3. the issuer of the depository receipt shall ensure that in favour of its account referred to in item 2 of this paragraph prohibition of disposal in favour of the central clearing and depository agency is entered.

Section 6

Other System for Clearing and Settlement of Transactions with Securities Executed on a Regulated Market and a MTF

Article 535

(1) The exchange may choose another clearing and/or a settlement system from the Republic of Croatia or another state, with the aim of clearing and/or settlement of single or all transactions executed on a regulated market which it operates.

(2) An operator of MTF may choose another clearing and/or a settlement system from the Republic of Croatia or another state, with the aim of clearing and/or settlement of single or all transactions executed on a MTF which it operates.

(3) In order to choose a system operator referred to in paragraphs 1 and 2 of this Article, the stock exchange or an operator of MTF must obtain a prior consent by the Agency.

(4) The Agency may refuse to provide a prior consent referred to in paragraph 3 of this Article if it deems necessary for ensuring proper functioning of the regulated market or a relevant MTF.

(5) During supervision of the clearing and/or settlement system from another state, and with the aim of avoiding double supervision, the Agency shall take into consideration supervision of that system performed by another competent authority.

The right of a Member of the Stock Exchange or the MTF to Choose a Clearing and/or Settlement System

Article 536

(1) The stock exchange or operator of the MTF shall enable its member at his or her request clearing and/or settlement of obligations created on the basis of transactions on a regulated market or MTF it

operates, through another clearing and/or settlement system which is different from the one selected by the stock exchange or operator of the MTF, if the following conditions are fulfilled:

1. if there is an appropriate relationship between the clearing and/or settlement system selected by the stock exchange or operator of MTF pursuant to Articles 502 and 503 of this Act and the system chosen by a member of the exchange or the MTF, which enables an efficient and economic settlement of the relevant transaction, and

2. if the Agency issued the approval for clearing and/or settlement through the system selected by a member of the stock exchange or the MTF.

(2) The Agency shall, at the request of a member of the stock exchange or the MTF, grant the approval referred to in paragraph 1 item 2 of this Article if technical conditions for clearing and/or settlement through the system chosen by a member of the exchange ensure proper functioning of the financial market.

(3) The clearing and/or settlement system operator may refuse to provide a requested service referred to in paragraph 1 of this Article.

(4) During supervision of the clearing and/or settlement system from another state, and with the aim of avoiding double supervision, the Agency shall take into consideration supervision of that system performed by another competent authority.

Article 537

The provisions of this Act referring to the activities of safekeeping, clearing and settlement of dematerialized securities shall apply mutatis mutandis to other financial instruments.

Section 7

Supervision of the Central Clearing and Depository Agency
The Agency's Competence for Supervision

Article 538

(1) The Agency shall be competent for supervision of the central clearing and depository agency with regard to all activities and operations performed by the central clearing and depository agency.

(2) When it is necessary for supervision of the central clearing and depository agency, the Agency may request appropriate notices and information from the following persons and perform inspection of their business operations:

1. persons who are in close links with the central clearing and depository agency,

2. persons to which the central clearing and depository agency outsourced their operational functions,

3. shareholders of qualified holdings in the central clearing and depository agency.

(3) When another competent authority is authorized for supervision of particular persons referred to in paragraph 2 of this Article, the Agency shall perform inspection of business operations of that person in cooperation with another competent authority.

Purpose of Supervision

Article 539

(1) The Agency shall perform supervision of the central clearing and depository agency by:

1. collecting documentation and checking disclosed information and notices, and notices which the central clearing and depository agency or other persons must submit pursuant to the provisions of this or other Acts,

2. performing inspection of business operations of the central clearing and depository agency and persons referred to in Article 538 paragraph 2 of this Act,

3. pronouncing supervisory measures.

(2) The Agency may do the following as a supervisory measure to the central clearing and depository agency:

1. issue a public warning,

2. order that the illegitimacies and irregularities established be eliminated, which may include a request for a modification or amendment of rules of the central clearing and depository agency,

3. withdraw the authorisation.

Withdrawal of the Authorisation

Article 540

The Agency may withdraw the authorisation to the central clearing and depository agency if:

1. it no longer fulfils the conditions on the basis of which the authorisation was granted,

2. it violates severely and systematically the provisions of this part of the Act and the ordinances adopted pursuant to this Act,

3. the authorisation is granted on the basis of false data.

PART SIX

Title I

Supervision exercised by the Agency

Article 541

(1) The Agency shall exercise supervision over the supervised entities in accordance with this Act and the regulations adopted pursuant to this Act.

(2) The procedures carried out by the Agency within its scope of competence shall be governed by the provisions of this Title unless otherwise stipulated.

(3) The procedures referred to in paragraph 1 of this Article shall be governed by the provisions of the General Administrative Procedure Act unless otherwise stipulated.
(4) Entities supervised by the Agency shall be persons or entities defined as supervised entities under the provisions of this Act and the law governing the establishment and operations of the Agency.

Supervision methods

Article 542

(1) The Agency shall exercise supervision *ex officio* through:

1. the on-site supervision, which is performed by the authorised persons from the Agency at the business premises of the supervised entities or those of a legal entity to which the supervised entity is directly or indirectly related in terms of business, management or capital, by inspecting original documents;

2. the continuous supervision, which is performed by the persons authorised by employment through the analysis of the reports that the supervised entities are required to deliver to the Agency within the prescribed periods, and also by monitoring, collecting and reviewing the documents, notifications and information obtained at a special request of the Agency, as well as by monitoring, collecting and reviewing the information and facts from other sources.

(2) On-site supervision referred to in paragraph 1, point 1 of this Article can be ordinary or extraordinary.

(3) The Agency shall adopt an annual supervision plan to determine the calendar of ordinary on-site supervisions.

(4) The Agency shall exercise supervision over other persons and entities referred to in Article 253 of this Act on the basis of a notification made by a state administration body or a public authority, *ex officio*, or when the facts that the Agency has learned while exercising any of its powers provided for in this Act suggest that there are reasons for such supervision.

Providing information at the request of the Agency

Article 543

(1) At the request of the Agency, the supervised entity shall deliver or submit documents, reports and information on all circumstances relevant to supervision or the exercise of other powers and implementation of other measures conferred upon the Agency under this Act, the law governing the establishment and operations of the Agency, and the regulations adopted pursuant to those Acts.

(2) The information referred to in paragraph 1 of this Article shall be provided to the Agency by the management board members or employees of the supervised entity.

(3) The Agency may request the persons referred to in paragraph 2 of this Article to submit a written statement on the circumstances referred to in paragraph 1 within a period not shorter than three days, or it may invite them to make an oral statement on those circumstances unless supervision is exercised in accordance with the provisions of Part Four of this Act.

On-site supervision notification

Article 544

(1) Before the beginning of the on-site supervision, the supervised entity shall be delivered a written notification of on-site supervision containing at least the following information:

1. the subject of supervision,

2. the information as to what the supervised entity has to prepare for the authorised persons for the purpose of their performing on-site supervision,

3. the information on the persons authorised to perform supervision,

4. the premises where supervision will be carried out,

5. the date of the beginning of supervision.

(2) During the supervision, the Agency may supplement the notification of on-site supervision.

(3) The provisions of paragraph 1 of this Article shall apply accordingly to the notification referred to in paragraph 2 of this Article.

Delivery of the on-site supervision notification

Article 545

(1) The on-site supervision notification shall be delivered to the supervised entity at least eight days before the beginning of the supervision.

(2) By way of exception, paragraph 1 of this Article shall not apply if that would jeopardize the purpose of on-site supervision, and the decision to such effect shall be made by the Management Board of the Agency.

(3) In the instances referred to in paragraph 2 of this Article, the authorised employees of the Agency shall hand in the supervision notification on the first day of the on-site supervision.

On-site supervision

Article 546

(1) After the supervision notification has been delivered, the supervised entity shall enable the authorised persons from the Agency access to its head office and other premises where the supervised entity itself, or any other entity authorised by it, conduct the activities subject to the Agency supervision.

(2) At the request of the authorised person from the Agency, the supervised entity shall enable them to inspect business records and documents, as well as administrative or other records to an extent necessary to exercise supervision.

(3) At the request of the authorised persons from the Agency, the supervised entity shall present all requested business documents, computer printouts and phone call records.

Conditions for performing on-site supervision

Article 547

(1) The supervised entity shall make available to the authorised person from the Agency adequate facilities where it is possible to exercise supervision without disturbance and presence of other people.

(2) At the request of the authorised person from the Agency, the supervised entity shall provide expert and technical support, give necessary clarifications, and enable the supervision to be carried out at its head office.

(3) At the request of the authorised person from the Agency, the supervised entity shall also ensure other conditions necessary to exercise supervision.

(4) The supervision referred to in paragraphs 1 and 2 of this Article shall be conducted by the authorised persons from the Agency during the supervised entity's regular office hours. If necessary because of the extent or nature of business operations, the supervised entity shall enable the authorised person from the Agency to exercise supervision also outside its regular office hours.

(5) The authorised persons from the Agency may temporarily remove from the supervised entity the documents referred to in Article 546 of this Act, as well as financial instruments, cash or items that may be used as evidence in criminal or misdemeanour proceedings, and those items may be kept only until the beginning of the proceedings, when they shall be handed over to the competent authority conducting the proceedings.

End of on-site supervision

Article 548

(1) After the on-site supervision is completed, a report shall be made containing a detailed description of the findings and delivered to the supervised entity.

(2) The supervised entity may file a complaint on the report within eight days after receiving it.

