

# Public Offering of Securities Act

*Promulgated - State Gazette No. 114/30.12.1999, effective as of 31.01.2000,  
Last Amendment - SG No. 91/14.11.2017;*

## Title One

### GENERAL DISPOSITIONS

#### Chapter One SECURITIES

## Article 1

*(Last Amendment - SG No. 62/2017)*

(1) This Act regulates:

1. *(Last Amendment, SG No. 52/2007)* the public offering of, the issuing and disposition of dematerialized securities, including outside the cases of public offering, as well as the restrictions regarding the disposition of securities issued through non-public offering;
2. *(Last Amendment - SG No. 103/2012)* the operation of the Central Depository and the Compensation Fund for Investors;
3. the requirements to the public companies and to the other issuers of securities;
4. *(Repeal - SG No. 62/2017)*
5. *(Amended, SG No. 86/2006)* the state supervision to ensure compliance with this Act.

(2) The purpose of this Act is:

1. *(Amended, SG No. 86/2006)* to ensure the protection of investors in securities, *inter alia* by creating conditions to supply them with fuller and more appropriate information regarding the capital market;
2. *(Amended, SG No. 86/2006)* to create conditions for the development of a transparent, open and efficient capital market;
3. *(Amended, SG No. 86/2006)* to maintain the stability and the public confidence in the capital market.

(3) *(New, SG No. 86/2006, amended, SG No. 52/2007)* This Act shall not apply to the issuing, acquisition, redemption and transactions in government securities, the systems for registration and settlement of government securities, the regulation of the government securities market and the control over transactions in government securities, as well as to the other financial transactions effected for the purpose of management of the public debt.

## **Article 2**

### *(Last Amendment - SG No. 91/14.11.2017)*

(1) *(Last Amendment - SG No. 91/14.11.2017)* "Securities" shall be any transferable rights entered on accounts with the Central Depository, and for government securities and for securities issued by the Bulgarian National Bank – registered on accounts with the Bulgarian National Bank or with a government securities sub-depository, or with foreign institutions conducting such activity (dematerialized securities), or any instruments materializing transferable rights (physical securities) which are negotiable on the capital market, with the exception of instruments of payment, such as:

1. shares in companies and other securities equivalent to shares in companies, partnerships and other legal persons, as well as depository receipts in respect of shares;
2. bonds and other forms of debt securities, including depository receipts in respect of such securities;
3. any other securities giving the right to acquire or sell any such securities or giving rise to a cash settlement determined by reference to securities, exchange rates, interest rates or yields, commodities or other indices or measures.

(2) The debt securities within the meaning given by this Act shall express transferable claims to an income determined or determinable in advance against the issuer of the said securities, which claims have arisen out of the extension to the said issuer of a loan of money or other property rights. Debt securities may furthermore express other rights, unless this is contrary to the law.

(3) *(Amended, SG No. 86/2006)* "Equity securities", within the meaning given by this Act, shall be:

1. any shares in companies;
2. any other securities equivalent to shares in companies;
3. any other type of securities giving the right to acquire shares and securities equivalent to shares as a consequence of their being converted or the rights conferred thereby being exercised, provided that securities of the latter type are issued by the issuer of the underlying shares or by a legal person belonging to the group of the said issuer.

(4) *(New, SG No. 86/2006)* "Non-equity securities" shall be all securities that are not equity securities within the meaning given by Paragraph (3).

## **Article 3**

Public offering of the following shall be prohibited:

1. physical securities, save in the cases provided for in a statute;
2. dematerialized securities whereof the transfer is subject to restrictions or conditions.

## **Article 4**

### *(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* "Public offering of securities" shall be a communication on offer of securities addressed to 150 and more persons or to an unrestricted circle of persons in any form whatsoever and by any means whatsoever, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable investors to decide to subscribe to or purchase the said securities. The placing of securities through a financial intermediary shall likewise be treated as public offering if it fulfils the conditions under sentence one.

(2) Public offering shall furthermore be in effect where a person who or which is not an investment intermediary or holder of the securities takes part in the offering of the said securities.

(3) *(Amended, SG No. 61/2002, SG No. 86/2006)* Public offering shall not be in effect where the securities are offered in the cases of liquidation, enforcement proceedings or bankruptcy proceedings according to a procedure established by a law.

## **Article 5**

(1) *(Redesignated from Article 5, SG No. 61/2002)* "Primary public offering" shall mean offering made under the terms established by Article 4 herein of:

1. securities for subscribing by the issuer thereof or by an investment intermediary thereby authorized (subscription), or
2. securities for primary distribution by an investment intermediary according to an underwriting agreement concluded with the issuer of the said securities;
3. *(Supplemented, SG No. 39/2005, repealed, SG No. 86/2006).*

(2) *(New, SG No. 61/2002, repealed, SG No. 86/2006).*

## **Article 6**

*(Amended, SG No. 61/2002, supplemented, SG No. 86/2006, repealed, SG No. 52/2007)*

# **Article 7**

*(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Chapter Two**

### **FINANCIAL SUPERVISION COMMISSION**

#### **Article 8**

*(Amended, SG No. 61/2002)*

*(1) (Amended, SG No. 8/2003, supplemented, SG No. 39/2005, amended, SG No. 86/2006)*

The persons, activities and transactions covered under Article 1 (1) herein shall be regulated and supervised by the Financial Supervision Commission, hereinafter referred to as "the Commission," as well as by the Deputy Chairperson of the said Commission in charge of the Investment Activity Supervision Department, hereinafter referred to as "the Deputy Chairperson".

*(2) (Amended, SG No. 39/2005)* In performance of the functions thereof, the Commission shall adopt clear and consistent decisions, and shall be open and responsible in the acts thereof, shall assess the burden of regulatory restrictions and the benefit expected therefrom, and shall encourage fair competition.

#### **Article 9**

*(Amended, SG No. 61/2002, repealed, SG No. 8/2003)*

#### **Article 10**

*(Amended and supplemented, SG No. 61/2002, repealed, SG No. 8/2003)*

#### **Article 11**

*(Repealed, SG No. 8/2003)*

## **Article 12**

*(Repealed, SG No. 8/2003)*

## **Article 13**

*(Amended and supplemented, SG No. 61/2002, repealed, SG No. 8/2003)*

## **Article 14**

*(Repealed, SG No. 8/2003)*

## **Article 15**

*(Amended and supplemented, SG No. 61/2002, repealed, SG No. 8/2003)*

## **Article 16**

*(Supplemented, SG No. 61/2002, repealed, SG No. 8/2003)*

## **Article 16a**

*(New, SG No. 61/2002, repealed, SG No. 8/2003)*

# **Article 17**

*(Supplemented, SG No. 61/2002, repealed, SG No. 8/2003)*

# **Article 18**

*(Supplemented, SG No. 61/2002, repealed, SG No. 8/2003)*

# **Article 19**

*(Amended and supplemented, SG No. 61/2002, repealed, SG No. 8/2003)*

# **Title Two**

## **REGULATED SECURITIES MARKETS**

### **Chapter Three STOCK EXCHANGE**

#### **Section I**

# **Incorporation and Management**

## **Article 20**

*(Amended and supplemented, SG No. 61/2002, supplemented, SG No. 71/2003, amended, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 21**

*(Amended, SG No. 86/2006, effective as of 28.10.2006, repealed, SG No. 52/2007)*

### Article 22

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 23**

*(Supplemented, SG No. 86/2006, effective 28.10.2006, repealed, SG No. 52/2007)*

### Article 24

*(Repealed, SG No. 52/2007)*

### Article 25

*(Repealed, SG No. 52/2007)*

### Article 26

*(Ammended, SG No. 86/2006, repealed, SG No. 52/2007)*

**Article 27**

*(Ammended, SG No. 61/2002, SG No. 39/2005, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Section II**

### **Grant and Revocation of Authorization**

**Article 28**

*(Amended, SG No. 61/2002, amended and supplemented, SG No. 39/2005, repealed, SG No. 52/2007)*

**Article 29**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

**Article 30**

*(Repealed, SG No. 52/2007)*

## **Article 31**

*(Amended, SG No. 39/2005, SG No. 34/2006, repealed, SG No. 52/2007)*

**Article 32**

*(Repealed, SG No. 52/2007)*



**Article 33**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

**Article 34**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

**Article 35**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

**Article 36**

*(Amended, SG No. 39/2005, amended and supplemented, SG No. 34/2006, repealed, SG No. 52/2007)*

**Section III**

**Membership and Exchange Arbitration**

**Article 37**

*(Repealed, SG No. 52/2007)*

# **Article 38**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 39**

*(Repealed, SG No. 52/2007)*

## **Article 40**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 41**

*(Repealed, SG No. 52/2007)*

## **Article 42**

*(Repealed, SG No. 52/2007)*

## **Article 43**

*(Repealed, SG No. 52/2007)*

# **Chapter Four**

## **SECOND-TIER SECURITIES MARKET**

## **Article 44**

*(Amended, SG No. 39/2005, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 45**

*(Repealed, SG No. 52/2007)*

**Article 46**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

**Article 47**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

**Article 48**

*(Repealed, SG No. 52/2007)*

**Article 49**

*(Amended, SG No. 39/2005, SG No. 34/2006, repealed, SG No. 52/2007)*

**Article 50**

*(Repealed, SG No. 52/2007)*

**Article 51**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

# **Article 52**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

# **Article 53**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

# **Title Three**

**TRANSACTIONS IN SECURITIES**

# **Chapter Five**

**INVESTMENT INTERMEDIARIES**

**Section I  
General Provisions**

## **Article 54**

*(Supplemented, SG No. 61/2002, amended, SG No. 39/2005, effective as of 01.01.2006, SG No. 59/2006, supplemented, SG No. 86/2006, SG No. 25/2007, repealed, SG No. 52/2007)*

# **Article 55**

*(Amended, SG No. 39/2005, effective as of 01.01.2006)*

- (1) *(Repealed, SG No. 52/2007)*
- (2) *(Repealed, SG No. 52/2007)*
- (3) *(Repealed, SG No. 52/2007)*
- (4) *(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*
- (5) *(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*
- (6) *(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*
- (7) *(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*
- (8) *(New, SG No. 52/2007, effective as of 03.07.2007 till 01.11.2007)*
- (9) *(New, SG No. 52/2007, effective as of 03.07.2007 till 01.11.2007)*

## **Article 56**

*(Amended and supplemented, SG No. 61/2002, amended, SG No. 39/2005, effective as of 01.01.2006, repealed, SG No. 52/2007)*

## **Article 56a**

*(New, SG No. 39/2005, amended, SG No. 59/2006, repealed, SG No. 52/2007)*

### **Article 57**

*(Repealed, SG No. 52/2007)*

## **Article 58**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

### **Article 59**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

### **Article 60**

*(Amended and supplemented, SG No. 39/2005, amended, SG No. 25/2007, repealed, SG No. 52/2007)*

## **Article 61**

*(Repealed, SG No. 52/2007)*

## **Section II**

### **Issuing and Revocation of License**

#### **Article 62**

*(Amended and supplemented, SG No. 39/2005, supplemented, SG No. 86/2006, amended and supplemented, SG No. 25/2007, repealed, SG No. 52/2007)*

## **Article 63**

*(Amended and supplemented, SG No. 39/2005, SG No. 25/2007, repealed, SG No. 52/2007)*

## **Article 64**

*(Amended and supplemented, SG No. 39/2005, supplemented, SG No. 86/2006, amended and supplemented, SG No. 25/2007, repealed, SG No. 52/2007)*

## **Article 65**

*(Amended, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 66**

*(Amended and supplemented, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 67**

*(Amended, SG No. 39/2005, SG No. 34/2006, repealed, SG No. 52/2007)*

## **Article 68**

*(Amended and supplemented, SG No. 39/2005, amended, SG No. 84/2006, repealed, SG No. 52/2007)*

## **Article 68a**

*(New, SG No. 61/2002, amended, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 68b**

*(New, SG No. 61/2002, amended, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Article 69**

*(Amended, SG No. 61/2002, SG No. 8/2003, SG No. 39/2005, repealed, SG No. 52/2007)*

## **Section IIa**

*(New, SG No. 39/2005, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union)*

### **Conduct of Business by Investment Intermediaries in a Member State**

*(Heading amended, SG No. 86/2006)*

## **Article 69a**

*(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*



## **Article 69b**

*(Repealed, SG No. 52/2007)*

## **Article 69c**

*(New, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 69d**

*(Renumbered from Article 69c, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 69e**

*(New, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Section IIb**

*(New, SG No. 39/2005, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union)*

**Conduct of Business in the Republic of Bulgaria by Investment Intermediaries  
with Registered Office in a Member State**

*(Heading amended, SG No. 86/2006)*

## **Article 69f**

*(Renumbered from Article 69d, amended and supplemented, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 69g**

*(Renumbered from Article 69e, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 69h**

*(Renumbered from Article 69f, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 69i**

*(Renumbered from Article 69g and amended, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 69j**

*(New, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 69k**

*(New, SG No. 86/2006, repealed, SG No. 52/2007)*

# **Article 69I**

*(New, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Section III**

### **Requirements to the Business of Investment Intermediaries**

#### **Article 70**

*Amended and supplemented, SG No. 39/2005, repealed, SG No. 52/2007)*

#### **Article 71**

*(Repealed, SG No. 52/2007)*

#### **Article 71a**

*(New, SG No.25/2007, repealed, SG No. 52/2007)*

#### **Article 72**

*(Repealed, SG No. 52/2007)*

#### **Article 73**

*(Repealed, SG No. 52/2007)*

#### **Article 74**

*(Amended and supplemented, SG No. 39/2005, amended, SG no. 25/2007, repealed, SG No. 52/2007)*

## **Article 74a**

*(New, SG No. 39/2005, amended, SG No. 34/2006, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 74b**

*(New, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 74c**

*(New, SG No. 86/2006, amended, SG No. 25/2007, repealed, SG No. 52/2007)*

## **Article 74d**

*(New, SG No. 39/2005, renumbered from Article 74b, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 75**

*(Amended and supplemented, SG no. 61/2002, amended, SG No. 39/2005, supplemented, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 76**

*(Amended, SG No. 39/2005, supplemented, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 76a**

*(New, SG No. 39/2005, amended, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 76b**

*(New, SG No. 39/2005, repealed, SG No. 52/2007)*

# Article 77

*(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*

## Section IV

*(New, SG No. 39/2005)*

# Investor Compensation

## Article 77a

*(New, SG No. 39/2005)*

(1) *(Amended, SG No. 52/2007)* There shall be established a Compensation Fund for Investors, hereinafter referred to as "the Fund," as a legal person with registered office in Sofia.

(2) The Fund shall pay compensation to the clients of an investment intermediary and of the branches thereof in host Member States under the terms and according to the procedure established by this Act through the resources raised in the Fund in the cases where the investment intermediary is unable to meet the obligations thereof to the clients for reasons directly related to the financial circumstances of the said intermediary.

(3) *(Amended, SG No. 86/2006)* Each investment intermediary, which holds, administers or manages money and/or financial instruments of clients and in respect of which, for this reason, obligations to clients may arise, shall be obligated to make money contributions to the Fund according to Article 77m (1) and (2) herein.

(4) *(Amended, SG No. 52/2007)* The obligation referred to in Paragraph (3) shall furthermore apply to the branches of investment intermediaries from a third country in the Republic of Bulgaria in the cases where:

1. *(Amended, SG No. 52/2007)* a compensation scheme for investors in securities does not operate in the State in which the registered office of the investment intermediary is situated or the said scheme does not cover the branches of the said intermediary abroad;

2. *(Amended, SG No. 52/2007)* the level or scope of cover offered by the compensation scheme for investors in securities existing in the State in which the registered office of the investment intermediary is situated is lower than the level or scope of the cover provided for in this Act; in such case the compensation provided by the Fund shall cover the excess over the compensation offered by the compensation scheme for investors in financial instruments in (the State in which) the registered office of the investment intermediary is situated.

(5) Where the level or scope, including the percentage, of the cover provided for in this Act exceeds the level or scope of the cover offered in the Member State in which the registered office of the investment intermediary which carries on business in the Republic of Bulgaria through a branch is located, the investment intermediary may participate in the Fund for the purpose of offering supplementary cover to the clients of the branch thereof. In such case the Fund shall cover the excess over the compensation offered by the compensation scheme

for investors in financial instruments in (the State in which) the registered office of the investment intermediary is situated.

(6) The investment intermediary referred to in Paragraph (5) shall be obligated to make contributions solely under Article 77m (2) herein, whereof the amount shall be fixed in proportion to the supplementary cover provided by the Fund.

(7) Non-payment of the contributions due under this Act by the investment intermediary shall not deprive the rightful clients of the said investment intermediary of compensation up to the levels provided for in Article 77d herein.

## **Article 77b**

### *(Last Amendment - SG No. 62/2017)*

(1) The Fund shall pay compensation to the clients of the investment intermediary up to the levels provided for in Article 77d herein in the cases where:

1. bankruptcy proceedings against the investment intermediary have been instituted by judgment of the competent district court, including where the bankruptcy proceedings have been closed in pursuance of Article 632 of the Commerce Act;

2. *(Amended, SG No. 59/2006, SG No. 52/2007)* the licence or authorization, as the case may be, for conduct of business in an investment-intermediary capacity has been revoked by a decision of the competent authority in the cases referred to in Item 3 of Article 20 (2) of the Markets in Financial Instruments Act herein and, applicable to investment intermediaries which are banks, in the cases covered under Article 36 (2) of the Credit Institutions Act.

3. *(New - SG No. 62/2017)* with a commission decision, it is ascertained that the following conditions are simultaneously present:

a) the financial instruments and/or the cash resources held by the investment intermediary for the accounts of his clients are not available at the respective accounts due to reasons different from performance of contractual relations with the clients;

b) at the discretion of the commission, for the moment and due to reasons directly connected with his financial status, it is impossible for the investment intermediary to pay to his clients the cash resources, respectively to recover the financial instruments and he will be unable to do so in the short run.