(3) By way of exception from the provisions of paragraph 2 of this Article, the Agency may set a period shorter than the one referred to in paragraph 2 of this Article if necessary in order to prevent potential material negative consequences for an investment firm, its clients or third parties.

Reasons for complaint

Article 549

(1) The complaint on the report may be filed for the following reasons:

1. the report refers to the supervision of an entity which is not subject to the Agency supervision,

2. the findings set out in the report are incorrect or incomplete.

Contents of complaint

Article 550

(1) The complaint must contain:

1. a reference to the report on which the complaint is made,

2. a statement that the findings set out in the report are entirely or partly contested,

3. reasons for the complaint,

4. other information that each petition has to contain pursuant to the General Administrative Procedure Act.

(2) In its complaint, the supervised entity may state the facts which show that the violations and viol stated in the report do not exist and present evidence thereof. If the complaint contains reference to any documents, the supervised entity shall attach such documents to its complaint as evidence.

(3) If no documents are attached to the supervised entity's complaint as evidence, when making its decision the Agency shall take into consideration only those pieces of evidence that are attached to the complaint.

(4) After the deadline for complaints, the supervised entity may not state new facts or produce new evidence.

(5) The complaint is considered as an integral part of the report.

Imposition of supervisory measures

Article 551

(1) After the supervision is completed, the Agency may impose on the supervised entity supervisory measures stipulated in this Act for the purpose of ensuring orderly trading in financial instruments in the regulated market or to protect investors' interests.

(2) When the Agency establishes reasonable suspicion of a criminal act or a misdemeanour being committed, it shall notify the competent authority accordingly.

Continuous supervision

Article 552

During the continuous supervision, the person authorised by employment shall:

1. establish whether the prescribed reports and other information have been delivered within the prescribed period and in the prescribed format,

2. establish whether the information contained in those reports and other required documents is correct.

Report on continuous supervision

Article 553

(1) If violations and irregularities are found in the operations of an investment firm during the continuous supervision, the person authorised by employment shall prepare a report.

(2) The report containing a detailed description of findings during the supervision shall be delivered to the supervised entity.

(3) The provisions on the on-site supervision report and complaints about the on-site supervision report shall apply mutatis mutandis to the report on continuous supervision.

(4) On the basis of the findings set out in the report referred to in this Article, the Agency may take all supervisory measures as in the case of the on-site supervision.

Article 554

If the adoption of the measures referred to in Article 262, paragraph 2, point 2 of this Act is deemed necessary in order to ensure orderly functioning of the market and/or to protect investors, where those measures cannot be postponed, and providing that the facts on which the measure is based have been ascertained or at least made probable, the Agency may decide on their imposition in a shortened procedure.

Title II

Co-operation with the competent authorities and exchange of information

Co-operation between the competent authorities in the Republic of Croatia

Article 555

(1) The Agency and other competent authorities in the Republic of Croatia responsible for the supervision of credit and other financial institutions shall provide, at the request of a competent authority, another competent authority with all information concerning the supervised entities that such competent authority may need during the licensing procedure or when making decisions on other individual applications within its scope of competence.

(2) The bodies referred to in paragraph 1 of this Article shall exchange information on violations and irregularities found during their supervision providing that such findings are relevant to the other authority.

(3) Exchange of information pursuant to this Article shall not be considered as a disclosure of professional secret, and the Agency and other competent authorities shall safeguard and treat thus obtained information as confidential, and they may not use such information for any other purpose than the one for which it has been provided.

(4) The scope of information exchange and the co-ordination of procedures and activities in the process of supervision and regulation of credit and other financial institutions and groups shall be regulated in a special agreement on co-operation between the competent authorities.

Co-operation between the Agency and competent authorities of the Member States

Article 556

(1) The Agency and the competent authorities of a Member State shall co-operate in the process of supervising the investment firms which provide their services, directly or through a branch, in the territory of the Republic of Croatia and that Member State.

(2) If the Agency has reasons to believe that an investment firm which does not fall within its scope of competence, but operates in the territory of another Member State, violates or has violated the provisions of this Act, it shall notify the competent authority in the relevant Member State accordingly.

(3) The Agency and the competent authority in a Member State shall conclude co-operation agreements if the activities of the regulated market that has established remote access in the host Member State become relevant for the functioning of the capital market as a whole and for investor protection in that host Member State.

(4) For the purpose of mutual co-operation referred to in paragraphs 1 and 2 of this Article, the Agency may exercise all the powers conferred upon it under this Act or another law.

(5) If the Agency receives from a competent authority a request for supervision or investigation, it shall act within the powers conferred on it under this Act, and in particular:

1. exercise supervision or investigation independently,

2. allow the requesting authority to perform supervision or investigation itself, or

3. allow auditors or other experts to perform supervision or investigation.

(6) The Agency shall consult the competent authorities of the other Member State prior to granting authorisation to an investment firm which is:

1. a subsidiary of an investment firm or credit institution authorised in another Member State;

2. a subsidiary of the parent undertaking of an investment firm or credit institution authorised in another Member State,

3. controlled by the same natural or legal persons as control an investment firm or credit institution authorised in another Member State

(7) The Agency shall consult the competent authorities responsible for the supervision of credit institutions or insurance undertakings of the other Member State prior to granting authorisation to an investment firm which is:

1. a subsidiary of a credit institution or insurance undertaking authorised in the Community;

2. a subsidiary of the parent undertaking of a credit institution or insurance undertaking authorised in the Community,

3. controlled by the same natural or legal persons who control a credit institution or insurance undertaking authorised in the Community.

(8) The agency shall take into account the opinion of the relevant competent authorities referred to in paragraphs 6 and when assessing the suitability of the shareholders or members and the reputation and experience of persons who effectively direct the business involved in the management of another entity of the same group, for the granting of an authorisation as well as for the ongoing assessment of compliance with operating conditions.

Exchange of information between the Agency and competent authorities of the Member States

Article 557

(1) The Agency and the competent authorities of the Member States shall exchange all data concerning:

1. the management and ownership structure of investment firms, if such information can facilitate supervision

2. the compliance with requirements for the granting of an authorisation by the competent authorities

3. information which can facilitate supervision
(2) If the Agency has obtained confidential information from the competent authority of another Member State or during supervision in a branch of an investment firm domiciled in a Member State, it can make such information available only with consent of that competent authority.

Confidentiality requirement

Article 558

(1) The members of the Management Board and employees of the Agency, as well as statutory auditors and other professionals acting under the authority of the Agency shall preserve confidentiality of all information they learn during supervision and while exercising their powers.

(2) Confidential information may not be disclosed to another party or a state authority save in the form of an excerpt not disclosing the identity of the supervised entity to which such confidential information refers.

(3) The prohibition referred to in paragraph 2 shall not apply:

1. when confidential information is required for the purposes of criminal procedure

2. in the case of bankruptcy or involuntary liquidation of the supervised entity, to the confidential information necessary to declare the creditor's claims in bankruptcy proceedings or related civil proceedings.

(4) The confidentiality requirement referred to in paragraphs 1 to 3 of this Article shall apply also to the information which the Agency or the persons referred to in paragraph 1 of this Article learn through exchange of information with other competent authorities.

Article 559

(1) The members of the Management Board and employees of the Agency may not give advice with regard to trading or investing in financial instruments, nor may they give opinions regarding the benefits or disadvantages of the acquisition or disposal of financial instruments.

(2) The prohibition of the activities referred to in paragraph 1 of this Article shall cease to have effect six months after those persons have stopped performing their duties or tasks at the Agency.

(3) Whenever they acquire or dispose of financial instruments, the members of the Management Board and employees of the Agency shall report the transactions to the Management Board of the Agency

within seven days by stating the kind of the financial instrument concerned, the issuer, the date and the legal basis of its acquisition or disposal.

(4) The obligation referred to in paragraph 3 of this Article shall apply also to the acquisitions and disposals of financial instruments by spouses, children, adopted children, parents or adoptive parents, and other persons living in the same household with that Management Board member or employee, as well as the acquisitions and disposals of financial instruments by legal entities in which those persons have a majority interest, and the reporting deadline shall begin on the day when the Agency employee, a member or the Chairman of its Management Board learns of such acquisition or disposal or when, considering the specific circumstances, the transaction could not have remained unknown to them.

(5) The Agency shall maintain records of acquisitions or disposals of financial instruments by the persons referred to in paragraphs 1 and 4 of this Article, and in each individual case it shall check whether the persons referred in paragraph 1 of this Article have a conflict of interest in relation to their duties and tasks at the Agency, and it shall impose appropriate measures on such persons in accordance with the applicable regulations and the internal rules of the Agency.

(6) Pursuant to the regulations governing the right to access information, anyone may request information from the Agency records on acquisitions or disposals of financial instruments by the persons referred to in paragraphs 1 and 4 of this Article.

Use of confidential information

Article 560

The Agency may use the confidential information obtained while exercising supervision or carrying out other activities within its scope of competence only for the following purposes:

1. to check compliance with the requirements for granting of authorisations and approvals by the Agency pursuant to this Act,

2. to exercise supervision on an individual and/or a consolidated basis,

3. misdemeanour and criminal procedures, or

4. in proceedings conducted before the Administrative Court against the final decisions of the Agency

5. monitoring and supervision of orderly functioning of the trading place.

Entities not subject to the confidentiality requirement

Article 561

(1) The Agency may forward confidential information to the following entities in the Republic of Croatia or other Member State:

1. the competent authorities responsible for the supervision of investment firms, credit and financial institutions and insurance companies, and competent bodies for supervision of fulfilment of the obligation of publishing the prospectus related to public offering or admission to trading of securities, to enable them to perform their duties prescribed by the law,

2. the courts and other authorities or legal entities responsible for conducting liquidation or bankruptcy proceedings in the supervised entities referred to in point 1 of this paragraph or other similar proceedings so as to enable them to perform their duties prescribed by the law,

3. the auditors performing an audit in the supervised entities referred to in point 1 of this Article to enable them to perform their duties prescribed by the law,

4. the bodies responsible for the supervision of the authorities conducting liquidation or bankruptcy proceedings in banks or other similar proceedings, if such information is necessary to them in performing their supervisory duties,

5. the bodies responsible for the supervision of the auditors performing audit in supervised credit and financial institutions, if such information is necessary to them in performing their supervisory duties,

6. the European Central Bank, the central bank or another authority with the power and duty to implement monetary policy, or any other body responsible for payment system supervision,

7. the ministry responsible for finance, or a state authority in another Member State with the power to propose laws in the area of the supervision of credit and financial institutions, investment firms and insurance companies only for the purpose of performing supervision within their respective areas of competence,

8. the clearing institution which performs clearing and settlement and is recognised under the law regulating the market in financial instruments, if the Agency considers that such information is necessary to ensure stable operations in view of the risk of non-performance or potential non-performance of obligations by a market participant.

(2) With the aim of ensuring greater stability and integrity of the capital market, the Agency may also exchange information with other competent authorities in the Republic of Croatia and other Member States which carry out, in accordance with the laws, investigation and prosecution proceedings in the cases of violation of the company law if the provision of information is requested or ordered in writing by the competent court. The information that the Agency has obtained from other competent authorities may be disclosed to third parties only with consent of the authority which has provided the information.

(3) The Agency may disclose the information obtained pursuant to Article 558, paragraph 4 of this Act to the authorities referred to in paragraph 2 of this Article only subject to express consent of the authority which has supplied the information.

(4) The parties which have obtained confidential information from the Agency in accordance with paragraphs 1 and 2 of this Article may use such information only for the purposes for which such information has been supplied, and they shall be subject to the confidentiality requirement referred to in Article 558 of this Act.

Refusal to co-operate

Article 562

(1) The Agency may refuse a request for co-operation in conducting investigation or supervision only if:

1. such investigation, on-site inspection, supervision or exchange of information may have a negative impact on the sovereignty, security or public order in the Republic of Croatia,

2. the proceedings for the same offence and against the same persons have already been instigated before the competent Croatian court,

3. the competent Croatian court has already made a final decision with regard to the same persons and the same actions before the authorities.

(2) In the case of refusing co-operation, the Agency shall notify the requesting competent authority and supply all available information on the case concerned.

Article 563

(1) The Agency shall co-operate with the competent authorities of another Member States when necessary to exercise supervision of compliance with the provisions of Part Three of this Act.

(2) The Agency shall co-operate with the competent authorities of another Member States and provide adequate assistance in their supervision of compliance with the regulations transposing Directive 2003/71/EC and Directive 2004/109/EC into their national legislations.

(3) The Agency shall co-operate with the competent authorities of another Member States particularly in the following instances:

1. when the issuer has, as a result of the issue of various securities, has more than one home Member State,

2. if the power to approve the prospectus in accordance with Article 563 of this Act has been delegated.

(4) The Agency shall co-operate with the competent authorities of other Member States particularly when it is necessary to suspend or remove securities from trading in order to ensure equal treatment of investors and market protection.

(5) When Republic of Croatia is the issuer's home Member State, the Agency shall, at the request of the competent authorities of the host Member State, provide assistance to that competent authority according to information available, particularly when new or rare types of securities are concerned.

(6) When Republic of Croatia is the host Member State, the Agency shall, at the request of the competent authorities of the home Member State, provide all information about particularities of the Croatian securities market.

(7) Exchange of information pursuant to this Article shall not be considered as a disclosure of professional secret and the Agency and other competent authorities shall safeguard and treat thus obtained information as confidential, and they may not use such information for any other purpose than the one for which it has been provided.

Co-operation with competent authorities in third countries

Article 564

(1) The Agency may conclude co-operation agreements with competent authorities in a third country to regulate exchange of information with the competent authority in that third country.

(2) Information disclosed under the conditions stipulated in this Article is subject to the confidentiality requirement referred to in Article 560 of this Act.

(3) The Agency is authorised to conclude co-operation agreements providing for exchange of information which is intended exclusively to enable the performance of duties of the third-country competent authorities and other parties authorised and responsible for:
1. the supervision of credit institutions, investment firms, insurance companies, and capital markets,

2. liquidation and bankruptcy proceedings in investment firms,
3. the statutory audit in investment firms and other entities which provide financial services, as well as in credit institutions and insurance companies, as part of their supervisory function, or those that maintain an indemnity system as part of their functions,
4. the supervision of persons involved in the liquidation or bankruptcy proceedings in investment firms,
5. the supervision of persons responsible for statutory audit in insurance companies, credit institutions, investment firms and other financial institutions

(4) Information disclosed under the agreement referred to in paragraph 1 of this Article shall be subject to the confidentiality requirement referred in Article 560 of this Act.

(5) Information originating from another Member State may only be disclosed to a third party subject to express consent of the competent authorities that have conveyed such information and only for the purpose approved by such competent authorities.

(6) The provisions of Article 560 of this Act shall apply also to the information provided by the competent authorities of third countries.

(7) The Agency may supply data or information to a foreign competent authority providing that it guarantees the same or higher degree of legal protection of such data or information than the one provided under the applicable Croatian regulations on data protection.

Co-operation between the Agency and statutory auditors/audit firms

Article 565

(1) Audit of annual financial statements of investment firms shall be carried out in accordance with the Audit Act unless otherwise stipulated in this Act or the regulations adopted on the basis of it.

(2) The audit firm shall give its professional and independent opinion whether the annual financial statements of a investment firm have been prepared in accordance with the Croatian regulations and professional standards, and whether they give a true and correct picture of the financial position, business results and cash flow of the investment firm concerned.

Duties of the statutory auditor

Article 566

(1) The statutory auditor referred to in Article 565 of this Act shall notify the Agency in writing on each and every fact or decision concerning an investment firm which has come to the auditor's knowledge during the audit of financial statements and which:

1. constitutes a serious breach of laws and regulations which stipulate the licensing requirements or specifically regulate the business of investment firms

2. has an impact on permanent operations of investment firms

3. may lead to a refusal to issue the auditor's opinion or qualified auditor's opinion

(2) The statutory auditor referred to in Article 565 of this Act shall also notify the Agency in writing on each and every fact referred to in paragraph 1 of this Article which comes to the auditor's knowledge during the audit of financial statements in a company which is closely related to the investment firm where audit is performed.

(3) When an audit firm notifies the Agency in good faith of the facts and decisions referred to in paragraph 1, it shall not constitute a breach of contractual or statutory restrictions on the release and disclosure of information/business secret and shall not cause liability on the part of the statutory auditor.

Disclosures by the Agency

Article 567

(1) The Agency shall disclose the following information:

1. the texts of laws, decisions, instructions and general guidelines in the area of supervision that have been adopted in the Republic of Croatia,

2. the manner of exercising the options and (national) discretions provided for in the EU legislation,

3. the general criteria and methodologies applied in the supervision of investment firms,

4. the aggregate statistical data which the Agency has collected pursuant to his Act and the regulations adopted on the basis of it.

(2) The information referred to in paragraph 1 of this Article shall be disclosed in a way that makes it possible to compare the approaches adopted by the competent authorities in different Member States. The information shall be regularly updated and available on the Agency's website.

(3) Besides the information referred to in paragraph 1 of this Article, the Agency may also disclose other information within its scope of competence.

PART SEVEN

Misdemeanours

Severe misdemeanours of the investment firm and credit institution

Article 568

(1) Investment firm or credit institution shall be punished for misdemeanour by the fine of HRK 200.000,00 to HRK 500.000,00 if:

1. they outsource important operational functions in such a way as to impair the ability of the supervisory authority to monitor the firm’s compliance contrary to the Article 40 paragraph 2 and the Ordinance mentioned in the Article 43 of this Act,

2. they do not organise or keep business documents in a way that it would be possible to check at any time the course of a transaction, contrary to the Article 41. paragraph 2 and the Ordinance mentioned in the Article 43 of this Act,

3. they do not protect business records from unauthorised access, possible loss of records or preserve it in a way that ensures durability of records, contrary to the Article 41. paragraph 4. and the Ordinance mentioned in the Article 43. of this Act,

4. they do not preserve business documentation in the period as stipulated in the Article 41. paragraph 5. and in accordance with the Ordinance mentioned in the Article 43. of this Act,

5. they do not make adequate arrangements when holding financial instruments belonging to clients, in accordance with the Article 42. paragraph 1 and the Ordinance mentioned in the Article 43. of this Act,

6. they do not, for using the financial instrument of the client for the own account of the investment firm, obtain the consent from the client in the manner from the Article 42. paragraph 2 of this Act,

7. they do not make adequate arrangements when holding funds belonging to clients, in accordance with the Article 42. paragraph 3 and the Ordinance mentioned in the Article 43. of this Act,

8. if persons mentioned in the Article 54. paragraph 2 use, disclose to third parties or enable third parties to use data regarding clients, contrary to the prohibition from the Article 54. paragraph 2 of this Act,