(2) *(New - SG No. 62/2017)* The decision under para. 1, pt. 3 is made within 10 business days after becoming aware that the investment intermediary does not perform his obligations towards his clients with reference to payment of cash resources and/or transfer of financial instruments. The Financial Supervision Commission may also adopt a decision under para. 1, pt. 3 after investment intermediary license for conduct of business revocation, outside of the cases under art. 20, para. 2, pt. 3 of the Market in Financial Instruments Act.

(3) *(Former Par. 2 - SG No. 62/2017)* The authority referred to in Item 1 - 3 of Paragraph (1) shall be obligated to transmit a transcript of the decision to the Fund not later than before the end of the day next succeeding the rendition of the said decision.

(4) *(Former Par. 3 - SG No. 62/2017)* The Fund shall pay compensation to the clients of a foreign investment intermediary on occurrence of events analogous to those under paragraph 1, which serve as a ground for payment of compensation under the relevant legislation.

(5) *(Former Par. 4 - SG No. 62/2017)* Within seven days after receipt of the decision referred to in Paragraph (1), the Fund shall give public notice, by insertion in at least two national daily newspapers and by posting on the Internet site thereof, of the decision rendered under Paragraph (1) and of the time limit under Article 77t (2) herein, wherewithin the clients of

the investment intermediary may claim payment of compensation from the Fund, as well as the bank wherethrough the compensation is to be paid.

(6) *(Former Par. 5 - SG No. 62/2017)* In cases under Paragraph (1) the claims of the investment intermediary's clients are considered raised and are entered officially in the list under art. 686, para. 1, pt. 2 of The Commerce Act by the trustee in bankruptcy.

## **Article 77c**

*(New, SG No. 39/2005)*

(1) Compensation shall be paid for claims arising out of an inability of the investment intermediary to return the clients' assets in accordance with the legal and contractual conditions.

(2) *(Amended, SG No. 86/2006, SG No. 52/2007)* "Clients' assets," within the meaning given by this Section, shall be the cash resources, financial instruments and other assets belonging to the clients of an investment intermediary which the said intermediary holds, administers or manages for the account of the said clients in connection with the services provided by the said intermediary under Article 5 (2) and (3) of the Markets in Financial Instruments Act herein, including interest, dividends and other such payments. The clients' assets of any investment intermediaries which are banks shall not include the deposits within the meaning given by Item 1 of § 1 of the Supplementary Provision of the Bank Deposits Guarantee Act .

(3) *(Amended, SG No. 86/2006)* The amount of a claim referred to in Paragraph (1) shall be calculated on the date of rendition of the decision referred to in Article 77b (1) herein in accordance with the legal and contractual conditions, with the value of the clients' assets being determined under terms and according to a procedure established by ordinance.

## **Article 77d**

*(Last Amendment - SG No.  
102/29.12.2015, in force as of  
01.01.2016)*

(1) The Fund shall pay each client of an investment intermediary compensation amounting to the lesser of 90 per cent of the value of the claim and BGN 40,000.

(2) No compensation shall be paid to:

1. the members of the management body and the supervisory body of the investment intermediary, as well as to the managerial agents thereof;
2. *(Amended, SG No. 25/2007)* the persons who or which hold, whether directly or indirectly, 5 or more than 5 per cent of the votes in the General Meeting of the investment intermediary or who or which can control the said intermediary, as well as the persons within the same group as the investment intermediary, for which consolidated accounts are prepared;
3. the registered auditor which has audited the annual financial statement of the investment intermediary;

4. the spouses or lineal relatives to any persons referred to in Items 1, 2 and 3 up to any degree of consanguinity, the collateral relatives thereto up to the second degree of consanguinity and the relatives by marriage thereto up to the second degree of affinity;
  5. the investment intermediaries;
  6. *(Amended, SG No. 86/2006)*the credit institutions;
  7. the insurers;
  8. the pension and social insurance funds;
  9. *(Last Amendment – SG, No. 109/2013, in force as of 20.12.2013)* the collective investment schemes, national investment funds, alternative investment funds, managed by persons, managing alternative investment funds, and the special purpose investment companies;
  10. the State and the institutions of State;
  11. the municipalities;
  12. *(Last Amendment - SG No. 102/29.12.2015, in force as of 01.01.2016)* the Compensation Fund for Investors in financial instruments, the Bank Deposit Insurance Fund-Bulgaria and the Guarantee Fund under Article 518 of the Insurance Code;
  13. *(New, SG No. 86/2006)*the investors, who have taken advantage of any circumstances relating to the intermediary and which have led to a deterioration of the financial situation thereof, as well as the investors who have contributed to the said situation;
  14. *(Renumbered from Item 13, SG No. 86/2006, amended, SG No. 52/2007)*other professional clients within the meaning of § 1, item 9 of the supplementary provisions of the Markets in Financial Instruments Act.
- (3) The Fund shall not pay compensation for claims arising out of and/or in relation to any transactions and actions constituting "money laundering" within the meaning given by Article 2 of the Measures against Money Laundering Act , if the perpetrator is convicted by an effective sentence.
- (4) The circumstances justifying the exclusions covered under Paragraphs (2) and (3) shall be established on the date of the decision referred to in Article 77b (1) herein.

## **Article 77e**

### ***(Last Amendment, SG No. 103/2012)***

- (1) The Fund shall be transformed, dissolved and liquidated by statute.
- (2) Upon liquidation of the Fund, any remainder of the property thereof after payment of the obligations thereof shall be distributed among the investment intermediaries in proportion to the contributions paid thereby, with the exception of such investment intermediaries whereof the obligations to clients have been paid by the Fund.
- (3) *(New- SG. No 103/2012)* The Commission exercises control over the Fund's activities. Examinations are performed by Commission's administration officials, designated by virtue of an order of the chairperson.
- (4) *(New- SG. No 103/2012)* The Fund is obliged, upon request, to submit to the Commission any kind of information and documents related to its activities.
- (5) *(Former Par. 3 – SG No. 103/2012)* The Commission shall adopt Rules of Organization and Operation of the Fund, which shall be promulgated in the *State Gazette* .
- (6) *(Former Par.4, Last Amendment- SG. No 103/ 2012)* The National Audit Office audits the Compensation Fund for Investors.



# Article 77f

## *(Last Amendment - SG No. 62/2017)*

(1) The Management Board of the Fund shall be elected by the Commission and shall consist of five members: a Chairperson, a Deputy Chairperson, and three members.

(2) The Chairperson and the Deputy Chairperson of the Management Board of the Fund shall be nominated by the Deputy Chairperson of the Commission.

(3) The remaining three members of the Management Board of the Fund shall be nominated as follows:

1. *(Amended, SG No. 52/2007)* a person nominated by an association or associations representing the persons which have obtained a licence for provision of services and performance of activities covered under Article 5 (2) and (3) of the Markets in Financial Instruments Act herein, with the exception of banks, and which are obligated to make money contributions to the Fund under the terms and according to the procedure established by this Act;

2. *(Amended, SG No. 52/2007)* a person nominated by an association or associations representing the investment intermediaries which are banks, which have obtained a licence for provision of services and performance of activities covered under Article 5 (2) and (3) herein and which are obligated to make money contributions to the Fund under the terms and according to the procedure established by this Act;

3. *(Last Amendment - SG No. 62/2017)* a person, nominated by an association or associations representing managing companies which have been granted a license for performance of activities and provision of services under art. 86, para. 1 and 2 of the Collective Investment Schemes Activities Act and of other collective investment undertakings and which are obligated to make monetary contributions in the Fund under the conditions and following the procedure of this Act.

(4) In the cases where the Deputy Chairperson, as well as the association or associations referred to in Paragraph (3), fail to nominate a person for election as member of the Management Board of the Fund within the time limit referred to in Article 77g (2) herein, the Chairperson of the Commission shall nominate a person at his or her discretion.

(5) To be eligible for the office of member of the Management Board, a person must hold a degree of higher education in Economics or Law and possess professional experience of not less than five years in law, finance, accounting, trading in financial instruments, or banking.

(6) Membership of the Management Board of the Fund shall be limited to persons who:

1. have not been members of a management body or a supervisory body of, or general partner in, any corporation whereagainst bankruptcy proceedings have been instituted or any corporation dissolved by bankruptcy and leaving any creditor unsatisfied;

2. have not been adjudicated bankrupt, nor be the subject of bankruptcy proceedings as sole traders;

3. are not spouses or lineal or collateral relatives to any other member of the Management Board of the Fund up to the third degree of consanguinity, or relatives by marriage thereto up to the third degree of affinity;

4. have not been convicted of a premeditated offence at public law;

5. are under no disqualification from occupying a position of property accountability.

(7) The Chairperson and the Deputy Chairperson of the Management Board of the Fund may not engage in any other remunerative activity except research and teaching.

(8) The remunerations of the Chairperson, the Deputy Chairperson and the members of the Management Board of the Fund shall be equivalent to not more than 90 per cent of the amount of the remuneration of the Deputy Chairperson of the Commission.

(9) *(New - SG. No 103/2012)* The relations between the Fund and the members of the Management Board are settled in an agreement for assigning of the management. The agreement is concluded in writing on behalf of the Fund by the chairperson of the Commission or by an official authorized by him or her.

## **Article 77g**

### *(Last Amendment - SG No. 62/2017)*

(1) The term of office of the Management Board shall be five years. The members of the Management Board of the Fund shall continue to exercise the powers thereof and to perform the functions thereof even after expiry of the term of office thereof until the new members take office. The members of the Management Board shall be re-eligible without limitation.

(2) *(Last Amendment - SG No. 62/2017)* Within three months prior to the expiry of the term of office of the members of the Management Board of the Fund, the Deputy Chairperson, the association or associations referred to in Article 77f (3) herein shall submit the nominations thereof for persons to be elected as members of the Management Board of the Fund. The Deputy Chairperson notifies the associations under art. 77f, para. 3 about the beginning of the three-month term during which the nominations for members of the Management Board of the Fund to be presented.

(3) The term of office of a member of the Management Board shall be terminated prior to the expiry of the said term by decision of the Commission:

1. upon tendering of resignation;
2. if the said member ceases to satisfy the requirements established by Article 77f (6) herein;
3. in the event of actual inability to discharge the duties thereof in the course of a period exceeding six months;
4. upon breach of Article 77f (7) herein;
5. upon non-attendance, without reasonable excuse, of three or more successive meetings of the Management Board.

### **6. *(Last Amendment - SG No. 62/2017)***

upon coming into effect of an act through which is found conflict of interests under the Law on Prevention and Disclosure of Conflict of Interests.

(4) Upon pre-term termination of the office of a member of the Management Board, a replacement shall be elected to serve the remainder of the term. Paragraph (2) shall apply accordingly.

## **Article 77h**

*(Last Amendment - SG No. 62/2017)*

(1) The Management Fund of the Fund shall perform the following functions:

1. determine and collect the entrance and annual contributions from the investment intermediaries in conformity with the rules established in this Act and in the instruments for the application thereof;
2. *(Amended, SG No. 86/2006)* identify, after collection of relevant evidence, the branches of non-resident investment intermediaries in Bulgaria in respect of which the prerequisites covered under Article 77a (4) herein are in place;
3. *(Last Amendment - SG No. 62/2017)* makes investments decisions for the assets of the Fund in compliance with the requirements established by this Act and accepted internal rules and restrictions;
4. organize the payment of compensation up to the limits provided for in Article 77d herein under the terms and according to the procedure established by this Act and the instruments for the application thereof;
5. adopt an annual report on the operation of the Fund and an annual financial statement and lay the said report and statement before the Commission and before the National Audit Office on or before the 30th day of May of the next succeeding year;
6. adopt an annual budget of the administrative expenses of the Fund and a report on the implementation of the said budget, and lay the said budget and report before the Commission for approval; the budget and the report on implementation thereof as approved shall be submitted to the National Audit Office;
7. prepare draft ordinances on the application of this Section and lay the said drafts before the Commission for consideration and approval;
8. adopt a staffing schedule of the Fund and fix the amount of remuneration of the employees thereof and lay the said schedule and amount before the Commission for endorsement;
9. consider and address other issues related to the operation of the Fund.

(2) The Fund may require that the investment intermediaries provide all documents as shall be necessary to make an objective evaluation of the existence and amount of clients' assets on which compensation is paid.

(3) At the request of the Fund, the Deputy Chairperson of the Commission or the Deputy Governor heading the Banking Supervision Department of the Bulgarian National Bank may cause the conduct of limited examinations of investment intermediaries and shall provide the results of the said examinations to the Fund.

(4) The Fund shall publish information on the operation thereof on the Internet site thereof or in another appropriate manner.

## **Article 77i**

*(New, SG No. 39/2005)*

(1) The Management Board of the Fund shall consider and address all matters within the competence thereof at meetings held at least once every three months.

- (2) The meetings shall be convened by the Chairperson or on a requisition of three of the members of the Management Board.
- (3) For the valid transaction of business at a meeting, more than one-half of the members of the Management Board shall have to be present thereat.
- (4) The decisions of the Management Board of the Fund shall be made by a simple majority of the members thereof.

## **Article 77j**

*(New, SG No. 39/2005)*

- (1) The Chairperson of the Management Board of the Fund shall exercise the following powers:
1. represent the Fund at home and abroad;
  2. organize and direct the day-to-day operation of the Fund;
  3. convene and preside over the meetings of the Management Board;
  4. conclude and terminate the contracts with the members of the administration of the Fund;
  5. organize and implement current control over the implementation of the budget as approved by the Commission.
- (2) The Chairperson may delegate some of the powers thereof to a member of the Management Board.

## **Article 77k**

*(Last Amendment, SG No. 103/2012)*

- (1) *(Last Amendment – SG No. 103/2012)* The operation of the Fund shall be assisted by an administration whereof the composition, structure, rights and duties shall be determined by the Rules referred to in Article 77e (5) herein.
- (2) The legal relationships with the employees of the administration shall be settled in accordance with the Labour Code.

## **Article 77l**

*(Last Amendment - SG No. 62/2017, in force as of 01.01.2018)*

- (1) The resources of the Fund shall be raised from the following sources:
1. the entrance contributions referred to in Article 77m (1) herein;
  2. the annual contributions referred to in Article 77m (2) herein;
  3. the proceeds from the investment of the resources raised in the Fund;

4. (Amended, SG No. 86/2006, effective 28.10.2006) the amounts from the property of the investment intermediaries received by the Fund in the cases referred to in Article 77t (6) herein;

5. other sources, such as loans, donations, foreign assistance.

(2) The Bulgarian National Bank shall be the depository of the resources of the Fund.

(3) (Last Amendment - SG No. 62/2017, in force as of 01.01.2018) The Fund is exempted from corporate tax payment with reference to the activities related to compensating the investors and for the recovery and restructuring of investment firms.

## **Article 77m**

### *(Last Amendment - SG No. 62/2017)*

(1) (Amended, SG No. 52/2007) The entrance contribution shall be made in a lump sum and shall amount to 1 per cent of the minimum amount of capital required for an investment intermediary depending on the licensed services and activities covered under Article 5 (2) and (3) of the Markets in Financial Instruments Act herein.

(2) Each investment intermediary shall make an annual contribution at the rate of:

1. up to 0.5 per cent of the total amount of the funds; and

2. up to 0.1 per cent of the total amount of the rest of the clients' assets for the last preceding year, determined on an average monthly basis.

(3) The percentages referred to in Paragraph (2) for the relevant year shall be fixed by the Management Board not later than the 31st day of December of the preceding year and shall be equal for all investment intermediaries.

(4) Annual contribution shall be remitted in four equal installments within 30 days after the end of each quarter.

(5) Upon calculation of the amount of the annual contribution due, the funds held in foreign currency terms shall be translated at the exchange rate of the Bulgarian National Bank as applicable on the last date of the month, and the value of the financial instruments and the other assets shall be determined on the last day of the month, if possible at the market value thereof, in accordance with rules established by ordinance.

(6) The assets of the persons covered under Article 77d (2) herein shall be excluded from the total amount of the clients' assets referred to in Paragraph (2).

(7) (Last Amendment - SG No. 62/2017) The amount of the annual contribution due by an investment intermediary which has received a licence for conduct of business during the relevant year shall be calculated on the total amount of clients' assets at the end of the said year in proportion to obtaining a license to perform an activity as an investment intermediary and ending at the end of the year, with any such year presumed to consist of 360 days. In such cases, the contribution shall be payable on or before the 31st day of January of the year next succeeding the year during which the investment intermediary has received a licence for conduct of business.

(8) (New - SG. No 103/2012) The amount of the required annual premium of an investment intermediary whose license has been withdrawn during the respective year, is calculated in proportion to the period from the beginning of the year to the date on which the decision for withdrawal of the license has been made, and the days of the year are considered to be 360.

(9) (Former Par. 8 – SG No. 103/2012) In the event of a failure to pay the relevant installment of the annual contribution within the time limit referred to in Paragraph (4), interest at the rate of the legal interest shall be charged and recoverable on the amount due for the period of delay.

(10) *(Former Par. 9 – SG No. 103/2012)* The entrance and annual contributions shall be reported as accounting expense for the current year.

(11) *(Former Par. 10 – SG No. 103/2012)* Any contributions made by the investment intermediaries shall be non-refundable, save as where misremitted or over-remitted.

(12) *(Former Par. 11 – SG No. 103/2012)* On or before the 10th day of each month, the investment intermediary shall be obligated to submit to the Commission and to the Fund information of the clients' assets on the last day of the preceding month, presented in a standard form approved by the Deputy Chairperson of the Commission.

(13) *(New - SG No. 62/2017)* In the cases in which the amount of the client assets under para. 2, calculated on a monthly basis, is bigger than zero, the annual contribution is at an amount not smaller than BGN 100.

(14) *(Former Par. 13 - SG No. 62/2017)* The investment intermediaries which are banks shall not make annual contributions under Item 1 of Paragraph (2).

## **Article 77n**

*(New, SG No. 39/2005)*

(1) *(Amended, SG No. 59/2006, SG No. 86/2006, effective 28.10.2006, amended and supplemented, SG No No. 52/2007)* Should any investment intermediary fail to pay any exigible amount of the annual contribution, the Fund shall notify the Commission or the Deputy Chairperson, as the case may be, for the purpose of taking the action referred to in Article 118 (1) of the Markets in Financial Instruments Act herein, and in the cases where the investment intermediary is a bank, the Bulgarian National Bank or the Deputy Governor heading the Banking Supervision Department for the purpose of taking the action referred to in the Credit Institutions Act. If despite the measures taken under sentence one the investment intermediary fails to meet its obligation for payment, the Commission or the Bulgarian National Bank, as the case may be, shall withdraw the licence of the investment intermediary.

(2) *(Amended, SG No. 86/2006, effective 28.10.2006)* Should any investment intermediary referred to in Article 77a (5) herein fail to pay any exigible amount of the annual contribution, the Fund shall notify the competent authority which has issued the licence to carry on business to the said investment intermediary for the purpose of taking the action necessary for payment of the amount due by the intermediary. Should the investment intermediary fail to pay the amount due despite the action taken, the Fund, acting with the consent of the competent authority referred to in sentence one, may suspend the provision of supplementary cover on a twelve months' notice. The Fund shall give notice of the date as from which the provision of supplementary cover is suspended by insertion in at least two national daily newspapers.

(3) *(Amended, SG No. 86/2006, effective 28.10.2006)* The Fund shall provide payment of compensation even after withdrawal of the licence of the investment intermediary to carry on business or after suspension of the provision of supplementary cover under Paragraph (2), as the case may be, in respect of any claims related to the services provided by the investment intermediary prior to the withdrawal of the said licence or prior to suspension of the provision of supplementary cover.

## **Article 77o**

## *(New, SG No. 39/2005)*

(1) When so requested by the Fund, the Commission and the Bulgarian National Bank shall provide all information available thereto regarding the amount of the clients' assets held with the investment intermediaries as may be necessary for calculation of the contributions due from the investment intermediaries.

(2) The Fund may use the particulars obtained solely for the performance of the functions thereto entrusted.

(3) The members of the Management Board of the Fund and the employees of the administration thereof may not disclose, whether personally or through another person, any information as may come to the knowledge thereof in the course of performance of the functions thereof, should the said information constitute a bank secret, a trade secret or another secret protected by law.

## **Article 77p**

### *(New, SG No. 39/2005)*

(1) The resources of the Fund may be used solely for payment of compensation up to the limits provided for in Article 77d herein in the cases provided for by this Act, for repayment of principal and payment of interest on loans contracted by the Fund, as well as for defrayal of the operating expenses incurred by the Fund.

(2) The resources of the Fund shall be invested in:

1. financial instruments issued or guaranteed by the (Bulgarian) State;
2. short-term deposits with banks;
3. deposits with the Bulgarian National Bank.

## **Article 77q**

### *(New, SG No. 39/2005)*

(1) Should the resources of the Fund be insufficient to cover the liabilities thereof under this Act, by decision of the Management Board any such deficit shall be covered in one of the following manners:

1. by obligating the investment intermediaries to remit the entire annual contribution in a lump sum;
2. by obligating the investment intermediaries to remit the annual contribution for the next succeeding year in advance, using the total amount of the clients' assets on the last day of the last preceding month as a base for calculation of the said contribution;
3. by increasing the annual contribution;
4. by contracting loans under terms which are not less favourable than the market terms.

(2) Any decisions of the Management Board under Paragraph (1) shall have to be approved by the Commission.

(3) Any amount paid in advance under Item 2 of Paragraph (1) shall be deducted from the annual contribution due from the investment intermediary for the next succeeding year, and any amount remitted in excess shall be refundable.

- (4) The maximum amount of the annual contribution as increased under Item 3 of Paragraph (1) may not exceed the double amount referred to in Article 77m (2) and (6) herein.
- (5) The loans contracted by the Fund may be secured by assets of the Fund, including the future receivables of the Fund.

## **Article 77r**

*(New, SG No. 39/2005)*

- (1) Should the resources accumulated in the Fund exceed 5 per cent of the total amount of the clients' assets with all investment intermediaries, the Management Board may make a decision that payment of the annual contributions be temporarily discontinued. Any such decision of the Management Board shall have to be approved by the Commission.
- (2) Payment of annual contributions shall resume should the resources in the Fund fall below the level as specified in Paragraph (1).

## **Article 77s**

*(New, SG No. 39/2005)*

- (1) *(Amended and supplemented, SG No. 86/2006, effective 28.10.2006)* The value of the claim referred to in Article 77d (1) herein shall be calculated on the basis of the sum total of all claims of the relevant client to the investment intermediary, irrespective of the number of accounts and the place where the said accounts have been opened.
- (2) In the cases where the clients' assets are held in foreign currency terms or in financial instruments, the client shall be paid the lev equivalent of the claims thereof in the amount referred to in Article 77d (1) herein, determined on the date of the decision referred to in Article 77b (1) herein.
- (3) In the cases where clients' assets belong to more than one person, the share of each one of the said persons shall be taken into account in determining the aggregate amount of the claims thereof to the investment intermediary. Unless otherwise stipulated, the shares of the clients shall be presumed to be equal.
- (4) In the cases where the client of the investment intermediary has acted for another's account, the compensation shall be paid to the person for whose account the said client has acted, subject to the condition that the said person is or can be identified prior to the date of the decision referred to in Article 77b (1) herein. If the client of the investment intermediary has acted for the account of two or more persons, Paragraph (3) shall apply.
- (5) Any clients' assets which are encumbered or serve as collateral security shall be included in the calculation of the amount of the compensation according to the procedure established by Paragraph (1), while the relevant portion of the compensation appertaining for the clients' assets shall not be paid to the asset-holding client until release of the encumbrance or security. If any clients' assets referred to in sentence one are subject to an effective act of a judicial authority, the Fund shall pay the compensation due in respect of the clients' assets to the person indicated in the said act as entitled to receive the compensation on the clients' assets.



(6) *(New, SG No. 86/2006, effective 28.10.2006)*In the cases where the client has any obligations to the investment intermediary, the amount of the said obligations shall be deducted upon determination of the value of the claim referred to in Article 77d (1) herein.

## **Article 77t**

### *(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* Within thirty days after the decision referred to in Article 77b (1) herein, the conservator, liquidator or trustee in bankruptcy as appointed shall submit to the Fund information in writing regarding the clients' assets. "In the cases under art. 77b, para. 1, pt. 3, if the Commission has failed to adopt a decision regarding appointment of a conservator, the Deputy Chairperson provides the Fund with the written information about the client assets.

(2) *(Last Amendment - SG No. 62/2017)* The Fund can be approached in writing with a request for payment of compensation within one year after publication of the notice referred to in Article 77b (4) herein, unless the deadline was missed due to special unforeseen circumstances. The entitlement to compensation shall be extinguished upon the lapse of the period referred to in sentence one.

(3) *(Amended, SG No. 86/2006, effective 28.10.2006)*The Fund shall consider the request as submitted and shall pay the compensation not later than three months after ascertainment of the grounds for and amount of the claim from the client of the investment intermediary.

(4) In special cases, the time limit for payment of compensation to the clients of the investment intermediary may be extended by not more than three months by permission of the Commission.

(5) *(New, SG No. 86/2006, effective 28.10.2006)*In case of a dispute regarding the right to compensation, the client may bring an action against the Fund according to the procedure established by the Code of Civil Procedure within three years after the day of receipt of the communication on the decision on the request for payment of compensation.

(6) *(Renumbered from Paragraph (5), SG No. 86/2006, effective 28.10.2006)*The Fund shall accede to the rights of the clients against the investment intermediary up to the amount of the compensation paid.

(7) *(Renumbered from Paragraph (6), SG No. 86/2006, effective 28.10.2006)*The Fund shall periodically notify the conservator, the liquidator or the trustee in bankruptcy of the amount of the compensation paid to each client.

(8) *(Renumbered from Paragraph (7), SG No. 86/2006, effective 28.10.2006)*In respect of any claims in excess of the amount of the compensation paid by the Fund, clients shall be satisfied from the property of the investment intermediary in accordance with effective legislation.

(9) *(Renumbered from Paragraph (8) and supplemented, SG No. 86/2006, effective 28.10.2006)*The procedure and manner for consideration of the request and payment of compensation from the Fund shall be regulated by ordinance.

## **Article 77u**

### *(New, SG No. 39/2005)*

The Fund shall owe no interest on the amounts guaranteed.

## **Article 77v**

*(New, SG No. 39/2005)*

Notwithstanding the time limit established in Article 77t (3) or (4) herein, where a client of the investment intermediary or any other person entitled to compensation be charged with the commission of a criminal offence arising from or related to money laundering, the Fund may suspend payment of compensation until pronouncement of the court.

## **Article 77w**

*(New, SG No. 39/2005)*

Investment intermediaries may not advertise payment of compensation to any amounts in excess of the amounts established in this Act.

# **Chapter Six**

## **PUBLIC OFFER OF SECURITIES AND ADMISSION OF SECURITIES TO TRADING ON REGULATED MARKET**

*(Heading amended, SG No. 86/2006)*

## **Section I**

# **General Dispositions**

## **Article 77x**

*(Last Amendment - SG No. 42/2016)*

(1) Within the meaning given by this Chapter:

1. *(Last Amendment - SG No. 34/2015)* "qualified investors" are: the persons under section I, pt.1, 2, 3 and 4 of the addendum to art.36, para.1 from the Markets in Financial Instruments Act, as well as the persons under section II of the same addendum, who, upon request, are regarded as professional clients or who are considered eligible counterparty within the meaning of § 1, pt. 29, of the additional provisions of the Markets in Financial Instruments Act, except for the cases when they have required to be regarded as non-professional clients; upon request, the investment intermediaries, respectively the banks announce their classification( the criteria according to which they have defined the clients as qualified investors) to the issuer, without violating the regulations of the Personal Data Protection Act and the regulations for commercial secret. The investment intermediaries

have the right to treat their clients as qualified investors in cases where the clients are classified as professional in compliance with §4 of the Transitional and Final Provisions of the Markets in Financial Instruments Act.;

2. "small and medium sized enterprises" shall be companies which, according to their last annual financial statement or consolidated accounts, meet at least two of the following criteria:

(a) an average number of employees during the financial year of less than 250;

(b) total balance-sheet assets not exceeding the lev equivalent of EUR 43,000,000;

(c) an annual net turnover not exceeding the lev equivalent of EUR 50,000,000;

3. "offering programme" shall be a plan for the issuance in a continuous or repeated manner, during a specified issuing period, of non-equity securities, including warrants in any form, having a similar type and/or class;

4. "securities issued in a continuous or repeated manner" shall be issues of securities issued on tap or at least two separate issues of securities of a similar type and/or class over a period of one year;

5. *(Last Amendment - SG No. 42/2016)* "confirmation of a prospectus" shall be the positive decision of the Commission or of the relevant competent authority of the Member State of origin at the outcome of the scrutiny of the completeness of the prospectus, including the consistency and comprehensibility of the information given therein;

6. *(Last Amendment - SG No. 42/2016)* "Member State of origin" shall be:

(a) the Member State where the issuer has its registered office, or where the securities were or are to be admitted to trading on a regulated market, or where the securities are offered to the public, at the choice of the issuer, the offeror or the person asking for admission: for any issues of non-equity securities whose denomination per unit amounts to at least the lev equivalent of EUR 1,000 or the equivalent in another currency in which the securities are denominated, and for any issues of non-equity securities giving the right to acquire any securities or to receive a cash amount as a consequence of their being converted or the rights conferred thereby being exercised, provided that the issuer of the non-equity securities is not the issuer of the underlying securities or a legal person belonging to the group of the latter issuer;

(b) the Member State where the issuer has its registered office: for all issuers incorporated in Member States which are not mentioned in Littera (a);

(c) *(Last Amendment - SG No. 42/2016)* the Member State where the securities were offered to the public for the first time after the 26 of November 2013 or where the first application for admission to trading on a regulated market is made, at the choice of the issuer, the offeror or the person asking for admission: for all issuers of securities having their registered office in third countries, which are not mentioned in Littera (a); the choice referred to in the foregoing sentence may be subject to a subsequent election by issuers having their registered office in third countries if the Member State of origin was not determined by their choice or in accordance with Art. 100j (2), pt. 2, letter "c";

7. *(Last Amendment - SG No. 42/2016)* "Member State of origin" shall be the Member State where securities are offered to the public or admission of securities to trading on a regulated market is sought, when the said State is different from the home Member State.

8. *(Last Amendment - SG No. 77/2011)* "collective investment undertaking other than the closed end type" shall be an investment company, partnership fund or unit trust whose objective is collective investment of funds raised through public offering of units, operating on the principle of risk-spreading and on request from holders of such units buys back directly or indirectly its units at a price based on its net asset value;

9. *(New, SG No. 52/2007, effective 3.07.2007)* "units of collective investment undertaking" shall be securities issued by a collective investment undertaking, representing the rights of their holders to the assets of the collective investment undertaking."

10. (New - SG. No 103/2012) "key information" is substantial and appropriately structured information which is disclosed to the investors in order to enable them to understand the nature and the risks connected with the issuer, the person, guaranteeing the securities and the securities which are offered for sale to the public or which are admitted to trading on a regulated market, and without interfering with the principle that each investment in securities decision is based on thorough examination of the prospectus by the investor, to decide which of the securities offered to be additionally considered; depending on the offering and the securities, the key information includes the following elements:

- a) brief description of the risks connected with the issuer and the persons, guaranteeing the securities, as well as their main characteristics, including the assets, liabilities and their financial statement;
- b) brief description of the main characteristics of the investment in the respective securities, including all rights related to them, as well as the risk related to the investment;
- c) general conditions of the offering, including the expected costs at the expense of the investor, accrued by the issuer or the offerer;
- d) details related to the admission to trading;
- e) reasons for the offering and the use of the revenues;

11.(New - SG. No 103/2012) "company with limited market capitalization" is a company whose securities are traded on a regulated market and which has an average market capitalization less than EUR 100 000 000, calculated on the basis of the close price of the last day, on which there are concluded transactions with these securities, of each calendar year of the previous three calendar years.

(2) This Chapter shall furthermore apply to any money market instruments having a maturity of more than twelve months.

## Article 78

(1) (Amended, SG No. 86/2006)Any offer of securities to the public and any admission of securities to trading on a regulated market shall not be allowed without prior publication by the issuer, offeror or person asking for admission of the securities to trading on a regulated market of a prospectus in the manner and with the content as established in this Act and in the instruments for the application thereof.

(2) (Amended, SG No. 39/2005, SG No. 86/2006)No prospectus for an offer to the public or for admission to trading on a regulated market may be published until the Commission has granted a written confirmation of the prospectus.

(3) (Supplemented, SG No. 86/2006)Any subscription for or sale of, or any offer to subscribe for or to sell securities, as well as any admission of securities to trading on a regulated market, in violation of the requirements of Paragraphs (1) and (2) shall be prohibited.

(4) (Amended, SG No. 61/2002)In the event of a subscription or sale in violation of the prohibition under Paragraph (3), as well as should any material information contained in the prospectus prove to be untrue, or should any material information be withheld from the prospectus, any investor shall be entitled to demand that the acquisition of the securities be declared null and void within three months after ascertainment of the relevant circumstance but not later than one year after the subscription has been closed or the sale effected, save as where the said investor has acted in bad faith.

## Article 78a

(Last Amendment - SG No. 62/2017)

(1) The provisions of this Chapter shall not apply to:

1. *(Last Amendment, SG No. 52/2007, in force as of 03.07.2007)* units issued by collective investment undertakings other than the closed end type;
  2. non-equity securities issued by the Republic of Bulgaria or by another Member State, by the regional or local authorities thereof, by international organizations whereof the Republic of Bulgaria or another Member State is a member, by the European Central Bank, by the Bulgarian National Bank or by the central banks of the other Member States;
  3. shares in the capital of the central banks of the Member States;
  4. securities unconditionally and irrevocably guaranteed by the Republic of Bulgaria or by another Member State or by their regional or local authorities;
  5. securities issued by non-profit-making bodies, recognized in a Member State, with a view to their obtaining the means necessary to achieve their objectives;
  6. non-equity securities issued in a continuous or repeated manner by banks, provided that the said securities:
    - (a) are not subordinated, convertible or exchangeable;
    - (b) do not give a right to subscribe to or acquire other types of securities and that they are not linked to a derivative financial instrument;
    - (c) materialize reception of repayable deposits;
    - (d) are covered by the Bank Deposit Insurance Fund-Bulgaria or by a similar deposit guarantee scheme in another State;
  7. non-fungible shares of capital whose main purpose is to provide the holder thereof with a right to occupy an apartment, or other form of immovable property or a part thereof, and where the shares cannot be sold on without this right being given up;
  - 8 *(New - SG No. 62/2017)* securities issue whose overall value within the European Union is smaller than the BGN equivalent of EUR 1 000 000, whose threshold is calculated for a period of 12 months;
  8. *(Former Pt. 8 - SG No. 62/2017)* non-equity securities issued in a continuous or repeated manner by banks, where the total consideration of the offer within the European Union is less than the lev equivalent of EUR 75,000,000, which limit shall be calculated over a period of one year, provided that the said securities:
    - (a) are not subordinated, convertible or exchangeable;
    - (b) do not give a right to subscribe to or acquire other types of securities and that they are not linked to a derivative financial instrument.
- (2) *(Last Amendment - SG No. 62/2017)* In the cases referred to in Items 2, 4 and 9 of Paragraph (1), the issuer, the offeror or the person asking for admission to trading on a regulated market may draw up a prospectus in accordance with the requirements of this Act and the instruments for the application thereof, when the securities are offered to the public or admitted to trading.
- (3) *(New - SG No. 62/2017)* The issuer, the offeror or the person who requests admission to trading on a regulated market, is obligated to prepare a prospectus in compliance with the requirements of this Act and the instruments on its implementation so as the securities under para. 1, pt. 8 to be admitted to trading on a regulated market.