9. they do not maintain the records in accordance with the Article 58 of this Act,

10. they misuse information relating to pending client orders, contrary to the prohibition from the Article 82. paragraph 4 of this Act,

11. if as systematic internaliser in shares do not make available firm quotes in those shares, contrary to the Article 102. paragraph 1 of this Act;

12. if as systematic internaliser in shares do not make public quotes referred to in Article 102 paragraph 1 of this Act, contrary to the Article 102. paragraph 1 of this Act;

13. if as systematic internaliser, for the shares for which there is no liquid market, acts contrary to the Article 102. paragraph 3,

14. if as systematic internaliser executes the orders of retail clients contrary to the Article 105. of this Act

15. if they do not keep the records mentioned in the Article 112. paragraph 1. in the period from Article 112. paragraph 1. of this Act,

16. they do not deliver the report to the Agency in accordance with the Article 113. paragraph 1,

17. they, when trading on own account or for the account of the client outside the regulated market or MTF, do not publish data regarding transaction in accordance with the Article 114. paragraph 1 and the Ordinance mentioned in the Article 114. paragraph 5 of this Act,

18. they, as operator of the MTF do not apply arrangements and procedures in accordance with the Article 130 of this Act,

19. they, as operator of the MTF do not make public the data on execution of transactions which have been executed through the system it operates, contrary to the Article 133 of this Act,

(2) Responsible person of the investment firm or the credit institution shall be punished for the misdemeanour from the paragraph 1 of this Article, by the fine of HRK 20.000,00 to HRK 100.000,00.

Less severe misdemeanours of the investment firm and credit institution

Article 569

(1) Investment firm or credit institution shall be punished for misdemeanour by the fine of HRK 15.000 to HRK 75.000 if:

1. they do not inform the client on the rejection of the order, contrary to the Article 81 of this Act,

2. they, while executing the client's order act contrary to the Article 82 paragraph 3 and the Ordinance mentioned in the Article 84 of this Act,

3. they do not execute the order according to the best results for the client, contrary to the Article 85 and the Ordinance mentioned in the Article 91 of this Act,

4. they execute the client's order outside the regulated market or the MTF without the prior consent of the client, contrary to the Article 88 of this Act,

5. they, as member of the Investor Protection Scheme use this circumstance with the aim of promoting itself, contrary to the Article 245 paragraph 3 of this Act.

(2) Responsible person of the investment firm or the credit institution shall be punished for the misdemeanour from the paragraph 1 of this Article, by the fine of HRK 5.000,00 to HRK 20.000,00.

Other misdemeanours of the investment firm

Article 570

(1) Investment firm shall be punished for misdemeanour by the fine of HRK 50.000,00 to HRK 150.000,00 if:

1. they carry out other professional activities, except those for which it obtained the approval, contrary to the Article 11 paragraph 2 of this Act,

2. they do not maintain business records, keep or make public the annual financial statements and the annual report, contrary to the Article 115 of this Act,

3. they do not deliver to the Agency the required reports within the prescribed period, contrary to the Article 116 of this Act,

4. they do not make public the prescribed reports within the prescribed period, contrary to the Article 117 of this Act,

5. they, when they are in the liquidation, perform the activities contrary to the decision of the Agency from the Article 118 paragraph 4 of this Act,

6. they after the withdrawal of the authorisation, or after the authorisation ceases to be in effect by force of law, starts performing or performs new services and activities tied to the performance of

providing investment services and/or performing investment activities, contrary to the Article 263 of this Act,

7. they establish the branch on the territory of another Member State without prior notification of the Agency, contrary to the Article 136 of this Act

8. they start providing investment services and performing investment activities through the branch in another Member State before the expiration of period from the Article 138 of this Act,

9. they establish the branch on the territory of another Member State without prior notification of the Agency, contrary to the Article 142 of this Act,

10. they do not establish or apply the appropriate procedures to ensure an efficient system of internal control, contrary to the Article 169 of this Act,

11. they do not notify the Agency about their intention to transfer to the standardised approach for calculating capital requirements for operational risk, contrary to the Article 192 paragraph 1 of this Act,

12. they do not notify the Agency about not meeting the qualifying criteria for standardised or advanced approach or conditions for combining approaches, contrary to the Article 192 paragraph 2 of this Act,

13. they do not, in prescribed periods and in the prescribed way report to the Agency about the exposures, contrary to Article 200 of this Act,

14. they have qualifying holdings in one or several non-financial institutions which exceed the accepted limits pursuant to the Article 202 of this Act,

15. they do not report to the Agency in the manner and within the prescribed periods in accordance with Articles 216 and 217 of this Act,

16. they do not publicly disclose general information about its business activity, contrary to the Article 219 paragraph 1 of this Act.

(2) Responsible person of the investment firm shall be punished for the misdemeanour from the paragraph 1 of this Article, by the fine of HRK 10.000,00 to HRK 35.000,00.

Misdemeanours of other persons

Article 571.

(1) Legal person shall be punished for misdemeanour by the fine of HRK 50.000,00 to HRK 150.000,00 if:

1. as tied agent handles money and/or financial instruments of clients or potential clients, contrary to the Article 93 paragraph 2 of this Act,

2. as tied agent performs activities from Article 93 paragraph 1, contrary to the Article 93 paragraph 3 of this Act,

3. as person from Article 247 paragraph 3 of this Act, at request of the Agency, do not submit reports and information, account books and business documentation, contrary to the Article 247 paragraph 3 of this Act.

(2) Responsible person of the legal person shall be punished for the misdemeanour from the paragraph 1 of this Article, by the fine of HRK 10.000,00 to HRK 35.000,00.

(3) Natural person shall be punished for misdemeanour by the fine of HRK 15.000,00 to 50.000 HRK if:
1. as tied agent handles money and/or financial instruments of clients or potential clients, contrary to the Article 93 paragraph 2 of this Act,

2. as tied agent performs activities from Article 93 paragraph 1, contrary to the Article 93 paragraph 3 of this Act,

3. as person from Article 247 paragraph 3 of this Act, at request of the Agency, do not submit reports and information, account books and business documentation, contrary to the Article 247 paragraph 3 of this Act.

Misdemeanours of the stock exchange

Article 572

(1) The stock exchange shall be punished for misdemeanour by the fine of HRK 200.000,00 to HRK 500.000,00 if:

1. as operator of the MTF do not apply arrangements and procedures in accordance with Article 130 of this Act,

2. as operator of the MTF do not make public the data about the transactions executed under its system, contrary to the Article 133 of this Act,

3. performs activities for which it does not have the approval by the Agency, contrary to the Article 281 paragraph 4 of this Act,

4. performs activities mentioned in the Article 281 paragraph 1 point 1 of this Act without authorisation of the Agency;

5. do not deliver to the Agency the data regarding the ownership structure, contrary to the Article 289 of this Act,

6. do not inform the Agency, pursuant to Article 291 of this Act,

7. do not inform the Agency, without delay, about any significant breaches of its rules, disorderly trading conditions or conducts that involve market abuse, contrary to the Article 304 paragraph 3 of this Act,

8. do not suspend the trading or remove a financial instrument from trading, contrary to the Article 330 paragraphs 1 and 2 of this Act,

9. the stock exchange do not make public the data on bid and offer, contrary to the Article 333 of this Act,

10. the stock exchange do not make public data on executed transactions, contrary to the Article 335 of this Act.

(2) Responsible person of the legal person shall be punished for the misdemeanour from the paragraph 1 of this Article, by the fine of HRK 20.000,00 to HRK 100.000,00.

Article 573

(1) A legal entity or natural person shall be guilty of a misdemeanour and punished by a fine in the amount of HRK 100.000 to HRK 1.000.000 if:

1. contrary to the provisions of Article 354 of this Act, they fail to notify the Agency of the use of the exception referred to in Articles 351, 352 or 353 of this Act within the period proscribed in Article 354 of this Act.

2. contrary to the provisions of Article 361 of this Act, they fail to notify the Agency of the final price and number of the securities offered, or this information is not published in the manner prescribed for the publication of prospectus,

3. contrary to the provisions of Article 364 of this Act, they fail to prepare or publish, within the prescribed period, a document which either contains or refers to information published or made available to the public in the territory of the Republic of Croatia in the preceding period,

4. contrary to the provisions of Article 364 of this Act, they fail to submit the Annual Document to the Agency within the prescribed period after the publication of the annual financial statements,

5. contrary to the provisions of Article 364, paragraph 5 of this Act, the Annual Document which refers to certain information not contained in the document does not state where such information is available to the public,

6. contrary to the provisions of Article 373, paragraphs 1, 2 and 3 of this Act, they fail to fulfil the obligation to publish a prospectus in the prescribed manner and within the prescribed period,

7. contrary to the provisions of Article 373, paragraphs 4 and 5 of this Act, they fail to make the notification of the manner in which the prospectus has been published, and where and how investors can procure the prospectus, or if the content of such notification is not in accordance with Article 378 of this Act,

8. contrary to the provisions of Article 377, paragraphs 1 or 2 of this Act, they fail to provide an investor, at their request, with a printed prospectus free of charge,

(2) A legal entity or natural person shall be guilty of a misdemeanour and punished by a fine in the amount of HRK 200.000 to HRK 1.000.000 if:

1. contrary to the provisions of Article 349, paragraph 1 of this Act, they offer securities to the public without having published a valid prospectus before such public offering, and the publication of prospectus is required under this Act,

2. contrary to the provisions of Article 349, paragraph 2 of this Act, they approve the listing of a security on the regulated market in Croatia without having published a valid prospectus before such listing, and the publication of prospectus is required under this Act,

3. contrary to the provisions of this Act, they publish a prospectus without having obtained approval from the Agency,

4. publish a prospectus different from the one previously supplied to the Agency for the purpose of issuing approval,

5. if they organise or carry out the subscription for and payment of securities through a public offering on the regulated market in contravention of the provisions of Article 348 of this Act.