## Article 79

*(Last Amendment - SG No. 34/2015)*

- (1) *(Amended, SG No. 61/2002, SG No. 86/2006)* The obligation to publish a prospectus shall not apply to the following types of offer:
1. an offer of securities addressed solely to qualified investors;
  2. *(Last Amendment - SG No. 34/2015)* the securities are offered to fewer than 150 natural persons or legal entities and in any Member State who are not qualified investors;

3. *(Last Amendment- SG. No 103/2012)* an offer of securities addressed to investors who acquire securities for a total consideration of the lev equivalent of at least EUR 100,000 per investor for each separate offer;

4. *(Last Amendment- SG. No 103/2012)* an offer of securities whose denomination per unit amounts to the lev equivalent of at least EUR 100,000;

5. *(Last Amendment- SG. No 103/2012)* the total value of the securities offered within the boundaries of the European Union is less than the BGN equivalence of EUR 100 000, which limit is calculated over a period of 12 months.

(2) *(New, SG No. 61/2002, amended, SG No. 86/2006)* Any subsequent resale of securities which were previously the subject of one or more of the types of offer covered under Paragraph (1) shall be regarded as a separate offer for the purposes of Article 4 (1) herein. The placement of securities through an investment intermediaries shall be admitted after publication of a prospectus if any of the conditions covered under Paragraph (1) is not met.

(3) *(New - SG. No 103/ 2012)* The obligation to publish a prospectus is not applied to a following sale of securities or to offering of securities to end investors by investment intermediaries, provided that with reference to the same securities there is a published prospectus which meets the requirements of [art.92b](#) and the issuer or the individual, responsible for the preparation of the prospectus has expressed, in writing, his or her consent for its use.

(4) *(Former Par. 3, SG No. 103/2012)* The obligation to publish a prospectus shall not apply to offers of securities to the public of the following types of securities:

1. shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase of capital;

2. securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the persons containing information which is regarded by the Commission as being equivalent to the information contained in the prospectus;

3. *(Last Amendment - SG No. 103/2012 )* securities offered, allotted or to be allotted in connection with a merger by acquisition, a merger by the formation of a new corporation, a division by the formation of new corporations or a division by acquisition, provided that a document is made available to the persons containing information which is regarded by the Commission as being equivalent to the information contained in the prospectus;

4. *(Last Amendment - SG. No 103/2012)* dividends paid to existing shareholders as shares of the same class as the one of the shares with reference to which such dividends are paid, provided that there is a document comprising information related to the grounds on which the shares are offered, their number and nature, the rights related to them and the way of their exercising, the terms and procedure for shares acquisition, as well as any other information related to the offer;

5. *(Last Amendment - SG. No 103/2012)* securities which are offered, allotted or to be allotted to existing and/ or former members of the management or supervisory bodies and/ or employees by their employer or by an individual connected with him, provided that the registered office or the business address of the company- employer is situated in the European Union, and provided that the individuals are given a document containing information on the reason for the offer of the securities, their number and nature, on the rights related to them and the way of their exercising, on the terms and procedure for acquisition of the securities, as well as other information related to the offering;

6. *(New - SG. No 103/2012)* securities which are offered, allotted or to be allotted to existing and/or former members of the management or supervisory bodies and/ or employees by their employer- a company with a business address outside the European Union, whose securities have been admitted to trading on a regulated market or on a third country's market, which, upon a request made by a competent body from a Member State, is recognized as an equivalent by the European Commission, and provided that the individuals are provided with sufficient information, including a document in accordance with the

requirements of pt.5 in a language which is typical in the sphere of the international finances.

(5) (*Former Par. 4 - SG No. 103/2012*) The obligation to publish a prospectus shall not apply to the admission to trading on a regulated market of the following types of securities:

1. shares representing, over a period of one year, less than 10 per cent of the number of shares of the same class already admitted to trading on the same regulated market;
2. shares issued in substitution for shares of the same class already admitted to trading on the same regulated market, if the issuing of such shares does not involve any increase of capital;
3. securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the persons containing information which is regarded by the Commission as being equivalent to the information contained in the prospectus;
4. (*Last Amendment – SG No. 103/2012*) securities offered, allotted or to be allotted in connection with merger by acquisition, merger by the formation of a new corporation, division by the formation of new corporations or division by acquisition, provided that a document is made available to the persons containing information which is regarded by the Commission as being equivalent to the information contained in the prospectus;
5. shares offered, allotted or to be allotted free of charge to existing shareholders, as well as dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market and that a document is made available to the persons containing information on the reasons for the offer of the shares, on the number and nature of the shares, on the rights conferred by the shares and the manner of exercise of the said rights, on the terms and procedure for acquisition of the shares, as well as other details of the offer;
6. securities offered, allotted or to be allotted to existing or former members of the management or supervisory bodies and/or factory and office workers by the employer thereof or a person related thereto, provided that the said securities are of the same class as the securities already admitted to trading on the same regulated market and that a document is made available to the persons containing information on the reasons for the offer of the securities, on the number and nature of the securities, on the rights conferred by the securities and the manner of exercise of the said rights, on the terms and procedure for acquisition of the securities, as well as other details of the offer;
7. shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market;
8. securities already admitted to trading on another regulated market, provided that:
  - (a) these securities, or securities of the same class, have been admitted to trading on that other regulated market for more than 18 months;
  - (b) the admission to trading on that other regulated market was preceded by confirmation of a prospectus and the publication thereof according to Article 92a (5) herein: for securities first admitted to trading on a regulated market after the 31st day of December 2003;
  - (c) except where Littera (b) applies, for securities first admitted to listing after the 30th day of June 1983, a prospectus for admission to trading was confirmed;
  - (d) the ongoing obligations for trading on that other regulated market have been fulfilled;
  - (e) the person asking for the admission of securities to trading on a regulated market in the Republic of Bulgaria, invoking this exemption, makes a summary document available to the public in a language accepted by the Commission, and the said summary document was published according to Article 92a (5) herein in the Republic of Bulgaria, and the contents of the said summary document is responsive to the requirements of the Act and the instruments for the application thereof and the said document states where the most recent

prospectus can be obtained and where the financial information published by the issuer according to his ongoing disclosure obligations is available.

(6) *(Former Par. 5, SG No. 103/2012)* In the cases where no prospectus has been published, the investors shall have the right referred to in Article 78 (4) herein if the other information regarding the offer to the public or the admission of securities to trading on a regulated market, as circulated by the issuer or the offeror or the person asking for admission of securities to trading on a regulated market, is untrue or if material information has been withheld.

## Article 79a

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* Should more than one issue of securities of the same class be issued within the relevant calendar and each of the said issue be offered to fewer than 150 persons but the total number of offerees of the said issues exceeds 150 persons, Article 78 herein shall apply to the issue exceeding this limit.

(2) *(Amended, SG No. 39/2005)* The Commission shall grant a confirmation of the prospectus under Paragraph (1) if the securities of the issues issued theretofore during the year satisfy the requirements of Article 3 herein. All issues of securities referred to in Paragraph (1) shall be registered with the said Commission as public under terms and according to a procedure established by ordinance.

### Article 79b.

*(New - SG No. 62/2017)*

(1) So as to be admitted to trading on a regulated market, the issuers of securities are obligated to have legal entity identifiers.

(2) The issuer notifies the Deputy Chairperson of the Commission and the regulated market to which the securities are admitted to trading about his identifier within 7 days after the issuance of the respective identifier.

(3) The information provided to the European Securities and Markets Authority with reference to the issues and their issuing includes indication of the respective identifiers.

## Article 80

(1) *(Amended, SG No. 86/2006)* A subscription may furthermore be organized on a regulated market, subject to the condition that the terms and conditions of the said subscription provide for full payment of the issue price of the securities.

(2) *(Repealed, SG No. 86/2006).*

(3) *(Amended, SG No. 39/2005, SG No. 86/2006)* A subscription of shares in the cases referred to in Paragraph (1) shall be possible solely after the lapse of the time limit established by Article 194 (3) of the Commerce Act.

## Article 80a

*(New, SG No. 61/2002)*

The Commerce Act shall apply to any cases regarding the issuing of securities under the terms of primary public offering which are unregulated by this Act.



# Section II

## Prospectus Article 81

*(Last Amendment - SG No. 95/08.12.2015, in force as of 01.01.2016)*

(1) *(Amended, SG No. 86/2006)* The prospectus shall contain all information which, according to the particular nature of the issuer and of the securities offered to the public or admitted to trading on a regulated market, is necessary to enable investors to make an accurate assessment of the economic situation and financial position, assets and liabilities, profit and losses, and prospects of development of the issuer and of the guarantors of the securities, as well as of the rights attaching to such securities. A prospectus may not contain untrue, misleading or deficient particulars.

(2) *(Amended, SG No. 86/2006)* The prospectus shall be signed by the issuer and the offeror or by the person asking for admission of the securities to trading on a regulated market, as well as by the guarantor of the securities, who shall declare that the prospectus conforms to the statutory requirements.

(3) *(Last Amendment - SG No. 95/08.12.2015, in force as of 01.01.2016)* The members of the management body of the issuer and the managerial agent thereof, as well as the offeror, the person asking admission of the securities to trading on a regulated market, and the guarantor of the securities shall incur solidary liability for any detriment as may be inflicted by reason of any untrue, misleading or deficient particulars in the prospectus. The persons referred to in Article 18 of the Accountancy Act shall incur solidary liability with the persons referred to in sentence one for any detriment as may be inflicted by any untrue, misleading or deficient particulars in the financial statements of the issuer, and the registered auditors shall incur solidary liability with the said persons for any detriment as may be inflicted by the financial statements thereby audited.

(4) *(Last Amendment - SG No. 34/2015)* Liability under Paragraph (3) may not arise solely on the basis of the summary note, including any translation thereof, unless the information contained therein is misleading, untrue or inconsistent when read together with the other parts of the prospectus or the summary, read with the other parts of the prospectus does not provide the key information which may facilitate the investors upon making their decision whether to invest in such securities. The summary note shall contain clear warning about the circumstances under the first sentence.

(5) *(New, SG No. 86/2006)* The prospectus shall clearly identify the persons referred to in Paragraph (3) by name and position or, respectively, by business name, registered office and address of the place of management, who shall declare that, to the best of their knowledge, the information contained in the prospectus is true and full.

(6) *(New, SG No. 61/2002, renumbered from Paragraph (4), amended and supplemented, SG No. 86/2006)* In the cases where no prospectus has been published, Paragraph (3) shall apply accordingly to the other information circulated by the issuer, the offeror or the person asking for admission of the securities to trading on a regulated market in connection with the public offering or the admission to trading on a regulated market.

## Article 82

*(Last Amendment – SG No. 103/2012)*

(1) *(Last Amendment - SG No. 103/2012)* The prospectus shall contain information concerning the issuer and the securities to be offered to the public or to be admitted to trading on a regulated market, and shall also include a summary. The summary is prepared in a general form so as to be confronted with the summaries related to similar securities and presents, in a concise form and without the use of specialized vocabulary, key information in the language in which the prospectus has been originally prepared. The form and the content of the summary along with the prospectus provide relevant information related to the basic characteristics of the respective securities for the purpose of facilitating the investors upon taking their decision whether to invest in such securities.

(2) *(Last Amendment - SG No. 103/2012)* There shall be no requirement to provide a summary note, where the prospectus relates to the admission to trading on a regulated market of non-equity securities having a denomination per unit of at least the lev equivalent of EUR 100,000, except when the Commission or the competent authority of the relevant State requests the provision of such summary note.

(3) *(New, SG No. 86/2006)* The issuer, the offeror or the person asking for the admission of the securities to trading on a regulated market may draw up the prospectus as a single document or separate documents. A prospectus composed of separate documents shall contain the information required by this Act and the instruments for the application thereof, divided into three documents:

1. a registration document, containing information relating to the issuer;
2. a securities note, containing information concerning the securities offered to the public or to be admitted to trading on a regulated market;
3. a summary note.

(4) *(New, SG No. 86/2006)* The information which must be contained in the prospectus shall be determined by an ordinance.

(5) *(Last Amendment - SG. No. 103/2012)* It is considered that the prospectus contain the relevant information under [para.1](#) and when it makes reference to one or more previously or simultaneously published documents which have been approved by or submitted to the Commission in accordance with this Chapter or Chapter VI "a", provided that the information in these documents is the latest available and known to the issuer, and a detailed index is drawn up in order to enable investors to find easily the particular information by reference. Sentence one is not applied with reference to the summary of the prospectus.

(6) *(Renumbered from Paragraph (2) and amended, SG No. 86/2006)* Should any particulars of the required contents of a prospectus prove inapplicable to any specific issuer by reason of the corporate objects or legal form of business organization thereof, or the securities to which the prospectus relates, the said particulars shall be replaced by equivalent information. In case equivalent information is not available, the requirement for replacement of the particulars under sentence one shall not apply.

(7) *(New - SG No. 103/2012)* Upon drawing up of a prospectus in the cases under art. 78a, par. 2, the issuer, the offerer or the individual who requests for admission of the securities to trading on a regulated market, is entitled the right not to include information related to the individual, guaranteeing the securities, provided the securities are guaranteed by a Member State.

(8) *(Former Par. 7 - SG No. 103/2012)* The information contained in a prospectus must be provided in an easily analyzable and comprehensible form for the investors, enabling them to achieve the purposes of Article 81 (1) herein.

## **Article 82a**

*(Last Amendment - SG No. 103/2012)*

(1) Where an issuer already has a registration document confirmed by the Commission, when securities are offered to the public or admitted to trading on a regulated market, only a securities note and a summary note may be drawn up.

(2) *(Last Amendment - SG No. 103/2012)* In the cases under para.1, the securities document also contains updated information from the registration document, when since the last updating of the registration document, there has been a material change in the data or there have been new circumstances which could affect the assessments of the investors, unless this information has been provided in a supplement to the prospectus in accordance with art.85, para.2.

(3) The Commission shall pronounce on the securities note and the summary note according to the procedure established by Article 91 herein. Where the issuer has a registration document which has been submitted to the Commission without being confirmed, the Commission shall pronounce on the entire prospectus, including any updated information.

## **Article 82b**

*(Repeal - SG No. 103/2012)*

## **Article 83**

*(Last Amendment, SG No. 39/2005)*

The Deputy Chairperson shall give directions regarding the graphic design of the prospectus with a view to the protection of investors.

## **Article 84**

*(Last Amendment – SG No. 103/2012)*

(1) *(Amended, SG No. 39/2005, SG No. 86/2006)* Any issuer or offeror, which solicits subscriptions for securities offered to the public, may extend the subscription period once by not more than sixty days, amending the prospectus accordingly and notifying the Commission. In such a case, the last day of the period as extended shall be deemed as the latest date for the subscription.

(2) *(Last Amendment - SG No. 103/2012)* The issuer or the offeror immediately announces the extension of the period under para.1 at the Commission, on the Internet web pages of the issuer, if the securities are offered by him, and to the investment intermediaries participating in the offering, and requests for its announcement in the Trade Register and publication in the daily papers under art.92a, para.2.

(3) *(Amended, SG No. 39/2005, SG No. 86/2006)* The issuer or the offeror shall notify the Commission of the result of the subscription within seven days after the latest date therefor.

(4) It shall be illegal to subscribe for securities prior to the earliest date and after the latest date for a subscription.

# Article 85

*(Last Amendment - SG No. 102/29.12.2015, in force as of 01.01.2016)*

(1) *(Last Amendment - SG No. 86/2006)* During the period commencing with the submission of an application for confirmation of a prospectus and ending with the making of decision by the Commission, the issuer, offeror or person asking for admission of the securities to trading on a regulated market must notify the Commission of any intervening changes as may necessitate amendments to the prospectus within three working days after occurrence or learning of the said changes, as the case may be, and must amend the prospectus accordingly.

(2) *(Last Amendment - SG No. 103/2012)* During the period between the time when confirmation of the prospectus is granted and the final closing of the offer to the public or the time when trading on a regulated market begins depending on which of circumstances occurs later, the issuer, offeror or person asking for admission of the securities to trading on a regulated market must draw up a supplement to the prospectus and submit the said supplement to the Commission before the lapse of the next succeeding working day after the occurrence or the learning, as the case may be, of every significant new factor, material mistake or inaccuracy relating to the information contained in the prospectus which is capable of affecting the assessment of the securities offered. The summary, as well as any translations thereof, shall also be supplemented, if necessary to take into account the new information included in the supplement to the prospectus.

(3) *(New, SG No. 86/2006)* The Commission shall pronounce on the supplement to the prospectus within seven working days after receipt of the said prospectus, or, where additional particulars and documents have been requested, within seven working days after receipt of the said particulars and documents. Article 91 herein shall apply accordingly.

(4) *(New, SG No. 86/2006)* The Commission shall refuse to approve the supplement to the prospectus if the requirements of this Act and the instruments for the application thereof are not complied with. In such case, the Commission may discontinue the public offering or the trading in the securities according to the procedure established by Article 212 herein.

(5) *(Last Amendment - SG No. 102/29.12.2015, in force as of 01.01.2016)* The issuer, offeror or person asking for admission of the securities to trading on a regulated market must give public notice of any such supplement and make the supplement available to the public according to the procedure established by Article 92a herein immediately after that becomes possible and not later than one working day after the decision of the Commission to confirm the supplement to the prospectus.

(6) *(Last Amendment - SG. No 103/2012)* In the cases under para.2, when the prospectus is related to public offering of securities, the person who has subscribed, respectively purchased securities before the publication of the supplement to the prospectus, may renounce those securities within two business days, or within another longer time-limit specified by the issuer or the offerer, from the publication of the announcement of the supplement, provided that the new circumstance, error or discrepancy specified in para.2 have occurred prior the end of the public offering and the delivery of securities. The latest date for exercising the right under sentence one is specified in the supplement under para.2. The renouncement under sentence one is made by a written declaration at the place, where the securities have been subscribed or purchased, respectively.

(7) *(Renumbered from Paragraph (4) and amended, SG No. 86/2006)* The issuer, offeror or person asking for admission of the securities to trading on a regulated market shall incur solidary liability for any detriment inflicted by non-fulfilment of any obligation under Paragraphs (1), (2) and (5).