6. contrary to the provisions of Article 355, paragraph 1 or 2 of this Act, the prospectus they have prepared and published or information contained therein are incomplete or incorrect, or the prospectus is inconsistent,

7. contrary to the provisions of Article 363 of this Act, they publish an invalid prospectus,

8. contrary to the provisions of Article 379, paragraphs 1, 2, 3, 5 and 6 of this Act, they fail to publish a supplement to the prospectus or to the summary prospectus, or to publish the prospectus supplement in the same manner as the prospectus,
9. contrary to the provisions of Article 379, paragraphs 2, 3 and 4 of this Act, they publish a prospectus supplement which has not been approved,

10. contrary to the provisions of Article 382, they fail to publish the prospectus in the prescribed language or languages.

11. if they fail to comply with the disposition of any of the supervisory measures imposed by the Agency and referred to in Article 386 of this Act.

(3) For misdemeanours referred to in paragraph 1 and 2 of this Article, the responsible person in a legal person shall also be subject to a fine in an amount from HRK 10,000 to 200,000.

Severe misdemeanours on issuers whose securities are admitted to trading on a regulated market

Article 574

(1) Issuer shall be punished for misdemeanour by the fine of HRK 100,000.00 to HRK 250,000.00 if:

1. contrary to Article 403 paragraph 1 of this Act, the issuer of securities fails to prepare or make public, within the prescribed period, its annual financial report or fails to ensure that the annual financial report is publicly available within the prescribed period;

2. contrary to Article 403 paragraph 3 of this Act, the issuer of securities fails to disclose to the public the auditor’s report within the prescribed period;

3. contrary to the provisions of Article 404 paragraph 1 of this Act, the issuer of securities who has its registered office in the Republic of Croatia, does not prepare annual statements in the prescribed manner;

4. contrary to Article 404 paragraph 3 of this Act, the issuer of securities fails to disclose to the public, within the prescribed period and in the prescribed manner, the approved annual financial statements;

5. contrary to the provisions of Article 405 of this Act, the issuer of securities who has its registered office outside the Republic of Croatia does not prepare annual statements in the prescribed manner;

6. contrary to the provisions of Article 406 of this Act, the issuer of securities who has its registered office outside the Republic of Croatia, does not prepare annual statements in the prescribed manner;

7. contrary to Article 407 paragraph 1 of this Act, the issuer of shares and debt securities fails to prepare or make public, within the prescribed period, its half-yearly financial report or fails to ensure that the half-yearly financial report is publicly available within the prescribed period;

8. in the case referred to in Article 407 paragraph 3 of this Act, the issuer of shares and debt securities fails to disclose to the public, within the prescribed period, the auditor's report or the auditor's review;
9. contrary to the provisions of Article 408 of this Act, the issuer of shares and debt securities does not prepare its half-yearly statements in the prescribed manner;

10. contrary to the provisions of Article 409 of this Act, the issuer of shares and debt securities does not prepare its half-yearly statements in the prescribed manner;

11. contrary to Article 410 paragraph 1 of this Act, the issuer of shares who has its registered office in the Republic of Croatia fails to prepare or make public within the prescribed period, its quarterly financial report or fails to ensure that the quarterly financial report is publicly available within the prescribed period;

12. contrary to the provisions of Article 410 of this Act, the issuer of shares who has its registered office in the Republic of Croatia does not prepare its quarterly statements in the prescribed manner;

13. contrary to Article 429 of this Act, the issuer of shares fails to make public the information on a number of shares to which voting rights are attached and to which the capital stock of the issuer is broken down, or the change in the number of voting rights resulting from such shares, or a new total number of shares to which voting rights are attached;

14. contrary to Article 431 paragraph 1 of this Act, the issuer of shares fails to make public without delay any change in the rights attaching to issued shares, for each class of shares separately, including changes in the rights attaching to derivative securities issued by the issuer and entitling to acquire shares of that issuer;

15. the issuer does not disclose the regulated information to the public in the manner prescribed in Article 440 paragraphs 1 to 6 of this Act;

16. contrary to Article 440 paragraph 10 of this Act, the issuer fails to communicate the information to the Agency at its request;

17. contrary to Article 441 paragraph 1 of this Act, the issuer fails to file the regulated information with the Agency and into the official register of regulated information at the same time when such information is communicated to the media.

(2) In the case of admission of securities to trading on a regulated market without the issuer's consent, a person who has applied for the admission of securities to trading on a regulated market without the issuer's consent shall be punished for misdemeanour laid down in paragraph 1 of this Article by the fine of HRK 100,000.00 to HRK 250,000.00.

(3) Responsible person within the issuer or within the legal person who has applied for the admission of securities to trading on a regulated market without the issuer's consent shall be punished for misdemeanour laid down in the paragraph 1 of this Article, by the fine of HRK 25,000.00 to HRK 75,000.00.

(4) Parent undertaking of a management company or investment firm shall be punished for misdemeanour by the fine of HRK 100,000.00 to HRK 250,000.00 if the parent undertaking, in calculating the number of voting rights, uses the exemption contrary to Article 421 of this Act.

(5) Responsible person within the parent undertaking shall be punished for the misdemeanour laid down in the paragraph 4 of this Article, by the fine of HRK 25,000.00 to HRK 75,000.00.

(6) Legal entity shall be punished for misdemeanour by the fine of HRK 100,000.00 to HRK 250,000.00 if contrary to Article 413 of this Act, fails to notify the Agency and the issuer of shares of reaching, exceeding or falling below the prescribed thresholds in an issuer of shares.

(7) Responsible person within the legal entity shall be punished for the misdemeanour laid down in the paragraph 6 of this Article, by the fine of HRK 25,000.00 to HRK 75,000.00.

(8) Natural person shall be punished for misdemeanour by the fine of HRK 10,000.00 to HRK 25,000.00 if contrary to Article 413 of this Act, fails to notify the Agency and the issuer of reaching, exceeding or falling below the prescribed thresholds in an issuer of shares.

Less severe misdemeanours of the issuer whose securities are admitted to trading on a regulated market

Article 575

(1) Issuer shall be punished for misdemeanour by the fine of HRK 50,000.00 to HRK 100,000.00 if:

1. contrary to Article 404 paragraph 2 of this Act, the issuer of securities fails to disclose to the public, within the prescribed period, its annual financial statements indicating that the statements have not been approved by its competent body;

2. contrary to Article 411 paragraph 1 of this Act, the issuer of shares who has its registered office outside the Republic of Croatia fails to make public, within the prescribed period, statement by its management;

3. the statement referred to in Article 411 paragraph 1 of this Act does not contain the information referred to in paragraph 4 of the same Article;

4. contrary to Article 428 of this Act, the issuer fails to make public within the prescribed period the information contained in the notification referred to in Article 413 of this Act;

5. contrary to Article 430 paragraph 1 of this Act, the share issuer which acquires or disposes of its own shares fails to make public, within the prescribed period, the number of its own shares;

6. contrary to Article 431 paragraph 2 of this Act, the issuer of securities other than shares fails to make public without delay any changes in the rights of holders of such issued securities, including changes in the terms and conditions that could indirectly affect the rights resulting from such issued securities, in particular changes in loan terms or interest rate;

7. contrary to Article 432 paragraph 1 of this Act, the issuer of securities fails to make public without delay any new issues of debt securities and in particular any new security or guarantee in respect thereof;

8. contrary to Article 433 of this Act, the issuer of securities fails to communicate, within the prescribed period, to the Agency and to the regulated market on which its securities have been admitted to trading, a proposal of amendments to its statutes or its memorandum of incorporation;

9. contrary to the provisions of Article 438 of this Act, the issuer does not make the regulated information public in the prescribed language;

10. contrary to Article 440, paragraph 9 of this Act, the issuer fails to communicate without delay a proof of fulfilling its obligation of disclosure and the manner of disclosure to the public;

11. contrary to the provisions of Article 397 paragraph 3 of this Act, the issuer to whom Croatia is the host Member State and whose securities are admitted to trading on a regulated market only in the Republic of Croatia fails to disclose to the public all information it is obliged to disclose pursuant to laws and regulations of its home Member State regulating the obligations of disclosure of information about issuers whose securities are admitted to trading on a regulated market.

(2) In the case of admission of securities to trading on a regulated market without the issuer's consent, a person who has applied for the admission of securities to trading on a regulated market without the issuer's consent shall be punished for misdemeanour laid down in paragraph 1 of this Article by the fine of HRK 50,000.00 to HRK 100,000.00.

(3) Responsible person within the issuer or within the legal person who has applied for the admission of securities to trading on a regulated market without the issuer's consent shall be punished for the misdemeanour laid down in the paragraph 1 of this Article, by the fine of HRK 5,000.00 to HRK 10,000.00.

Less severe misdemeanours of other persons on the issuer whose securities are admitted to trading on a regulated market

Article 576

(1) Legal entity shall be punished for misdemeanour by the fine of HRK 25,000.00 to HRK 50,000.00 if:

1. the notification referred to in Article 413 of this Act does not contain the information and attachments laid down in Article 423 of this Act;

2. contrary to the provisions of Article 424 of this Act, a legal entity fails to file with the Agency and the issuer within the prescribed period, notification referred to in Article 413 of this Act;

3. contrary to Article 439 paragraphs 1 and 2 of this Act, a legal entity fails to file the notification with the Agency and the issuer in the prescribed language.