# Article 86

*(Last Amendment - SG No. 102/29.12.2015, in force as of 01.01.2016)*

(1) The issuer, offeror or person asking for admission of the securities to trading on a regulated market may draw up the prospectus as a base prospectus where the following types of securities are offered to the public or are to be admitted to trading on a regulated market:

1. non-equity securities, including warrants in any form, issued under an offering programme;
2. non-equity securities issued in a continuous or repeated manner by banks where:
  - (a) the sums deriving from the issue of the said securities are placed in assets which provide sufficient coverage for the liability deriving from securities until the maturity date thereof;
  - (b) in the event of bankruptcy of the issuer bank, the sums referred to in Littera (a) are intended, as a priority, to repay the principal and interest falling due.

(2) The base prospectus shall contain the relevant information concerning the issuer and the securities offered to the public or to be admitted to trading on a regulated market, as well as, at the discretion of the issuer, the final terms of the offer. If necessary, the information given in the base prospectus shall be supplemented according to Article 85 herein with updated information on the issuer and on the securities to be offered to the public or to be admitted to trading on a regulated market.

(3) *(Last Amendment - SG No. 102/29.12.2015, in force as of 01.01.2016)* In case the base prospect and the additions to it do not include information about the final terms of the offer, the issuer, the offeror or the person who has requested admission of securities to trading on a regulated market, provides this information by making it accessible for the public in accordance with art. 92, para. 5, provides it to the Commission and it is announced by the Commission to the competent bodies of the host countries upon each offering and within the shortest time limit and, if possible, not later than the starting date of the offering or the admission of the securities to trading on a regulated market. The Commission notifies the European Securities and Markets Authority (ESMA) about these final terms. The final terms contain information with reference to the securities document and cannot supplement the base prospect. In the cases under sentence one, art. 87a, para. 1, sentence one is applied.

# Article 87

*(Amended, SG No. 39/2005, SG No. 86/2006)*

The Commission may authorize the omission from the prospectus of certain information which is required under this Act or the instruments for the application thereof if the Commission considers that:

1. disclosure of such information would be contrary to the public interest;
2. disclosure of such information would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead investors with regard to facts and circumstances essential for attainment of the objective referred to in Article 81 (1) herein;
3. such information is of minor importance only for a specific offer or admission to trading on a regulated market and is not such as will influence the assessment of the financial position and prospects of the issuer, offeror or guarantor of the securities

# Article 87a

*(New, SG No. 86/2006)*

(1) Where information on the final offer price and on the final amount of securities which will be offered cannot be included in the prospectus, the maximum price or the criteria and/or the conditions in accordance with which the final price and the final amount of securities will be determined shall be disclosed therein. If the information referred to in sentence one is not disclosed in the prospectus, the persons who have subscribed for or purchased securities, as the case may be, may withdraw the acceptances of the subscription or purchase within two working days or within another longer time limit as provided for in the prospectus after submission to the Commission of the information on the final price and the final amount of the securities which will be offered by means of a written declaration at the places where the securities were subscribed for or purchased, as the case may be. The person shall not incur any liability for the withdrawal of the acceptance thereof under sentence two save as where the said person has acted in bad faith.

(2) The issuer, offeror or person asking for admission of the securities to trading on a regulated market shall be obligated to inform commission forthwith of the final price and the final amount of securities which will be offered and to publish this information according to Article 92 (5) herein.

## **Article 88**

*(Repeal - SG No. 86/2006)*

## **Article 89**

### ***(Last Amendment – SG No. 103/2012)***

(1) *(Last Amendment - SG No. 61/2002)* Any subscribers for securities shall credit the amounts due to a special account with a bank named by the issuer. Where the issuer is a bank, the said account shall be opened with another bank.

(2) *(New, SG No. 61/2002, amended, SG No. 34/2006)* The amounts on any such account may not be used prior to closure of the subscription and recording of the increase of capital in the Commercial Register.

(3) *(Renumbered from Paragraph (2), SG No. 61/2002)* Should a subscription be closed unsuccessfully, without fulfilment of the terms and conditions as provided in the prospectus, the amounts raised shall be refunded to the subscribers for the securities within one month after the public notice referred to in Article 84 (3) herein inclusive of the interest paid by the bank referred to in Paragraph (1).

(4) *(Last Amendment - SG. No 103/2012)* In the case under par. 3, the issuer or the offerer is obliged, on the day of the announcement under art. 84, par. 3, to notify the bank about the results from the subscription, to publish on the Internet web page of the issuer, when the securities are offered by him, and the investment intermediaries, participating in the offering, invitation to the persons subscribed securities, in which to announce the terms and procedure for refund of the collected sums, as well as to request the invitation to be announced in the Trade Register and to publish it in the daily newspapers under art. 92a, par. 2.

## **Section III**

## **Approval, How Granted and Refused**

### **Article 90**

*(Amended, SG No. 39/2005, SG No. 86/2006)*

The issuer, offeror or person asking for admission of the securities to trading on a regulated market shall submit to the Commission an application for confirmation of a prospectus for an offer to the public or for admission to trading on a regulated market, enclosing therewith:

1. the prospectus;
2. the issuer's Articles of Association;
3. the issuer's last annual financial statement, as audited by a registered auditor;
4. any other documents as may be prescribed by ordinance.

## **Article 91**

*(Last Amendment - SG No. 62/2017)*

(1) *(Redesignated from Article 91, SG No. 61/2002, amended, SG No. 39/2005, SG No. 86/2006, SG No. 52/2007)* The Commission shall establish whether the requirements for issuance of the requested confirmation are met. If the particulars and documents provided are incomplete or inconsistent or additional information or evidence of the veracity of data are necessary, the Commission shall send a notification of the established incompleteness and inconsistencies and/or of the requested information and documents within 10 working days from receipt of the application.

(2) *(New, SG No. 52/2007)* If the notification under paragraph 1 is not accepted at the correspondence address specified by the applicant, the time limit for their submission shall be effective from posting thereof on a notice board expressly provided therefor on the premises of the Commission. Any such posting shall be attested by a memorandum drawn up by officers designated by an order of the Chairperson of the Commission.

(3) *(Last Amendment - SG No. 21/2012)* The Commission shall pronounce on the application within 10 working days after the date of receipt thereof or, where additional particulars and documents have been requested or submitted upon initiative of the applicant, within 10 working days after the date of receipt of the said particulars and documents.

(4) *(Last Amendment - SG No. 62/2017)* In the cases where the public offer involves securities issued by an issuer which does not have any securities admitted to trading on a regulated market and which has not previously offered securities to the public, the time limit referred to in Paragraph (3) shall be 15 working days.

(5) *(New, SG No. 61/2002, amended, SG No. 39/2005, renumbered from Paragraph (2) and amended, SG No. 86/2006. renumbered from paragraph 3, amended, SG No. 52/2007)* Article 7 of the Act Restricting Administrative Regulation and Administrative Control over Economic Activity shall not apply in the cases referred to in Paragraph (1) .

(6) *(New - SG No. 21/2012)* The Commission notifies the European Securities and Markets Authority (ESMA) of the prospectus confirmation and submits a copy of the prospectus confirmed simultaneously with the notification of the applicant for the confirmation.

(7) *(Former Par. (6), Last Amendment - SG No. 21/2012)* Where the Republic of Bulgaria is a Member State of origin, the Commission may, because of the type of the issuer and the securities offered or the peculiarities of the public offer, after prior notification of ESMA and subject to the agreement of the relevant competent authority of another Member State, transfer the confirmation of a specific prospectus to the said competent authority. In such case, the Commission shall notify the issuer, the offeror or the person asking for admission of the securities to trading on a regulated market within three working days from the date of the decision taken by the Commission to transfer the confirmation. The time limit for pronouncement by the relevant competent authority referred to in Paragraph (3) or in Paragraph (4), as the case may be, shall apply as from the date of the decision referred to in

sentence two. In the cases under this Paragraph, Art. 28 (4) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, hereinafter referred to as "Regulation (EU) No 1095/2010" shall not apply.

(8) *(Former Par. (7), Last Amendment - SG No. 21/2012)* Where the Republic of Bulgaria is not a Member State of origin, the Commission, acting under the terms established by Paragraph (7), may assume the confirmation of a prospectus from the competent authority of another Member State. Paragraph (7) shall apply, *mutatis mutandis*.

## **Article 92**

### *(Last Amendment - SG No. 62/2017)*

(1) *(Amended, SG No. 39/2005)* The Commission shall refuse to grant confirmation under Article 78 (2) herein by a reasoned decision in writing on any of the following grounds:

1. *(Last Amendment - SG No. 62/2017)* where the prospectus does not satisfy the statutory requirements and/or the applicable law of the European Union;
2. where the issue price of the shares is lower than the balance-sheet value per share before the increase of capital, calculated at the time of passage of a resolution on an increase of capital, and the interests of shareholders are thus impaired;
3. on account of the special rights attaching to the shares, or for any other reason the interests of investors are not safeguarded.

(2) *(Amended, SG No. 39/2005)* The Commission may refuse to grant confirmation solely if the applicant has failed to cure the non-conformities or to submit the documents as required within the time limit set by the Commission, which may not be shorter than one month.

(3) *(Amended, SG No. 39/2005)* The Commission shall not be held responsible for the accuracy of any particulars contained in a prospectus.

(4) *(Amended, SG No. 39/2005, SG No. 34/2006, SG No. 86/2006)* Except in the cases where confirmation of a prospectus is not required, recordings in the Commercial Register shall include the increase of capital under the terms established by Article 5 herein after presentation of the confirmation issued by the Commission.

## **Article 92a**

### *(Last Amendment - SG No. 62/2017)*

(1) The issuer or offeror shall give public notice of the public offering, the earliest and latest date for the subscription or the earliest and latest date for the sale, as the case may be, the registered number of the confirmation as granted by the Commission, and the place, time and manner of inspection of the prospectus, as well as other particulars as may be prescribed by ordinance.

(2) *(Last Amendment - SG No. 62/2017)* The notification under par. 1 is published in at least one national daily newspaper or on the internet webpage of an information agency or another medium which can ensure the effective dissemination of the regulated information to the public in all Member States, as well as on the Internet web pages of the issuer, when the securities are offered by him, and the investment intermediaries, participating in the offering, at least 7 days before the initial date of the subscription or the commencement of the sale.



(3) The publication date of the notice referred to in Paragraph (1) shall be deemed as commencement of the public offering.

(4) The earliest date as stated in the notice referred to in Paragraph (1), whereon the issuer's securities can be subscribed for or purchased, as the case may be, shall be deemed as commencement of the subscription or sale, as the case may be.

(5) *(Last Amendment - SG. No 103/ 2012)* The issuer, the offeror or the person asking for admission of the securities to trading on a regulated market shall be obligated to make the prospectus available to the public through insertion in the press, in the form of a brochure, or in another appropriate manner not later than at the beginning of the offer to the public or the admission of the securities to trading on a regulated market. In case the prospectus has been placed at the public's disposal through publication in the press or through leaflets distributed at the places where the securities are offered for subscription or sale, the prospectus is also published in electronic form on the Internet web page of the issuer or, if applicable, on the web pages of the financial institutions participating in the offering.

(6) In the case of an initial public offer of a class of shares not already admitted to trading on a regulated market and whose admission to trading is to be sought for the first time, the prospectus shall be made available to the public at least six working days before the end of the offer.

(7) Any advertisement and insert in connection with a public offer of securities or admission of securities to trading on a regulated market shall state that the prospectus is or will be made available to the public, as well as the manner in which investors can inspect the said prospectus. Such an advertisement and insert may not contain any untrue or misleading information, or any information inconsistent with the information contained in the prospectus as submitted to the Commission. The Commission shall exercise supervision as to the conformity of the advertisements and inserts with the requirements of this Act and the instruments on the application thereof.

(8) The issuer, the offeror and the person asking for admission of the securities to trading on a regulated market may not make any statements which are inconsistent with the information contained in the prospectus as submitted to the Commission or which contain any material information which is not available in the prospectus.

(9) The requirements for making the prospectus and the other information, related to the public offer or admission to trading on a regulated market, available to the public, for the advertisements and inserts referred to in Paragraph (7), for the time limits and places for distribution, for insertion of a summary in the press or for dissemination of the information through a news agency, shall be established by an ordinance.

## **Article 92b**

*(Last Amendment - SG No. 103/2012)*

(1) *(Last Amendment - SG. No 103/2012)* The prospectus is valid for a term of 12 months after its approval for the purposes of public offering or for admission to trading on regulated market, provided that the requirements of art. 85, par. 2 have been met.

(2) *(Last Amendment - SG. No 103/2012)* A registration document under art. 82, par. 3, pt. 1 submitted at and approved by the Commission, is valid for a term of 12 months. A registration document, updated in accordance with art. 82a or art. 85, par. 2, along with the securities document and its summary are considered a valid prospectus.

(3) In the cases of an offering programme, the base prospectus shall be valid for a period of twelve months.

(4) In the cases referred to in Item 2 of Article 86 (1) herein, the prospectus shall be valid until no more of the securities are issued in a continuous or repeated manner.

## Article 92c

*(Last Amendment - SG No. 42/2016)*

(1) *(Last Amendment - SG No. 42/2016)* Where the Republic of Bulgaria is a Member State of origin, securities may be offered to the public or admission of securities to trading on a regulated market may be sought within the territory of one or more host Member States on the basis of a prospectus confirmed by the Commission, after the competent authorities of the host Member States and ESMA are notified in advance according to the procedure established by Paragraph (4).

(2) Where an offer to the public is made or admission to trading on a regulated market is sought within the territory of one or more host Member States, the issuer or the person responsible for drawing up the prospectus must notify the Commission of this in advance.

(3) A notification referred to in Paragraph (2) shall indicate the host Member State or States, as the case may be. The prospectus shall be attached to any such notification unless confirmed by the Commission.

(4) *(Last Amendment - SG No. 103/2012)* Within three working days after the receipt of the notification referred to in Paragraph (2) or, respectively, within one working day after the confirmation of the prospectus, if the prospectus has been submitted for confirmation together with the notification, the Commission shall dispatch to the competent authority of the host Member State a certificate attesting that the prospectus has been drawn up in accordance with the requirements of Directive 2003/71/EC of the European Parliament and of the Council [on the prospectus to be published when securities are offered to the public or admitted to trading] and amending Directive 2001/34/EC, as well as a copy of the prospectus under Paragraph (3); the Commission shall simultaneously notify ESMA as well. Along with sending the certificate to the competent authority of the host Member State the Commission shall notify the issuer or, respectively, the person responsible for drawing up the prospectus, of the dispatch of the documents referred to in sentence one.

(5) Paragraphs (2) to (4) shall apply, *mutatis mutandis*, to the supplements to the prospectus referred to in Article 85 (2) herein.

(6) Where the Commission has authorized the omission from the prospectus of certain particulars in accordance with Article 87 herein or where Article 82 (5) herein has been applied, this shall be stated in the certificate referred to in Paragraph (4) together with the justification for application of these provisions.

(7) Where the Commission is informed by the competent authority of the host Member State of any violations of the effective legislation of that State committed by the issuer or by the persons commissioned to carry out the offer to the public, or of any breaches of the obligations attaching to the issuer by reason of the fact that the securities are admitted to trading on a regulated market, the Commission shall apply the relevant measures under Article 212 herein and shall notify the host Member State of the measures taken.

## Article 92d

*(Last Amendment - SG No. 62/2017)*

(1) Where the Republic of Bulgaria is a Member State of origin, securities may be offered to the public or may be admitted to trading on a regulated market within the territory thereof after the Commission receives from the relevant competent authority of the Member State of origin:

1. a certificate attesting that a confirmed prospectus exists for the securities, which has been drawn up in accordance with the requirements of Directive 2003/71/EC of the European Parliament and of the Council [on the prospectus to be published when securities are offered

to the public or admitted to trading] and amending Directive 2001/34/EC, as well as information whether any particulars have been omitted from or substituted in the prospectus, the particulars which have been omitted or substituted, as well as justification of the omission or substitution of the said particulars;

2. a copy of the confirmed prospectus.

(2) The Commission shall forthwith notify the issuer or the person responsible for drawing up the prospectus, as the case may be, of the receipt of the documents referred to in Paragraph (1).

(3) (*Last Amendment - SG No. 62/2017*) The issuer, the offeror or the person asking for admission of the securities to trading on a regulated market shall be obligated to make the prospectus available to the public according to the procedure established by Article 92a herein. The prospectus is available for the public in a language customary in the sphere of international finance or in Bulgarian language, at the choice of the issuer, offeror or the person who requests admission of the securities to trading on a regulated market.

(4) Paragraphs (1) to (3) shall apply, *mutatis mutandis*, to the supplements to the prospectus.

(5) (*New - SG No. 21/2012*) The Commission shall publish and update on its website the list of the certificates granted under Pars. (1) and (4); such information shall stay published for a period not shorter than 12 months.

(6) (*Former Par. (5), Last Amendment - SG No. 21/2012*) Where the Commission learns of any significant new factor, material mistake or inaccuracy in the prospectus, the Commission shall draw the attention of the competent authority of the Member State of origin to the need of a supplement to the prospectus and ESMA.

(7) (*Former Par. (6), Last Amendment - SG No. 21/2012*) Where the Commission finds that the issuer or the persons commissioned to carry out the offer to the public in the Republic of Bulgaria violate this Act or the instruments for the application thereof, or that the issuer breaches the obligations attaching thereto by reason of the fact that the securities are admitted to trading on a regulated market within the Republic of Bulgaria, the Commission shall notify the competent authority of the Member State of origin and ESMA.

(8) (*Former Par. (7), Last Amendment - SG No. 21/2012*) If, despite the measures taken by the competent authority of the Member State of origin or because such measures have proved inadequate, the issuer or the person commissioned to carry out the offer to the public in the Republic of Bulgaria persists in committing violations of this Act or of the instruments for the application thereof, the Commission may, after informing the competent authority of the Member State of origin and ESMA, take the appropriate measures in order to protect investors. The Commission shall inform the European Commission and ESMA of the measures taken within seven days after the application of the said measures.