(2) Responsible person within the legal entity shall be punished for the misdemeanour laid down in the paragraph 1 of this Article, by the fine of HRK 5,000.00 to HRK 10,000.00.

(3) Natural person shall be punished for misdemeanour by the fine of HRK 5,000.00 to HRK 10,000.00 if:

1. the notification referred to in Article 413 of this Act does not contain the information and attachments laid down in Article 423 of this Act;

2. contrary to the provisions of Article 424 of this Act, a natural person fails to file with the Agency and the issuer within the prescribed period, notification referred to in Article 413 of this Act;

3. contrary to Article 439, paragraphs 1 and 2 of this Act, a natural person fails to file the notification with the Agency and the issuer in the prescribed language.

(4) Market maker shall be punished for misdemeanour by the fine of HRK 50,000.00 to HRK 100,000.00 if:

1. in the instance referred to in Article 427 paragraph 2 of this Act, the market maker fails to notify the Agency within the prescribed time period of the fact that it acts or intends to act as the market maker in relation to a particular issuer;

2. contrary to Article 427 paragraph 3 of this Act, the market maker fails to notify the Agency of the fact that it no longer act as the market maker;
3. in the instance referred to in Article 427 paragraph 4 of this Act, the market maker fails to provide, at the request of the Agency, evidence on shares and/or financial instruments referred to in Article 416 paragraph 1 of this Act which it holds or intends to hold for the purpose of acting as the market maker.

(5) Responsible person within the market maker shall be punished for the misdemeanour laid down in the paragraph 4 of this Article, by the fine of HRK 5,000.00 to HRK 10,000.00.

Severe misdemeanours – Market abuse

Article 577

(1) Legal person shall be punished for misdemeanour with the fine between 500.000,00 HRK and 1.500.000,00 HRK if:

1. as the issuer, do not make public the inside information which directly concerns him, in the prescribed manner and under prescribed conditions, contrary to the Articles 459 and 460 of this Act;

2. as the issuer or the person acting on his behalf or for his account, in the case from the Article 462 of this Act, do not disclose to the public the inside information, contrary to the Article 462 of this Act;

3. as the issuer or the person acting on his behalf or for his account, do not draws up, keeps and updates the List of insiders, or do not submit the List of insiders to the Agency upon his request, contrary to the Article 463 of this Act;

4. if it trades or executes transactions, gives orders to trade, in the way which would present the market manipulation, contrary to the Articles 465 and 466 of this Act;

5. they do not cooperate with the Agency in the supervisory proceedings according to the part four of this Act in the manner not to permit the authorised persons of the Agency to access the business premises of the subject of supervision, access to documents, do not give the requested information, or do not cooperate with the Agency in any other way which is necessary for the completition of the purpose of the supervision, contrary to the Article 480 paragraphs 3, 4 and 5 of this Act;

6. do not act in accordance with the measure of the Agency mentioned in the Article 480, paragraph 6, item 1, paragraph 7, paragraph 9 and paragraph 10 of this Act;

7. it disseminates the information through the media, including the Internet, or by any other means, which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading, contrary to the Articles 465 and 466 of this Act.

(2) The responsible person of the legal person shall be punished for misdemeanour from the paragraph 1 of this Article with the fine between 50.000,00 HRK and 150.000,00 HRK.

Less severe misdemeanours - Market abuse

Article 578

(1) Legal person shall be punished for misdemeanour with the fine between 50.000,00 HRK and 350.000,00 HRK if:

1. the stock exchange do not prescribe and/or implement procedures and measures aimed at detecting and preventing market manipulation practices on the regulated market on which it operates, contrary to the Article 467 of this Act;

2. investment firm or credit institution does not notify the Agency about cases for which they reasonably suspect to constitute market abuse, contrary to the Article 468 of this Act;

3. do not produce or disseminates the recommendations in the manner and under conditions from the Artiles 471 to 479 of this Act, contrary to the Articles 471 to 479 of this Act.
(2) The responsible person of the legal person shall be punished for misdemeanour from the paragraph 1 of this Article with the fine between 10.000,00 HRK and 35.000,00 HRK .

Misdemeanours for natural persons - Market abuse

Article 579

(1) Natural person shall be punished for misdemeanour with the fine between 30.000,00 HRK and 100.000,00 HRK if:

1. in the case from the Article 462 of this Act, do not disclose to the public the inside information;

2. do not draw up, keep and updates the List of insiders, or do not submit the List of insiders to the Agency upon its request, contrary to the Article 463 of this Act;

3. do not notify the Agency on transactions in the manner and under conditions from the Article 464 of this Act,

4.if it trades or executes transactions, gives orders to trade, in the way which would present the market manipulation, contrary to the Articles 465 and 466 of this Act;

5. do not produce or disseminates the recommendations in the manner and under conditions from the Articles 471 to 479 of this Act,

6. it do not comply with the measure of the Agency from Article 480 paragraph 6, item 1, paragraph 7, paragraph 9 and paragraph 10 of this Act;

7. it do not cooperates with the Agency according to the Article 480 paragraph 5 of this Act.

Misdemeanours of the central clearing and depository agency.

Article 580

(1) The central clearing and depository agency shall be punished for misdemeanour with the fine between 200.000,00 to HRK 500.000,00 if:

1. performs services which is not authorised to perform, contrary to the Article 506 paragraph 4 of this Act;

2. outsources the important operational functions in the manner which jeopardises the safekeeping and implementation of clearing and settlement, changes of conditions under which authorisation as central clearing and depository agency was granted, or prevents or significantly complicates the supervision by the Agency, contrary to the Article 514 paragraph 1 of this Act;

3. do not elaborate or file to the Agency the prescribed reports in the prescribed period, contrary to the Article 518 paragraph 2 of this Act;

4. do not disclose on its Internet sites the information mentioned in the Article 520 of this Act;

5. do not inform the Agency about the new member or termination of membership, contrary to the Article 527 paragraph 7 of this Act,

6. do not, without delay, inform the Agency about each non - fulfilment of obligation or on each serious violation of rules of the central clearing and depository agency, contrary to the Article 528 paragraph 2 of this Act,

7. do not allow the Agency to perform the supervision according to the Article 539 paragraph 1 of this Act.

(2) The responsible person of the central clearing and depository agency shall be punished for misdemeanour of the paragraph 1 of this Article by the fine between HRK 20.000,00 and HRK 100.000,00.

Misdemeanour warrant issued by the Agency

Article 581

(1) The Agency may issue a misdemeanour warrant to the supervised entity if it has established a misdemeanour:

1. through direct observation or supervision performed within their scope of authority, with an official note or report on the findings being drawn up by them, or

2. on the basis of reliable documents including a report on supervision.

(2) The Agency may issue the misdemeanour warrant referred to in paragraph 1 of this Article only when misdemeanour referred to in this Act have been committed.

(3) The contents and the procedure of issuing the misdemeanour warrant shall be subject to the provisions of the Misdemeanour Act concerning the misdemeanour warrant issued by state government bodies in their capacity as the authorised claimant.

Statute of limitations on misdemeanour

Article 582

(1) The misdemeanour procedure may not be instigated once a three-year period has elapsed since the day when the misdemeanour was committed.

(2) The statute of limitations shall be interrupted by any procedural action taken by the Agency for the purpose of prosecuting the perpetrator of the minor offence.

(3) After each interruption, the statute of limitations shall begin to run again.

(4) In any case, the statute of limitations shall occur after twice as much time has elapsed as legally prescribed for the statute of limitations on misdemeanour.

Part Eight

Transitional and final provisions

Title I

Deadlines for alignment with the provisions of this Act
Article 583

Unless otherwise stipulated in this Act, all legal entities and natural persons shall align their business operations with the provisions of this Act by 30 June 2009.

Article 584

(1) Brokerage firms which at the date of entry into force of this Act hold the licence to conduct securities activities duly entered in the Court Register shall continue to operate as investment firms pursuant to this Act on the basis of their existing licence, and in particular:

1. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 1 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 2 of this Act,

2. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 2 of the Securities Market Act as the investment activity referred to in Article 5, paragraph 1, point 3 of this Act,

3. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 3 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 4 of this Act,

4. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 5 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 7 of this Act,

5. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 6 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 6 of this Act,

6. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 7 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 5 of this Act.

(2) The existing licence to conduct the activities referred to in Article 34 of the Securities Market Act shall apply only to the activities involving the financial instruments referred to in Article 3, paragraph 1, point 2, sub-points a, b and c of this Act.

(3) The investment firms referred to in paragraph 1 of this Article shall deliver the Alignment Report to the Agency within 30 days after the date referred to in Article 1 of this Act.

(4) The following documents shall be attached to the Alignment Report referred to in paragraph 3 of this Article:

1. Deed of Incorporation made before a public notary,
2. a list of shareholders in the company referred to in paragraph 1 of this Article including also identification details for individual shareholders or information on the company name and head office for corporate shareholders, as well as information on the amount of their respective participations expressed in absolute and relative terms,

3. as regards the shareholders holding qualifying participations, the documents prescribed in the Ordinance referred to in Article 50, paragraph 4 of this Act,

4. a list of persons or entities closely associated with the investment firm and a detailed description of the nature of their association,

5. the evidence of satisfying the requirements referred to in Articles 36 to 42 of this Act as well as those set forth in the Ordinance referred to in Article 43 of this Act,

6. the evidence of satisfying the requirements concerning the share capital,

7. a proof of membership in the Investor Protection Scheme and payment of the initial contribution.