## Article 92e

(*Last Amendment - SG No. 42/2016*)

(1) (*Last Amendment - SG No. 42/2016*) Where an offer to the public is made or admission to trading on a regulated market is sought only in the Republic of Bulgaria and the Member State of origin is the Republic of Bulgaria, the prospectus shall be drawn up in the Bulgarian language.

(2) (*Last Amendment - SG No. 42/2016*) Where an offer to the public is made or admission to trading on a regulated market is sought in one or more Member States excluding the Republic of Bulgaria and the Member State of origin is the Republic of Bulgaria, the prospectus shall be drawn up either in a language accepted by the competent authorities of those Member States or in a language customary in the sphere of international finance, at the choice of the issuer, offeror or person asking for admission of the securities to trading on

a regulated market. For the purposes of confirmation of the prospectus by the Commission, the prospectus shall be drawn up in the Bulgarian or the English language, at the choice of the issuer, offeror or person asking for admission of the securities to trading on a regulated market.

(3) *(Last Amendment - SG No. 42/2016)* Where an offer to the public is made or admission to trading on a regulated market is sought in more than one Member State including the Republic of Bulgaria and the Member State of origin is the Republic of Bulgaria, the prospectus shall be drawn up in the Bulgarian language. In such cases, the prospectus shall also be made available to the public either in a language accepted by the competent authorities of each host Member State or in a language customary in the sphere of international finance, at the choice of the issuer, offeror, or person asking for admission of the securities to trading on a regulated market.

(4) *(Last Amendment - SG No. 42/2016)* Where admission to trading on a regulated market of non-equity securities whose denomination per unit amounts to at least the lev equivalent of EUR 100,000 is sought in one or more Member States, the prospectus shall be drawn up either in a language accepted by the competent authorities of the home and host Member States or in a language customary in the sphere of international finance, at the choice of the issuer, offeror or person asking for admission of the securities to trading on a regulated market.

## Article 92f

*(Last Amendment - SG No. 42/2016)*

(1) Where the Republic of Bulgaria is the Member State of origin of an issuer having its registered office in a third country, the Commission may confirm 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 international securities commission organizations, including the IOSCO disclosure standards;
2. the information requirements, including information of a financial nature, are equivalent to the requirements under this Act and the instruments for the application thereof.

(2) In the case of an offer to the public or admission to trading on a regulated market of securities, issued by an issuer having its registered office in a third country, in a Member State other than the Republic of Bulgaria and the Member State of origin is the Republic of Bulgaria, Articles 92c and 92e herein shall apply, *mutatis mutandis*.

## Article 92g

*(Last Amendment - SG No. 42/2016)*

(1) *(New - SG No. 21/2012)* While exercising its powers and duties, and functions under this Acts and the regulations on its application, the Commission cooperates with the European Securities and Markets Authority (ESMA) and submits to it information for performance of ESMA's duties in compliance with the requirements of Regulation (EU) No 1095/2010.

(2) *(Former Par. (1), Last Amendment - SG No. 42/2016)* The Commission shall cooperate and exchange information with the relevant competent authorities of the other Member States when this is necessary for the implementation of the powers of the Commission and shall render assistance to the said authorities with a view to their performing their functions, in particular when an issuer has two or more Member States of origin and, respectively, competent authority because of the various classes of securities issued thereby, or where the

confirmation of the prospectus has been transferred to the competent authority of another Member State according to Article 91 (7) herein. The Commission shall closely cooperate with the authorities referred to in Paragraph (1) when one or several of the said authorities require suspension or discontinuance of trading in particular securities traded in various Member States in order to ensure a level playing field between trading venues and protection of investors.

(3) *(Former Par. (2), Last Amendment - SG No. 42/2016)* Where the Republic of Bulgaria is a Member State of origin, the Commission may request the assistance of the competent authorities of the Member State of origin from the stage at which a specific case file is scrutinized, in particular in the cases where the case file concerns a new type or rare forms of securities. Where the Republic of Bulgaria is a Member State of origin, the Commission shall be obligated to render assistance to the competent authorities of the Member State of origin in the cases referred to in Paragraph (2).

(4) *(Former Par. (3) - Last Amendment - SG No. 42/2016)* The Commission may ask for information from the competent authority of the host Member State of origin on any items specific to the capital market in that State. When approached by the competent authorities of the Member State of origin, the Commission shall be obligated to provide information on the Bulgarian market.

(5) *(Former Par. (4) - SG No. 21/2012)* The Commission may consult with the regulated markets as necessary and, in particular, when making a decision on suspension or discontinuance of trading in particular securities.

(6) *(New - SG No. 21/2012)* When the Commission does not receive the information or assistance requested in time or when the receiving of such information or assistance is denied to it, the Commission may notify about it ESMA with a view to receiving assistance in accordance with Regulation (EU) No 1095/2010.

## Article 92h

*(Last Amendment - SG No. 103/2012)*

(1) To ensure compliance with the provisions of this Chapter, in addition to the powers provided for in the other parts of this Act and the instruments for the application thereof, the Commission shall also be empowered:

1. to require issuers, offerors or persons asking for admission to trading on a regulated market to include in the prospectus specific information, if necessary for investor protection;
2. to require issuers, offerors or persons asking for admission to trading on a regulated market, and the persons that control them or are controlled by them, to provide specific information and documents;
3. to require the auditors, the members of the management and supervisory bodies and the managerial agents of the issuers, offerors or persons asking for admission to trading on a regulated market, as well as the persons commissioned to carry out the offer to the public or to ask for admission to trading, to provide specific information;
4. to suspend a public offer or admission to trading for a maximum of ten consecutive working days on any single occasion if it has reasonable grounds for suspecting that the provisions of this Act or the instruments for the application thereof have been infringed;
5. to prohibit or suspend a specific advertisement for a maximum of ten consecutive working days on any single occasion if it has reasonable grounds for believing that the provisions of this Act or the instruments for the application thereof have been infringed;
6. to prohibit the carrying out of a public offer if it has reasonable grounds for believing that the provisions of this Act or the instruments for the application thereof have been or would be infringed;

7. to make public the fact that a specific issuer is failing to comply with its obligations under this Act or the instruments for the application thereof.

(2) (Last Amendment – SG No. 103/2012) The Commission may disclose to the public every coercive administrative measure applied and sanction imposed for infringement of the provisions of this Act or the instruments for the application thereof, unless such disclosure would seriously jeopardize the stability of the financial markets or cause disproportionate damage to the parties involved.

## **Article 93**

*(Amended and supplemented, SG No. 61/2002, amended, SG No. 39/2005, repealed, SG No. 86/2006)*

## **Section IV**

### **Disclosure of Information**

*(Repealed, SG No. 52/2007, effective 3.07.2007)*

#### **Article 93a**

*(New, SG No. 61/2002, amended, SG No. 105/2006, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 94**

*(Amended and supplemented, SG No. 61/2002, amended, SG No. 39/2005, amended and supplemented, SG No. 86/2006, amended, SG No. 105/2006, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 95**

*(Amended, SG No. 61/2002, SG No. 39/2005, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 95a**

*(New, SG No. 39/2005, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 96**

*(Amended, SG No. 61/2002, SG No. 39/2005, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 97**

*(Amended, SG No. 61/2002, repealed, SG No. 39/2005)*

## **Article 98**

*(Amended, SG No. 61/2002, SG No. 39/2005, SG No. 84/2006, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 98a**

*(New, SG No. 61/2002, amended, SG No. 39/2005, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 99**

*(Amended and supplemented, SG No. 61/2002, amended, SG No. 39/2005, SG No. 84/2006, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Article 100**

*(Amended and supplemented, SG No. 61/2002, amended, SG No. 8/2003, amended and supplemented, SG No. 39/2005, repealed, SG No. 52/2007, effective 3.07.2007)*

## **Section V**

*(Title Amended - SG No. 103/2012)*

### **Special Requirements upon Initial Public Offering and Admission to Trading on Regulated Market of Bonds**

#### **Article 100a**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment – SG No. 103/2012)* For admission of a primary public offering of secured bonds, the issuer of the said bonds shall be required to have concluded a contract with a bondholders' trustee. An issuer of secured bonds, which are not offered under the requirements for public offering and with reference to which in the conditions of the issuing there are no provisions for their admission to trading on regulated market of securities, is obliged to conclude a contract with a trustee of the bondholders within 7 days after the first general meeting of the bondholders has been held. Article 208, Article 209 (2) and Articles 210 through 213 incl. of the Commerce Act shall not apply.

(2) *(New - SG No. 62/2017)* If, after the expiration of 6 months after the bond issue, the bonds are not admitted to trading on a regulated market of securities, the issuer is obligated to purchase, upon the request of a bondholder, the bonds at issuance value within 7 days after the receipt of the request.

(3) *(Former Par. 2 - SG No. 62/2017)* The trustee is designated at the issuer's choice. The general meeting of the bondholders approves one of at least two trustee nominations put forward by the issuer, along with draft contracts and the consent of the trustee candidates, during the first general meeting of the bondholders, if the trustee is not specified in the offer for subscription of bonds, not offered in accordance with the requirements for public offering, and with reference to which their admission to trading on regulated market for securities has been provided for in the issue conditions, gives preliminary consent for change of a trustee respectively.

(4) *(Former Par. 3 - SG No. 62/2017)* The bondholders' trustee shall act on its own behalf in the cases specified in this Act and in the contract referred to in Paragraph (1).

(5) *(Former Par. 4 - SG No. 62/2017)* The compensation of the trustee shall be for the account of the bond issuer.

(6) *(Former Par. 5 - SG No. 62/2017)* The requirement of Paragraph (1) shall not apply in respect of any bonds issued under the Mortgage Bonds Act.

(7) *(Former Par. 6 - SG No. 62/2017)* The requirement of Paragraph (1) shall apply in respect of any unsecured bonds if so provided for in the resolution on the issuing of the bond loan under Article 204 (3) of the Commerce Act.

(8) *(Former Par. 7 - SG No. 62/2017)* The holders of bonds of the same issue or class may resolve matters of mutual interest at a general meeting. Any such general meeting shall be convened by the bondholders' trustee according to the procedure established by Article 214



of the Commerce Act. The issuer is obligated to provide assistance to the bondholders' trustee upon the preparation and the holding of the bondholders general meeting. The right to vote is exercised by the persons, listed in the registers of the Central Depository as bondholders, five days before the date of the general meeting.

(9) *(New - SG No. 62/2017)* Unless otherwise provided in the issuance conditions and/ or in an agreement between the bondholders, the expenses related to the enforcement regarding the issuer property for the bondholders receivables including, but not only, fees, legal and jurisconsult fees, are allocated following a decision of the bondholders general meeting adopted under the procedure of art. 204, para. 3 of the Commerce Act. The trustee is not responsible for the collection of the bondholders receivables in case of the issuer's non-performance of his obligations under the contractual loan if the bondholders general meeting does not adopt a decision under sentence one, or if less than 80 per cent of the sums representing enforcement expenses owed by the bondholders in compliance with the decision under sentence one are transferred.

## Article 100b

*(Last Amendment - SG No. 62/2017)*

(1) (Last Amendment – SG No. 103/2012) Every prospectus for a bond issue as well as the offer under art. 205, par. 2 of the Commerce Act with reference to offering of bonds not offered under the requirements for public offering, and with reference to which admission to trading on regulated market for securities has been provided for in the conditions of the issue must state:

1. the terms and conditions whereunder the bond issuer is obligated to repay the bond loan before maturity;
2. an obligation of the bond issuer to observe specific financial performance indicators until redemption of the bond loan, including a maximum value of the ratio of liabilities to assets according to the balance sheet and a minimum value of an interest coverage ratio;
3. the conditions which the bond issuer must fulfil for the issuing of new bond issues of the same class;
4. *(Last Amendment - SG No. 62/2017)* the terms and procedure for making alterations in the conditions, under which the bonds have been issued, including the particular parameters of the issue of bonds which are subject to a subsequent change.

(2) The interest coverage rate referred to in Item 2 of Paragraph (1) shall be calculated by adding the expenses on interest payable to the profit from ordinary activities and dividing the sum total by the expenses on interest payable.

(3) *(New - SG No. 62/2017)* Changes in the conditions under which the bonds are issued, including in the particular parameters of the bonds issue, may be made not later than two months prior the bond issue maturity.

(4) *(New - SG No. 62/2017)* The changes under para. 1, pt. 4 are adopted by the bondholders general meeting, to which at least two thirds of the bonds issued are presented, following a decision adopted with a majority of at least three quarters of the presented bonds. A bigger quorum and majority upon adoption of decisions about change in the conditions and the parameters of the bond issue may be provided in the prospectus, respectively in the subscription of bonds proposal.

(5) *(New - SG No. 62/2017)* In case the decision under para. 4 is for a partial early repayment of the bond issue, the repayment is made proportionally with reference to each bond issued.

(6) *(New - SG No. 62/2017)* Changes in the bond issue outside of those under para. 1, pt. 4 as well as changes made in violation of para. 3-5 are null and void.

(7) *(New - SG No. 62/2017)* An information document which includes up-to-date information with reference to all parameters of the bond issue is prepared within 5 business days after the adoption of the decision under para. 4. Within the time limit under sentence one, the information document is publicly disclosed through its provision to the Commission, the regulated market and the public under the procedure of art. 100s, para. 3 and 4.

(8) *(Former par. 3 - SG No. 62/2017)* In the cases in which the issuer has not concluded a contract with a bondholders' trustee, he is obliged to present at the regulated market where the bonds are traded, and at the Commission, a three-month report on meeting the requirements related to the contractual loan within 30 days as from the end of each quarter, and, respectively, within 60 days as from the end of each quarter- with reference to an issuer who has been drawing up consolidated reports and who has been obliged to observe financial indexes on consolidated basis. The report contains information about:

1. fulfillment of the bond issuer's obligations to the bondholders according to the terms and conditions of the issue, including observance of the specific financial performance indicators;
2. the spending of the proceeds from the bond loan;
3. other circumstances as shall be specified by ordinance.

## **Article 100c**

*(New, SG No. 61/2002)*

(1) The bondholders' trustee shall be obligated to act in the best interest of the bondholders.

(2) Any stipulations whereby the liability of the bondholders' trustee to the bondholders in the event of negligence is excluded or limited shall be invalid.

(3) The bondholders' trustee shall not be liable to the bondholders for any detriment sustained thereby where the acts or omissions of the said trustee are in pursuance of a resolution of the Bondholders' General Meeting passed by a majority exceeding one half of the votes of the bondholders who subscribed for the loan.

## **Article 100d**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* To be eligible for the position of bondholders' trustee, a person must be a bank with registered office in Bulgaria, a bank which carries on business in Bulgaria through a subsidiary licensed by the Bulgarian National Bank, "as well as a bank with a registered office in a Member State under the conditions of establishment.

(2) *(New - SG No. 62/2017)* A bondholders' trustee may also be an investment intermediary who owns:

1. a Commission issued license for provision of investment services and/or for performance of investment activities under the Markets in Financial Instruments Act, or who is an investment intermediary from a Member State who performs the indicated activities on the territory of the republic of Bulgaria through a branch;
2. own capital at an amount not smaller than BGN 1 500 000 and meets the investment intermediaries capital adequacy requirements;
3. staff and information security for effective exercising of his functions and obligations as a trustee in compliance with the requirements of this Act, the instruments on its implementation and the contract under art. 100a.

(3) *(Former Par. 2 - SG No. 62/2017)* The following can't be the trustee of the bondholders bank or investment intermediary:

1. *(Last Amendment - SG No. 62/2017)* any commercial bank which underwrites the bond issue or which are a trustee in respect of bonds of another class issued by the same issuer;

2. *(Last Amendment - SG No. 62/2017)* which directly or indirectly control the issuer or are directly or indirectly controlled by the bond issuer;
  3. *(Last Amendment - SG No. 62/2017)* to which the issuer or an economically related person to it within the meaning of § 1, para.1, pt.5 of the Additional Provisions of the Credit Institutions Act has a conditional or unconditional obligation under a credit agreement or under a guarantee issued by the bank;
  4. *(Last Amendment - SG No. 62/2017)* in other cases in which there is or may be a conflict between the interest of the bank or investment firm or of a person controlling the bank or the investment firm and the interest of the bondholders.
- (4) *(Former Par. 3 - SG No. 62/2017)* Should any of the circumstances covered under Paragraph (3) occur after conclusion of the contract referred to in Article 100A herein, the bondholders' trustee shall be obligated to notify forthwith the bond issuer and to eliminate the non conformity with the law within thirty days after occurrence of the said circumstances. Where the non-conformity cannot be eliminated, the bond issuer shall be obligated to terminate the contract with the bondholders' trustee not later than forty five days after occurrence of the non-conformity and to conclude a new contract under Article 100C herein with another person. The trustee shall continue to fulfil the obligations thereof to the bondholders until conclusion of the new contract.
- (5) *(New - SG No. 62/2017)* Under the procedure of art. 100s, para. 3 and 4, the issuer notifies the Commission and the public about the necessity of termination of the contract with the bondholder's trustee within 7 days after the expiration of the 30-day period under para. 4 in the cases in which the non-correspondence with the circumstances under para. 3 is not eliminated.
- (6) *(New - SG No. 62/2017)* Within 7 days after the conclusion of the contract with the new bondholder's trustee, the change of the bondholder's trustee is declared in the respective collateral registry without interfering with the collateral procedure.
- (7) *(New - SG No. 62/2017)* The change under para. 6 is indicated in the respective registry in which the collateral is registered on the basis of the contract concluded with the new trustee and the decision of the bondholders general meeting on giving consent regarding the change of the trustee. In case the indication is to be made in the land registry, the contract concluded with the new trustee must be with a notary validation of the signatures.
- (8) *(New - SG No. 62/2017)* In case of a change under para. 6, the former trustee is obligated to fully cooperate with the issuer and the new trustee in connection with the activities under para. 6 and 7, including to perform the necessary legal and factual activities, necessary for the effective trustee replacement without any collateral procedure change.
- (9) *(Former Par. 4 - SG No. 62/2017)* The provision of Paragraph (4) shall furthermore apply accordingly in the cases where the authorization for conduct of business of the bondholders' trustee has been revoked, where a resolution on voluntary liquidation has been passed, or where bankruptcy proceedings have been instituted thereagainst.
- (10) *(New - SG No. 62/2017)* Upon presence of the circumstance under para. 9, the bonds issuer is obligated to convene a general bondholders meeting within 30 days after the date of the circumstance under para.9 entry in the commercial register. Within the time limit under sentence one, the issuer is obligated to submit to the Commission the invitation along with the materials under art. 100a, para. 3, sentence two, upon meeting the requirements under para. 2 and 3, under the procedure of art. 100s, para. 4, as well as to announce it to the public under the procedure of art. 100s, para. 3. The contract with the newly elected bondholder's trustee is concluded within the time limit under art. 100a, para. 1, sentence two.