(5) If it follows from the Report and the attached evidence/proofs referred to in paragraph 4 of this Article that an investment firm is aligned with the provisions of this Act, the Agency shall issue an operating licence to that investment firm, in accordance with the provisions of this Act concerning the issue of operating licences.

(6) If an investment firm fails to comply with the provisions of paragraph 4 of this Article, the Agency may revoke the operating licence referred to in paragraph 1 of this Article granted to that investment firm. In such case, the investment firm shall discontinue the activities for which it holds the operating licence and delete those activities from the Court Register. The investment firm may not re-apply for the operating licence pursuant to the provisions of this Act before the period of one year has elapsed after the licence revocation date.

(7) The investment firm mentioned in the Article 223 of this Act is obliged to pay the initial contribution from the Article 237 paragraph 2 of this Act at the latest following 30 days from the end of the deadline as set out in the Article 583 of this Act.

Article 585

(1) The licences issued to the members of an investment firm’s management board before the entry into force of this Act shall remain in full force and effect, as licences issued under the provisions of this Act.

(2) The licences issued to brokers before the entry into force of this Act shall remain in full force and effect, as licences issued to brokers under the provisions of this Act.

(3) The licences issued to investment advisors before the entry into force of this Act shall remain in full force and effect, as licences issued to investment advisors under the provisions of this Act.

(4) Professional examinations for brokers organised and completed under the provisions of ZTVP and Act on issuing and sale of securities (Official Gazette No 140/05) are recognised as professional examinations for brokers organised and completed under the provisions of Article 24 paragraph 4 of this Act for the performing activities from the investment services from Article 5 paragraph 1 point 1 and 2 of this Act.

(5) Professional examinations for investment advisors organised and completed under the provisions of ZTVP and Act on issuing and sale of securities (Official Gazette No 140/05) are recognised as professional examinations for investment advisors organised and completed under the provisions of Article 24 paragraph 4 of this Act for the performing activities from the investment services from Article 5 paragraph 1 point 1, 2, 4 and 5 of this Act.

Article 586

(1) In the period from 1 January to 30 June 2009, the investment firms shall maintain the capital requirements on the level of the minimum capital amount which equals that of the subscribed capital.

(2) As of 1 July 2009, the investment firms referred to in Articles 32 and 35 of this Act shall apply the provisions of this Act concerning the capital requirements and contained in Part Two, Title One, Chapter 9 in their entirety.

Article 587

Provisions of the Article 224 to 228 and 230 to 235 shall begin to apply from January 1 2010.

Article 588

(1) The credit institutions which, at the date of entry into force of this Act, hold the licence to conduct the securities activities entered in the Court Register shall continue to provide investment services and engage in other investment activities and provide related ancillary services on the basis of the existing licence, and in particular:

1. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 1 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 2 of this Act,

2. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 2 of the Securities Market Act as the investment activity referred to in Article 5, paragraph 1, point 3 of this Act,

3. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 3 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 4 of this Act,

4. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 5 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 7 of this Act,

5. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 6 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 6 of this Act,

6. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 7 of the Securities Market Act as the investment service referred to in Article 5, paragraph 1, point 5 of this Act,

7. they shall continue to conduct the activity referred to in Article 34, paragraph 1, point 8 of the Securities Market Act as the ancillary service referred to in Article 5, paragraph 1, point 1 of this Act.

(2) The existing licence to conduct the activities referred to in Article 34 of the Securities Market Act shall apply only to the activities involving the financial instruments referred to in Article 3, paragraph 1, point 2, sub-points a, b and c of this Act.
(3) The credit institutions referred to in paragraph 1 of this Article shall deliver to the Agency the Alignment Report within 30 days after the deadline referred to in Article 1 of this Act.

(4) The following documents shall be attached to the Alignment Report referred to in paragraph 3 of this Article:

1. Deed of Incorporation made before a public notary,

2. the evidence of satisfying the requirements referred to in Articles 36 to 42 and those set forth in the Ordinance referred to in Article 43 of this Act,

3. a proof of membership in the Investor Protection Scheme and the payment of the initial contribution.

(5) If it follows from the reports and the attached evidence/proofs referred to in paragraph 4 of this Article that a credit institution is aligned with the provisions of this Act, the Agency shall issue its prior approval confirming that the requirements have been satisfied for the provision of investment services and conduct of investment activities, as well as related ancillary services stipulated in the provisions of this Act regarding the issue of the prior approval to a credit institution. If the credit institution fails to enter in the Court Register, within six months as of the date of issue of the prior approval, the activities in respect of which it has obtained the prior approval, the latter shall cease to be valid.

(6) If a credit institution fails to act in compliance with the provisions of paragraph 4 of this Article, the Agency may revoke the licence granted to such credit institution for conducting the securities activities referred to in paragraph 1 of this Article and notify the Croatian National Bank accordingly. In such case, the credit institution may not conduct the securities activities to which the revoked licence refers after the date of receiving the decision on licence revocation, and the provisions on revocation of the operating licence granted to the credit institution pursuant to the law governing the establishment and operations of credit institutions shall be applied accordingly. The credit institution may re-apply for the prior approval pursuant to this Act only after a one-year period has elapsed since the licence revocation date.

(7) The credit institution mentioned in the Article 223 of this Act is obliged to pay the initial contribution from the Article 237 paragraph 2 of this Act at the latest following 30 days from the end of the deadline as set out in the Article 586 of this Act.

Article 589

(1) After the entry into force of this Act, investment firms may continue to treat as professional investors pursuant to the provisions of this Act the existing professional investors whose classification has been made on the basis of an appropriate assessment of competence, experience and client knowledge, where such assessment provides a basis for reasonable conclusion that, considering the

nature of the transaction or service concerned, the client is capable of making their own investment decisions and understand the risks entailed.

(2) Investment firms shall notify their clients of the conditions of client classification as it is carried out pursuant to the provisions of this Act.

Article 590

(1) Management companies of open-end investment funds with public offer which, pursuant to the regulations governing the establishment and operations of investment funds and management companies, conduct asset management activities on the account of clients – unit holders and provide advisory services in relation to securities investments shall continue to conduct these activities as the investment services referred to in Article 5, paragraph 1, points 4 and 5 of this Act.
(2) The provision of the investment services referred to in paragraph 1 of this Article shall apply **only** to the provision of services involving the financial instruments referred to in Article 3, paragraph 1, point 2, sub-points a, b and c of this Act.

(3) Management companies of open-end investment funds with public offer referred to in paragraph 1 of this Article shall align their business operations with the provisions of this Act by 30 June 2009.

(4) Management companies of open-end investment funds with public offer referred to in paragraph 1 of this Article shall submit their Alignment Reports to the Agency within 30 days after the deadline referred to in paragraph 3 of this Article.

(5) The following documents shall be attached to the Alignment Report referred to in paragraph 4 of this Article:

1. the evidence of satisfying the requirements referred to in Articles 36 to 42 and those set forth in the Ordinance referred to in Article 43 of this Act,

2. the evidence of satisfying the requirements in respect of the share capital,

3. proof of membership in the Investor Protection Scheme and payment of the initial contribution.

(6) If it follows from the Report and evidence/proofs referred to in paragraph 5 of this Article that a management company of open-end investment funds with public offer is aligned with the provisions of this Act, the Agency shall issue a decision confirming the alignment with the provisions of this Act as regards the provision of the investment services referred to in Article 5, paragraph 1, points 4 and 5 of this Act.

(7) If a management company of open-end investment funds with public offer fails to align its business operations with the provisions of this Act within the period referred to in paragraph 3 of this Article, the licence referred to in paragraph 1 of this Article shall no longer be valid, subject to a decision of the Agency. In such case, the management company of open-end investment funds with public offer shall discontinue the activities for which it has obtained the operating licence. The management company of open-end investment funds with public offer may re-apply for the operating licence pursuant to the provisions of this Act only after a one-year period has elapsed since the licence revocation date.

(8) The management company of open-end investment funds with public offer mentioned in the Article 223 paragraph 2 of this Act is obliged to pay the initial contribution from the Article 237 paragraph 2 of this Act at the latest following 30 days from the end of the deadline as set out in the paragraph 3 of this Article.

Article 591

Investment firms, credit institutions and management companies of open-end investment funds with public offer shall align their internal regulations with the provisions of this Act within a period of six months after the entry into force of this Act.

Article 592

(1) A stock exchange which at the date of entry into force of this Act holds the licence to conduct the activities of creating links between securities supply and demand shall continue, subject to the provisions of this Act, operating as a stock exchange which conducts the activities referred to in Article 281, paragraph 1, points 1 and 2 of this Act involving the financial instruments referred to in Article 3, paragraph 1, point 2, sub-points a and b of this Act.
(2) The stock exchange referred to in paragraph 1 of this Article shall be considered an MTF Operator within the meaning of this Act.

(3) The stock exchange referred to in paragraphs 1 and 2 of this Article shall align its business operations with the provisions of this Act within six months after the entry into force of this Act, including also the alignment with the provisions of this Act which stipulate the requirements for listing financial instruments within appropriate segments of the regulated market and MTF.

(4) Within three months after the entry into force of this Act, the stock exchange referred to in paragraph 1 and 2 of this Act shall deliver to the Agency the by-laws referred to in Articles 294 and 295 of this Act for approval.

(5) The securities listed in the first quotation pursuant to the Securities Market Act shall be considered as listed in the official market in accordance with the provisions of this Act.

(6) The securities listed in the quotation for public joint stock companies and the quotation for closed-end investment funds pursuant to the Securities Market Act shall be considered as listed in the regular market in accordance with the provisions of this Act.

(7) Other quotations referred to in Article 88, paragraph 4 of the Securities Market Act shall be considered the MTF within the meaning of this Act.

(8) Within six months after the entry into force of this Act, the stock exchange referred to in paragraph 2 of this Article shall align its business operations with the provisions of Articles 119 to 135 of this Act.

(9) Upon entry into force of this Act, the members of the stock exchange referred to in paragraph 1 of this Article shall be authorised to continue trading in the regulated market and the MTF operated by that stock exchange.

(10) The licences issued to the members of the Management Board of the stock exchange prior to the entry into force of this Act shall remain in full force and effect as the licences for the members of the Management Board of the stock exchange.

(11) If the stock exchange fails to comply with the provisions of paragraphs 3 of this Article, the Agency may withdraw its operating licence.

(12) Within one year after the entry into force of this Act, the members of the Supervisory Board of the stock exchange shall be aligned with the provisions of Article 286 paragraphs 6 to 9 of this Act.

Article 593

(1) The Central Depository Agency holding the authorisation to operate as a depository for dematerialised securities and to perform clearing and settlement of the transactions with such securities pursuant to the Securities Market Act shall continue to act as the Clearing and Depositary Agency pursuant to the provisions of this Act which has been granted the authorisation to perform professional activities referred to in Article 506 paragraph 1 items 1 and 3 of this Act.

(2) The system for clearing and settlement of the transactions with dematerialised securities operated by The Central Depository Agency shall continue to operate as the clearing and settlement system for securities referred to in Article 501 of this Act.
(3) Within six months after the entry into force of this Act, the clearing and depositary agency referred to in paragraph 1 of this Article shall align its business operations with the provisions of this Act and submit its aligned by-laws referred to in Articles 521 and 522 of this Act to the Agency for approval.

(4) The licences issued to the members of the management board of the Central Depository Agency prior to the entry into force of this Act shall remain in full force and effect as the licences for the members of the management board of the clearing and depositary agency.
(5) If the clearing and depositary agency fails to act in compliance with the provisions of paragraph 3 of this Act, the Agency may withdraw the authorisation.

(6) Within one year after the entry into force of this Act, the members of the supervisory board of the clearing and depositary agency shall be aligned with the provisions of Article 509 of this Act.

Form of shares issued before the entry into force of this Act

Article 594

(1) Joint stock companies shall issue shares in the form of securities pursuant to the regulations governing the establishment and operations of companies or in the form of dematerialised securities pursuant to the provisions of this Act.

(2) The joint stock companies which have not, prior to the entry into force of this Act, issued share certificates nor have they issued shares in the form of dematerialised securities maintained in the electronic records of the Central Depository Agency, shall provide the clearing and depositary agency with the information on the securities and their holders contained in the Share Register or the Issuer Register within six months after the beginning of application of this Act.

Title II

Cessation and beginning of application of individual provisions of this Act at the date of Croatia's accession to the European Union

Part Two of this Act

Article 595

(1) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 4. point 2., Article 49. paragraph 4. point 1., Article 73. point 6., Article 113. paragraphs 3. and 10., Article 131. paragraphs 1. and 2., Article 132. paragraph 1., Article 133. paragraphs 1. and 2., Article 134. paragraph 3., Article 309. paragraph 2. point 4., Article 309. paragraph 5., Article 310. paragraph 3. point 2., Article 333. paragraphs 1. and 2.. Article 334. paragraph 1., Article 335. paragraphs 1. and 2. and Article 336. paragraphs 1., 2. and 4. of this Act shall cease to apply.

(2) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 2., Article 4. points 3, 4, 5, 6, 7, 8, 18, 20 i 21., Article 6. paragraph 1. point 2., Article 6. paragraph 2. point 2., Article 9. paragraph 2., Article 10. paragraph 2., Article 13. paragraph 10., Article 47., Article 49. paragraph 4. point 2., Article 59., Article 73. point 7., Article 74., Articles 100. to 111., Article 113. paragraph 4., Article 113. paragraph 5. point 3., Article 113. paragraphs 6., 8., 9. and 11., Article 131. paragraph 3., Article 132. paragraph 2., Article 133. paragraph 3., Article 134. paragraph 4., Articles 136. to 141., Articles 144. to 147., Articles 148. to 151., Article 152., Article 153., Article 223. paragraph 4., Article 248., Article 249., Article 250., Article 291. paragraphs 7. to 9., Article 300., Article 301. paragraph 1. point 2., Article 306., Article 307., Article 309. paragraph 2. point 5., Article 309. paragraphs 6. and 7., Article 310. paragraph 3. point 3., Article 312., Article 314. paragraph 7., Article 318., Article 321., Article 325., Article 332., Article 333. paragraph 3., Article 334. paragraph 2., Article 335. paragraph 3., Article 336. paragraph 3., Article 339. paragraphs 6. to 8. and Article 341. paragraphs 7. and 8.of this Act shall begin to apply.

(3) At the date of accession of the Republic of Croatia to the European Union, the Ordinances adopted by the Agency pursuant to Article 3. paragraph 2 and Article 135 of this Act shall cease to apply.

(4) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 351, paragraph 1, point 11; Article 364, paragraph 1; Article 365, paragraph 1; Article 366, paragraph 1; Article 367, paragraph 1; Article 384, paragraphs 1 and 4; Article 391; Article 392; Article 393 and Article 394 of this Act shall cease to apply.

(5) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 342, paragraph 1, point 2, sub-points c, d and e, points 3, 4 and 5; Article 343, paragraph 1, point 6, the second sentence of sub-point d and the second sentence of sub-point e; Article 343, paragraph 1, points 12 and 13; Article 351, paragraph 1, point 2; Article 353; Article 355, paragraph 6; Article 358, paragraph 5; Article 361, paragraph 3; Article 364, paragraphs 2 and 3; Article 365, paragraph 2; Article 366, paragraph 2; Article 367, paragraph 2; Article 368; Article 374, paragraph 1, point 2; Article 379, paragraph 4; Article 380; Article 381; Article 382; Article 383; Article 384, paragraphs 2 and 3; Article 385 of this Act shall begin to apply.

(6) At the date of accession of the Republic of Croatia to the European Union, the Ordinances adopted by the Agency pursuant to Article 360. paragraph 1, Article 364 paragraph 6 and Article 374 paragraph 4 of this Act shall cease to apply.

(7) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 396; Article 405; Article 408; Article 410, paragraph 3; Article 425, paragraph 1; Article 434, paragraph 2; Article 435, paragraph 2; Article 438, paragraph 1; Article 439, paragraph 1; Article 440, paragraph 2; Article 446, paragraph 2, point 8 and paragraph 4 of this Act shall cease to apply.

(8) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 395, paragraph 1, point 4, indent 3 and points 7 to 9; Article 397; Article 398; Article 399; Article 406; Article 409; Article 410, paragraph 4; Article 412, paragraph 1, points 2, 5, 6 and 7; Article 422; Article 425, paragraph 2; Article 432, paragraph 2; Article 434, paragraph 3; Article 435, paragraphs 3 and 6; Article 436; Article 437; Article 438, paragraphs 2 to 7; Articles 439, paragraphs 2 and 3; Article 440, paragraph 3; Article 446, paragraph 2, point 9 and paragraph 5; Article 447; Article 449 of this Act shall begin to apply.

(9) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 450, Article 453 paragraph 1 item 2; Article 454, paragraphs 1 and 3 and Article 464, paragraph 4 item 1of this Act shall enter into force.

(10) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 451; Article 453 paragraph 1 item 3; Article 454, paragraphs 2 and 4; Article 464, paragraph 4

item 2, Article 483 paragraph 2., Article 484., Article 485 paragraph 2, Article 486 and Article 487 of this Act shall begin to apply.

(11) At the date of accession of the Republic of Croatia to the European Union, the Ordinance adopted by the Agency pursuant to Article 454 paragraph 1 of this Act shall cease to apply.

(12) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 505 paragraph 2 and Article 524 paragraph 6 of this Act shall begin to apply.

(13) At the date of accession of the Republic of Croatia to the European Union, the provisions of Article 556, Article 557 and Article 563 of this Act shall begin to apply.

Article 596

Until the date of accession of the Republic of Croatia to the European Union, the provisions of this Act concerning investment firms from third countries shall apply to investment firms from the Member States as appropriate.

Procedures

Article 597

The procedures, including also public or private securities offerings, instigated before the Agency prior to the entry into force of this Act shall be completed by applying the provisions of the Securities Market Act (Official Gazette No 84/02 and 138/06).

Article 598

By the time of adopting the regulations on the basis of this Act, the regulations adopted on the basis of the Securities Market Act shall apply as appropriate providing they are not contrary to the provisions of this Act.

Cessation of regulations upon entry into force of this Act

Article 599

(1) Upon entry into force of this Act, the Securities Market Act (Official Gazette 84/02 and 138/06) shall cease to be in force.

(2) Within three months after the entry into force of this Act, the Agency shall adopt new regulations on the basis of this Act.

Entry into force

Article 600

This Act shall enter into force on 1 January 2009.

The Croatian Parliament
Speaker of Parliament
Luka Bebić, m.p.