## **Article 100e**

*(New, SG No. 61/2002)*

(1) The contract referred to in Article 100a herein must fully define the rights and obligations of the bondholders' trustee in respect of the bond issuer, the obligations of the trustee in respect of the bondholders, as well as the obligations of the issuer to the bondholders' trustee.

(2) The contract referred to in Article 100a herein shall be part of the prospectus for the bond issue.

## **Article 100f**

*(Last Amendment - SG No. 62/2017)*

(1) The bond issuer shall be obligated:

1. *(Last Amendment - SG No. 52/2007)* to supply the bondholders' trustee with the information covered under Chapter Six "a" within the appropriate time limits;

2. *(Last Amendment - SG No. 103/2012)* to give the trustee of the bondholders, not later than 30 days after the end of each quarter, and with reference to an issuer who has been drawing up consolidated reports and who has been obliged to observe financial indexes on consolidated basis- within 60 days after the end of each quarter, a report on the fulfillment of their obligations under the terms of the bond issue, including the expenditure of the funds from the contractual loan, and on the observance of the respective financial indexes and the condition of the collateral;

3. *(Last Amendment - SG No. 62/2017)* to notify the bondholders' trustee as well as the public following the procedure of art. 100s, para. 3 not later than the end of the next succeeding business day of:

(a) any changes in the collateral as pledged to secure the bond issue, including any material changes in the value of the property pledged;

(b) any breach of the obligation to observe the financial performance indicators as specified in the contract.

(c) *(New - SG No. 103/ 012)* any circumstance which may have a negative effect on the fulfillment of the obligations of the issuer related to the bond issue;

(d) *(Last Amendment - SG No. 62/2017)* any interest or principal payment made with reference to the issued bonds;

4. *(Last Amendment - SG No. 62/2017)* under the conditions specified in the contract as well as upon request of the trustee to provide him with any information and documents specified in the contract or necessary for the performance of his obligations, and upon lack of a time limit for provision of the information specified in the contract, it is provided within three business days after the request made by the trustee.

(2) *(Last Amendment - SG No. 62/2017)* The issuer submits the report under para. 1, pt. 2 to the Commission and the public following the procedure under art. 100s, para. 3 and 4 as well as to the regulated market of securities to which the bonds are admitted to trading.

## **Article 100g**

*(Last Amendment - SG No. 62/2017)*

(1) The bondholders' trustee shall be obligated:

1. *(Last Amendment - SG No. 42/2016)* to analyze the financial reports of the issuer and notifications under Art. 100n<sup>1</sup> where applicable within 14 days after their announcement, as well as to evaluate the influence of the regulated information, disclosed by the issuer, related

to the circumstances, influencing his financial condition, within 7 days of its announcement in view of the ability of the issuer to fulfill his obligations to the bondholders;

2. (*New - SG. No 103/2012*) upon ascertainment of deterioration of the financial condition of the issuer, within three business days after the expiration of the term for performance of the analysis under pt.1, to request information and evidence for measures taken for the purpose of securing the fulfillment of the obligations of the issuer related to the bond issue;

3. (*Last Amendment - SG No. 62/2017*) within 30 days after the submission of the report under art. 100f, par. 1, pt. 2, respectively after the expiration of the term for submission of the report, if it is not submitted in time, to submit to the regulated market where the bonds are traded and to the Commission, a report on the expired period, including the information under art.100b, para.8, as well as information with reference to:

(a) the state of the collaterals of the bond issue, where such terms and conditions exist;

(b) the financial position of the bond issuer in terms of the ability to fulfil the obligations thereof to the bondholders;

(c) (*New - SG. No 103/2012*) the measures in accordance with pt. 2 taken by the issuer;

(d) (*Former letter c – SG No. 103/2012*) the acts performed thereby in fulfilment of the obligations thereof;

(e) (*Last Amendment - SG No. 62/2017*) the existence or non-existence of circumstances covered under Article 100d (3) herein;

4. (*Former pt. 3 – SG No. 103/2012*) to verify regularly the availability and state of the collateral;

5. (*Former pt. 4 – SG No. 103/2012*) to reply in writing to any questions by the bondholders in connection with the bond issue.

6. (*New - SG. No 103/2012*) to observe the timely payments of the bond issue in its fixed amount

7. (*Last Amendment - SG No. 62/2017*) within 14 days after the expiration of the term for submission of the report under art. 100f, par. 1, pt. 2, if it is not submitted in time, to submit to the regulated market where the bonds are admitted to trading, and to the Commission information for this.

(2) Should the issuer fail to fulfil an obligation according to the terms and conditions of the bond issue, the bondholders' trustee shall be obligated:

1. (*Last Amendment - SG No. 62/2017*) to notify the regulated market to which the bonds are admitted to trading and the Commission about the non-performance of the issuer until the end of the business day following the day of becoming aware;

2. to take steps as shall be necessary for safeguarding the rights and interests of the bondholders, including:

(a) to demand from the bond issuer the provision of additional collateral to an amount as shall be necessary to guarantee the interests of the bondholders;

(b) to notify the bond issuer of the amount of the bond loan which becomes exigible in the event of overdue payment of a specific portion of the pecuniary obligations to the bondholders;

(c) to proceed with out-of-court execution against the collateral of the bond issue in the cases admissible by the law;

(d) (*Last Amendment - SG No. 62/2017*) to bring actions against the bond issuer to represent the bondholders and safeguard their rights during claims proceedings;

(e) (*Last Amendment - SG No. 62/2017*) to petition the institution of bankruptcy proceedings against the bond issuer to represent the bondholders and safeguard their rights during issuer's insolvency proceedings.

(f) (*New - SG No. 62/2017*) to proceed to individual enforcement following the Civil Procedure Code in relation to the issuer or third parties who have provided collateral with reference to the issuer's obligations under the contractual loan;

3. *(New - SG No. 62/2017)* until the end of the next business day to inform the regulated market to which the bonds are admitted to trading and the Commission about the activities performed under pt. 2.

(3) *(New - SG No. 62/2017)* The regulated market announces the information under para. 2, pt. 1 and 2 on its internet webpage until the end of the business day on which it has been notified.

(4) *(Former Par. 3 - SG No. 62/2017)* The Central Depository is obligated to submit the bondholders register upon request of the trustee who represents them, respectively of the issuer, in the cases under art. 100d, para. 5.

## **Article 100h**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* The claims of the bondholders may be secured by a pledge, a mortgage or insurance, and the bond issue shall be named secured creditor.

(2) *(Repeal - SG No. 62/2017)*

(3) *(Last Amendment - SG No. 62/2017)* Only first-ranking pledges and mortgages may be created in favour of the bondholders unless when through the bonds issue issuer's obligations which have already been secured with a pledge or a mortgage which is to serve as a collateral to the new bonds issue are refinanced. The pledges and mortgages created in favour of the bondholders may be different from first-ranking ones, and the issue conditions must provide the time limit in which the collaterals to the refinanced obligations should be deleted; after the deletion, the collaterals to the new bonds issue are considered first-ranking ones.

(4) *(New - SG No. 62/2017)* In the cases in which the collateral is an insurance, it is concluded with an insurer with a minimum rating level, specified with the ordinance under art. 100o, para. 4, pt. 4. The insurance is considered collateral within the meaning of para. 1 only if the insurer has assumed the unconditional obligation for the entire period of the insurance contract, regardless of the fact whether the premium has been fully paid or not.

## **Article 100i**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* The creation of security interest shall be a condition precedent for admission of a primary public offering of a bond issue unless in the bonds issue conditions it is provided the release of the funds collected from the contractual loan to be performed after the creation of the collateral which is performed in a term, specified in the issue conditions. If a collateral is not created within the term under sentence one, the funds collected are returned to the persons who have subscribed the bonds under the conditions and within the time limits under art. 89. In case of abortive initial public offering of bonds issue with reference to which there is collateral provided for, as well as after the issuer's liabilities to a secured bond issue have been paid, the trustee is obliged to give his consent for deletion of collateral within three days after the request of the issuer or of a third party who has provided the collateral.

(2) The requirement referred to in Paragraph (1) shall not apply where the collateral shall be property acquired on funds raised by the bond loan. Until acquisition of the said property, the funds raised shall be kept on a bank account in the name of the trustee. The trustee shall see to the creation of security interest according to the terms and conditions of the contract referred to in Article 100a herein.

(3) *(Last Amendment - SG No. 62/2017)* Upon putting up collateral, if it has been put up prior the conclusion of the contract- immediately after its conclusion, as well as in terms settled by the contract, but at least once a year, as well as upon occurrence of circumstances in which it can be considered that the value of the collateral has been reduced with at least five percent, the trustee assigns, at the issuer's expense, independent assessors under art. 5 of Independent Assessors Act to make a valuation of the pledged or mortgaged property at its market price.

(4) The initial appraisal of the collateral referred to in Paragraph (1) shall be attached to the prospectus for the bond issue, and in the rest of the cases the appraisals shall be attached to the reports of the issuer on fulfilment of the obligations thereof under the loan.

## **Chapter Six "a"**

*(New, SG No. 52/2007, effective 3.07.2007)*

### **Disclosure of Information**

#### **Section I**

*(New, SG No. 52/2007, effective 3.07.2007)*

#### **General Provisions**

##### **Article 100j**

*(Last Amendment - SG No. 42/2016)*

(1) *(Last Amendment - SG No. 42/2016)* This Chapter shall establish the requirements for disclosure of information by issuers for which the Republic of Bulgaria is a country of origin and whose securities are admitted to trading on a regulated market as well as by issuers who have conducted public offering of securities in the Republic of Bulgaria which are not admitted to trading on a regulated market in a Member State.

(2) Within the meaning of this Chapter:

1. *(Last Amendment - SG No. 42/2016)* "Member State of origin" shall be:

a) for an issuer of shares or debt securities with single nominal value of less than the lev equivalent of EUR 1000 or equivalent amount in another currency in which the securities are denominated at the date of issue thereof:

aa) for an issuer from a Member State – the Member State where its registered office is located;

bb) *(Last Amendment - SG No. 42/2016)* for an issuer registered in a third state- the Member State chosen by the issuer from the Member States in which its securities are admitted to trade on a regulated market; the choice of home country remains valid unless in the cases in which the issuer has chosen another home country in accordance with letter "c" and has publicly disclosed this choice in accordance with para. 3;

b) *(Last Amendment - SG No. 42/2016)* outside the cases under letter "a"- the Member State in which the headquarters of the issuer are, or in which its securities are admitted to trade on a regulated market, at the choice of the issuer; the issuer may designate only one home country, and its choice is valid for a period of not less than three years, except in the cases in which the securities are already admitted to trading on a regulated market in the Republic of Bulgaria or in another Member State, or when, within this three-year period, the issuer is included in the scope of letters "a" or "c";

c) *(New - SG No. 42/2016)* for an issuer whose securities are no longer admitted to trade on a regulated market in a home country specified in accordance with letter "a", sub letter "bb" or letter "b", but are admitted to trade in one or more than one Member State- the Member

State in which the issuer headquarters are or in which its securities are admitted to trade on a regulated market, at the issuer's choice;

2. "host country" shall be the Member State in which the securities are admitted to trading on a regulated market where this country is different from the home country;

3. "securities issued on a continuous basis or periodically" shall be issues of debt securities of one and the same issuer, issued regularly, or at least two separate issues of securities of similar type and/or class;

4. "debt securities" shall be bonds or other transferable securitized debts, except for securities equivalent to shares in companies, or such which upon conversion or exercise of the rights thereto entitle their holder to acquire shares or securities equivalent to shares in companies.

(3) (*Last Amendment - SG No. 42/2016*) The issuer publicly discloses its home country in compliance with para. 2, pt. 1, letters "a"- "c" under the conditions and following the procedure set in art. 100s and 100u.

(4) (*New - SG No. 42/2016*) When its headquarters are on the territory of the Republic of Bulgaria, the issuer notifies the Commission, the competent body of the home member state as well as the competent bodies of each host country about its home country.

(5) (*New - SG No. 42/2016*) In the cases in which the issuer fails to publicly disclose its home country specified in accordance with para. 2, pt. 1, letter "a", subletter "bb" or letter "b" within three months as of the date on which the issuer's securities were admitted to trade on a regulated market for the first time, the Member State in which the issuer's securities have been admitted to trade on a regulated market is considered a home country. In the cases in which the issuer's securities have been admitted to trade on regulated markets which are on the territories, or perform activities in more than one Member State, these Member States are considered home countries until the issuer chooses only one home country in compliance with para. 2, pt. 1, letter "a"- "c" and publicly discloses this.

#### **Article 100k**

(*Last Amendment - SG No. 42/2016*)

The provisions of this Chapter shall not apply to:

1. units of collective investment undertakings other than the closed end type within the meaning of Article 77x, paragraph 1, items 8 and 9, or for units acquired or transferred within such collective investment undertakings;

2. money market instruments with a maturity of less than 12 months.

#### **Article 100l**

(*Last Amendment - SG No. 62/2017*)

(1) (*Last Amendment - SG No. 103/2012*) The reports, notifications and the other information that shall be made public under this Act must contain information as investors may need to make a reasoned investment decision. Any such reports, notifications and information may not contain untrue, misleading or deficient particulars.

(2) (*Last Amendment - SG No. 62/2017*) The members of the management body of the issuer shall be responsible for the preparation and public disclosure of the notifications under Art. 100n<sup>1</sup> and the financial statements.

(3) (*Last Amendment - SG No. 42/2016*) The members of the management body of the issuer as well as its procurator shall incur solidary liability for any detriment as may be inflicted by reason of any untrue, misleading or deficient particulars in the reports, notifications and any other information disclosed under this Chapter. The persons referred to in Article 18 of the Accountancy Act shall incur solidary liability with the persons referred to in sentence one for any detriment as may be inflicted by any untrue, misleading or deficient particulars in notifications or the financial statements of the issuer, and the registered auditors shall incur solidary liability with the said persons for any detriment as may be inflicted by the financial statements thereby audited.

### **Section II**



(New, SG No. 52/2007, effective 3.07.2007)

## **Disclosure of Regular Information**

### **Article 100m**

*(Last Amendment - SG No. 42/2016)*

(1) Any issuer shall disclose publicly its annual financial report within 90 days after the end of each financial year.

(2) Any issuer who is obligated to prepare consolidated financial statements shall disclose publicly its annual consolidated financial statements on its activity within 120 days after the end of each financial year.

(3) *(Last Amendment - SG No. 42/2016)* The issuer shall be obligated to ensure that the annual financial statements and the consolidated financial statements remain publicly available for a period of at least 10 years.

(4) The annual financial report shall contain:

1. annual financial statements under the Accountancy Act audited by a registered auditor as well as an audit report;

2. an annual report;

3. *(New- SG No. 42/2016)* declaration by the auditor who has validated the annual financial statement for the activities of an undertaking- issuer of securities, specifying his or her name and correspondence address, certifying that:

a) the financial statement, prepared in accordance with the applicable accounting standards, presents truly and fairly the information about the assets and liabilities, financial status and profit or loss of the issuer;

b) the information regarding related parties transactions is duly announced and disclosed in accordance with the applicable accounting standards;c) the information regarding the public undertaking's substantial transactions for the respective reporting period is duly disclosed in the annexes to the financial report;;

4. declarations by the responsible persons within the issuer, specifying their names and functions, certifying that to the best of their knowledge:

a) the financial statements, prepared in accordance with the applicable accounting standards, present correctly and fairly the information about the issuer's assets and liabilities, financial standing and profit or loss and of the companies included in the consolidation;

b) the activity report shall contain a truthful review of the development and results from the activity of the issuer, as well as the condition of the issuer and the companies included in the consolidation, together with a description of major risks and uncertainties faced thereby;

5. any other information as shall be specified by ordinance.

(5) Where the issuer is obligated to prepare consolidated financial statements the annual consolidated activity report shall have the contents laid down in paragraph 4, items 1, 2, 4 and 5, and the financial statements shall be prepared in accordance with the International Accounting Standards and shall be presented together with the annual audited financial statements of the parent undertaking, prepared in accordance with the national legislation of the Member State at the registered office of the parent undertaking.

(6) Where the issuer is not obligated to prepare consolidated financial statements under paragraph 5 the audited financial statements shall be prepared in accordance with the national legislation of the Member State at its registered office.

(7) *(Last Amendment - SG No. 42/2016)* The annual activities report must include the information under the Accountancy Act as well as:

1. corporate governance statement;

2. any information specified with an ordinance.

(8) *(New - SG No. 42/2016)* The corporate governance statement includes:

1. information whether the issuer appropriately observes:

a) the corporate governance code approved by the deputy chairperson, or

- b) another corporate governance code;
  - c) information regarding the corporate governance practices which are applied by the issuer in addition to the code under letter "a" or "b";
2. explanation, on behalf of the issuer, which parts of the corporate governance code under pt. 1, letter "a" or letter "b" are not observed and the grounds for the non-observance, respectively- in the cases in which the issuer has decided not to refer to any of the rules in the corporate governance code- the grounds for this;
  3. description of the general characteristics of the internal control and risk management systems of the issuer in connection with the financial reporting process;
  4. information under art. 10, paragraph 1, letters "c", "d", "f", "h" and "i" of Directive 2004/25/ EC of the European Parliament and of the Council of 21 April 2004 on takeover bids;
  5. the members and the functioning of the administrative, managerial and supervisory committees, as well as
  6. description of the diversity policy applied with reference to the administrative, managerial and supervisory bodies of the issuer in connection with aspects such as age, gender or educational degree and professional experience, the purposes of this diversity policy, the manner of its implementation and the results during the reported period; when such policy is not applied, the declaration includes an explanation regarding the reasons for this non-application.

(9) ) (*New - SG No. 42/2016*) The corporate governance code under para. 8, pt. 1, letter "a" is published on the Internet webpage of the Commission. When the issuer has agreed to observe another code under para. 8, pt. 1, letter "b", in the declaration it is indicated where the respective texts are publicly accessible. In the cases under para. 8, pt. 1, letter "c", the issuer publicly discloses details about its corporate governance practices.

(10) ) (*New - SG No. 42/2016*) The registered auditor who performs independent financial audit of annual and consolidated financial statements is obliged to express his or her opinion regarding para. 8, pt. 3 and 4 in the auditor's report, and verifies whether the information under para. 8, pt. 1, 2, 5 and 6 is provided.

(11) ) (*New - SG No. 42/2016*) The requirements under para. 8, pt. 1, 2, 5 and 6 are not applied with reference to issuers who have only issued securities different from shares admitted to trade on a regulated market, unless in the cases in which such issuers have issued shares which are traded on multilateral trading facility.

(12) ) (*New - SG No. 42/2016*) The requirements of para. 8, pt. 6 are not applied with reference to the small and medium-sized enterprises.

### **Article 100n**

*(Last Amendment - SG No. 42/2016)*

(1) (*Last Amendment - SG No. 42/2016*) Within 30 days after the end of the second quarter of the year, the issuer is obliged to publicly disclose a six-month financial statement on its activities which comprises the first six months of the financial year.

(2) (*Last Amendment - SG No. 42/2016*) Within 60 days after the end of the second quarter of the year, the issuer preparing a consolidated annual financial statement is obliged to publicly disclose a six-month consolidated financial statement on its activities which comprises the first six months of the financial year.

(3) (*Last Amendment - SG No. 42/2016*) The issuer is obliged to ensure that the six-month financial statement and the six-month consolidated financial statement are publicly available for a period which is not shorter than 10 years.

(4) (*Last Amendment - SG No. 42/2016*) The six-month financial statement on the activities contains:

1. a set of financial statements prepared in compliance with the applicable accounting standards;

2. an interim report on the activities which includes information about important events occurred during the respective six months and their influence on the results in the financial statement, as well as description of the principal risks and uncertainties faced by the issuer during the rest of the financial year; with reference to the issuers of shares, the report, whose minimum content is set in an ordinance, must include information about the substantial transactions concluded between related parties;

3. declarations by the persons who are responsible within the scope of the issuer, which include their names and functions, certifying that to the best of their knowledge:

a) the set of financial statements, prepared in compliance with the applicable accounting standards, presents truly and fairly the information about the assets and liabilities, financial status and profit or loss of the issuer or the undertakings included in the consolidation;

b) the interim report includes reliable review of the information under pt. 2;

4. any information specified in an ordinance.

(5) Where the issuer is obligated to prepare consolidated financial statements, the quarterly consolidated activity report shall have the contents laid down in paragraph 4, and the financial statements shall be prepared in accordance with the International Accounting Standards applicable to the preparation of interim statements.

(6) Where the issuer is not obligated to prepare interim consolidated financial statements under paragraph 5, in the cases where they are not prepared in accordance with the International Accounting Standards, they shall contain at least a condensed balance sheet, a condensed income statement and selected notes whose contents shall be specified by ordinance. The same principles of recognition and reporting shall apply to the preparation of the condensed balance sheet and the condensed income statement as those applied to the preparation of the annual financial statements.

(7) If the interim financial statements have been audited by a registered auditor or an audit review has been conducted thereof under conditions and with contents as specified by ordinance, the auditor report or the results of the review, as the case may be, shall be made public together with the financial statements. If the financial statements are not audited or no review thereof has been conducted, the issuer shall state this circumstance.

#### **Article 100n<sup>1</sup>**

*(New - SG No. 42/2016)*

(1) The issuer is obliged to publicly disclose a notification about its financial status within 30 days after the end of the first, third and fourth quarter.

(2) The issuer which prepares a consolidated annual financial statement is obliged to publicly disclose a consolidated notification about its financial status within 60 days after the end of the first, third and fourth quarter.

(3) The issuer is obliged to ensure that the notifications under para. 1 and 2 are publicly available for a period which is not shorter than 5 years.

(4) The notifications under para. 1 and 2 include:

1. references following a sample form specified by the deputy chairperson;

2. explanatory notes;

3. any information, specified in an ordinance.

(5) The explanatory notes under para. 4, pt. 2 include at least information about important events, occurred during the respective quarter, with accumulation as of the beginning of the financial year until the end of the respective quarter, and their effect on the results from the references under pt. 1, as well as description of the principal risks and uncertainties faced by the issuer during the rest of the financial year, transactions with related and/or interested parties as well as information about any newly aroused substantial obligations and/or obligations with reference to the respective reported period.

(6) The notifications under para. 1 and 2 are signed by the person representing the issuer.

(7) The requirements under para. 1-6 are not applied in case the issuer publicly discloses three-month financial statements on its activities within 30 days after the end of the first,

third and fourth quarter which have the respective content under art. 100o, para. 4 and under the respective implementation of art. 100o, para. 2, 5, 6 and 7. In such case, the issuer ensures that the three-month financial statement and the three-month consolidated financial statement are publicly available for a period which is not shorter than 5 years.

#### **Article 100 o**

*(Last Amendment - SG No. 21/2012)*

(1) *(Last Amendment - SG No. 21/2012)* The requirements under Articles 100m and 100n shall not apply to issuers from a third country if the Commission deems that the law of such third country stipulates requirements equivalent to the requirements herein and the statutory instruments for application of this Act. The Commission notifies ESMA of its opinion under the first sentence. The conditions where the Commission may deem the requirements of the law of the third country as equivalent to the requirements herein or the statutory instruments for application of this Act shall be laid down by ordinance.

(2) The information that the persons under paragraph 1 must disclose in accordance with their national law shall be disclosed under the terms and procedure of Articles 100r and 100t.

(3) The persons under paragraph 1 shall furthermore disclose information under the terms and procedure of Articles 100r and 100t, as required under their national law, including where it is not regulated but could be of importance for the public in the Member States.

(4) The Commission shall publish on its website a list of the countries in respect of which it considers that their laws set out requirements equivalent to the requirements herein and the statutory instruments for application of this Act.

#### **Article 100 p**

*(Last Amendment - SG No. 42/2016)*

(1) The provisions of Articles 100o and 100n shall not apply to:

1. the Republic of Bulgaria, district or local authorities in the Republic of Bulgaria, public international organizations in which at least one Member State is a member, the European Central Bank, the European Financial Stability Facility (EFSF), created with the EFSF frame agreement, and any other mechanism established with the purpose of maintaining the financial stability of the European monetary union by means of providing temporary financial aid to the Member States whose currency is the euro the Bulgarian National Bank and the central banks of the other Member States regardless of whether they are issuers of shares or other securities;

2. *(Last Amendment – SG No. 103/2012)* issuers of shares who issue only debt securities admitted to trading on the regulated market with a nominal value of no less than the lev equivalent of EUR 100,000 or in the cases of debt securities denominated in currency other than euro, with a nominal value at the date of their issue of no less than the lev equivalent of EUR 100,000.

(2) The provisions of Article 100n shall not apply to banks whose shares are not admitted to trading on a regulated market and which have issued only debt securities issued by them on a continuous basis or periodically, provided that:

1. the total nominal value of the debt securities is lower than the lev equivalent of EUR 100,000,000;

2. have not published a prospectus.

(3) *(Last Amendment - SG No. 42/2016)* Unless in the case under par. 1, pt. 2, the ordinances of art. 100m and 100n are not applied with reference to issuers who issue only debt securities with a nominal value of at least EUR 50 000, or, in the cases of debt securities denominated in currency which is different from EUR, with a nominal value at the date of their issue, not less than the BGN equivalent of EUR 50 000 which have been

admitted to trading on a regulated market in the European Union prior to 31 December 2010 until the debt regarding them is repaid.

#### **Article 100 q**

*(Last Amendment - SG No. 42/2016)*

(1) The issuer of securities other than shares shall disclose publicly without delay any changes in the rights of the holders of securities other than shares, including changes in the time limits and conditions of such securities, which could affect indirectly such rights, resulting from a change in the conditions of the loan or the interest rate.

(2) *(Repeal - SG No. 42/2016)*

(3) *(Last Amendment - SG No. 42/2016)* The requirements of Par. (1) do not apply to issuers from a third country and Art. 100o is applied mutati mutandis.

#### **Article 100 r**

*(Last Amendment - SG No. 42/2016)*

(1) *(Last Amendment – SG, No. 109/2013, in force as of 20.12.2013)* The issuer or the person who has requested, without the consent of the issuer, admission of the securities to trading on a regulated market shall disclose the publicly regulated information by submitting it to the Commission and to the public. The issuer who has conducted only public offering of securities shall disclose the information undersentence one first on the territory of the Republic of Bulgaria.

(2) *(Last Amendment - SG No. 42/2016)* Paragraph 1 shall also apply to issuers whose securities are admitted to trading on a regulated market in the Republic of Bulgaria but are not admitted to trading on a regulated market in the member State of origin. In this case the regulated information shall meet the minimum conditions of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonization 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.

(3) The regulated information shall be disclosed to the public in such a manner so as to cover simultaneously as wide a circle of people as possible and in a non-discriminating manner. The issuer shall use a news agency or another media to ensure the efficient dissemination of the regulated information to the public in all Member States. The requirements as to the form and content of the regulated information as well as the conditions, methods and procedures for its disclosure shall be set out by ordinance.

(4) *(New – SG, No. 109/2013, in force as of 20.12.2013)* The regulated information is disclosed to the Commission in electronic manner. The requirements for the format and the content of the regulated information as well as the conditions, methods and procedures for its disclosure are set by a regulation.

(5) *(Former para. 4 – SG, No. 109/2013, in force as of 20.12.2013)* The issuer or the person who has requested admission of the securities to trading on a regulated market may not collect charges from investors for access to the regulated information.

#### **Article 100 s**

*(Last Amendment - SG No. 42/2016)*

(1) *(Last Amendment - SG No. 42/2016)* The Commission shall create and keep centralized storage database of the regulated information received from issuers whose securities are admitted to trading on a regulated market and whose Member State of origin is the Republic of Bulgaria.

(2) The information under paragraph 1 shall be made public and access to it shall be free of charge.

(3) The creation and keeping of centralized storage database of the regulated information, as well as the security requirements to the information, reliability of its sources, the time, procedure and manner of providing access to it shall be set out by ordinance.

#### **Article 100 t**

*(Last Amendment - SG No. 42/2016)*

(1) *(Last Amendment - SG No. 42/2016)* Where the securities are admitted to trading only on a regulated market in the Republic of Bulgaria and the Republic of Bulgaria is the Member State of origin, the regulated information shall be disclosed in Bulgarian. Where the securities are publicly offered on the territory of the Republic of Bulgaria the regulated information shall be disclosed in Bulgarian.

(2) *(Last Amendment - SG No. 42/2016)* Where the securities are admitted to trading on a regulated market in one or more Member States simultaneously, including the Republic of Bulgaria, and the Republic of Bulgaria is the Member State of origin, the regulated information shall be disclosed in Bulgarian and in a language adopted by the competent authority of such Member States, or in the customary language in the sphere of international finance, at the option of the issuer.

(3) *(Last Amendment - SG No. 42/2016)* Where the securities are admitted to trading on a regulated market in one or more Member States simultaneously, excluding the Republic of Bulgaria, and the Republic of Bulgaria is the Member State of origin, the regulated information shall be disclosed in a language adopted by the competent authority of such Member States, or in the customary language in the sphere of international finance, at the option of the issuer. For the purposes of the Commission's supervisory functions the information shall also be disclosed either in Bulgarian or in English, at the option of the issuer.

(4) Where the securities are admitted to trading on a regulated market without the consent of the issuer, the provisions under paragraphs 1 – 3 shall apply to the person who has requested the securities to be admitted to trading on a regulated market.

(5) *(Last Amendment - SG No. 42/2016)* Outside the cases referred to in paragraphs 1 – 4, where the securities with a single nominal value of at least the lev equivalent of EUR 100,000 or debt securities with a nominal value in a currency other than euro of at least the lev equivalent of EUR 100,000 at the date of their issue are admitted to trading on a regulated market in one or more Member States, the regulated information shall be disclosed in a language adopted by the Member State of origin and the host Member States or in a customary language in the sphere of international finance, at the option of the issuer or of the person who, without the agreement of the issuer, has requested the securities to be admitted to trading on a regulated market.

(6) *(Last Amendment - SG No. 34/2015)* The ordinance under par. 5 is also applied with reference to debt securities, which have been admitted to trading on a regulated market in one or more than one Member States prior 31 December 2010, with a unit nominal value of at least the BGN equivalent of EUR 50 000 or in the cases of debt securities with a unit nominal value in currency which is different from the euro - with a unit nominal value at the date of their issue, not less than the BGN equivalent of EUR 50 000 – until the debt under them is paid.

## **Section IIa**

*(New, SG No. 42/2016)*

### **Disclosing of information regarding the payments made to the executive powers in the Republic of Bulgaria, national, regional or local authority of a Member State or a third country as well as to persons controlled by them**

#### **Art. 100t<sup>1</sup>.**

*(New, SG No. 42/2016)*

The obligation for disclosure of information regarding the payments made to the executive power bodies in the Republic of Bulgaria, national, regional or local authority of a Member State or a third country or to other persons, controlled by such authorities, concerns an issuer whose activity is:

1. related to surveying, searching, finding and exploitation of deposits and extraction of minerals, oil, natural gas and other raw materials, and which is within the scope of the economic activities under annex I, Section B, positions 05-08 of Commission Regulation (EC) N<sup>o</sup> 1893/ 2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) N<sup>o</sup> 3037/90 as well as certain EC Regulations on specific statistical domains, hereinafter referred to as "Regulation (EC) N<sup>o</sup> 1893/ 2006 ";
2. logging in compliance with Annex I, Section A, position 02, group 02.2 of Regulation (EC) N<sup>o</sup> 1893/ 2006.

**Art. 100t<sup>2</sup>.**

*(New, SG No. 42/2016)*

(1) The issuer under art. 100u1 is obliged to publicly disclose the annual payment report within 150 days after the end of the financial year.

(2) Any issuer under art. 100u1 who prepares consolidated annual financial statement is obliged to publicly disclose the prepared consolidated annual payment report within 180 days after the end of the financial year.

(3) The issuer under art. 100u1 is obliged to ensure that the annual payment report and the consolidated annual payment report are publicly available for a period which is not shorter than 10 years.

**Art. 100t<sup>3</sup>.**

*(New, SG No. 42/2016)*

The content and the scope of the annual payment report as well as the applicable definitions are specified under the Accountancy Act."

**Section III**

*(New, SG No. 52/2007, effective 3.07.2007)*

**Requirements to issuers of bonds for provision of information to the holders of bonds and other debt securities**

**Article 100 u**

*(New, SG No. 52/2007, effective 3.07.2007)*

(1) The issuer of bonds shall ensure equal treatment of the bondholders enjoying equal status regarding all rights attaching to the bonds.

(2) The bondholders may be represented by a proxy with a power of attorney executed in accordance with the laws of the country in which the registered office of the issuer is located.

(3) The person under paragraph 1 shall:

1. ensure all the necessary conditions and information so as to enable the bondholders to exercise their rights, as well as to guarantee the completeness of such information;
2. submit a copy of the power of attorney under paragraph 2 on paper or electronically, where applicable, together with the materials for the general meeting or on request and after its convening;
3. specify at least one financial institution through which payments on the bonds shall be made; the types of financial institutions through which payments may be made shall be set out by ordinance.

(4) The issuer may use electronic means to provide information to the bondholders if the general meeting has passed a resolution thereof and subject to the following conditions:

1. use of electronic means is not contingent on the registered office or address of the bondholders or their proxies;
2. measures are taken for identification so as to ensure effective provision of the information to the bondholders;
3. the bondholders have expressly stated their written consent for providing the information electronically or within 14 days from receipt of a request from the issuer of such consent have not expressly objected thereof; at request of the bondholders the issuer shall also provide the information to them at all times on paper;
4. determination of the costs for the provision of information electronically does not prejudice the principle under paragraph 1 for ensuring equal treatment.

(5) Paragraphs 1 – 4 shall apply *mutatis mutandis* to provision of information by issuers of other debt securities to their holders.

#### **Article 100 v**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* The issuer of bonds shall send to the Commission and to disclose to the public in accordance with Art. 100r, Par. 3 and 4 the invitation under Article 214, paragraph 1 of the Commerce Act at least 15 days before the general meeting as well as the Protocol of the general meeting of bondholders within three working days of the meeting. In addition to the information under Article 223, paragraph 4 of the Commerce Act the invitation for the general meeting shall include information about the right of the bondholders to participate in it.

(2) *(Last Amendment - SG No. 62/2017)* The issuer of the bonds shall notify the Commission and to disclose to the public in accordance with Art. 100r, Par. 3 and 4 of:

1. the payment of interest;
2. *(Last Amendment - SG No. 62/2017)* the decisions on conversion, early repayment, buyback, exchange, subscription or cancellation of rights on the bonds and payments thereon.

(3) The obligation under paragraph 2 shall be performed by the end of the working day following the day of taking the decision, and where it is subject to entry in the commercial register, by the end of the working day following the day of coming of knowledge of the entry but no later than 7 days after the entry.

(4) *(Last Amendment – SG No. 103/2012)* Where the invitation for the general meeting refers only to holders of bonds with single nominal value of at least the lev equivalent of EUR 100,000 or the equivalent amount of another currency in which the bonds are denominated at the date of their issue, the issuer of the bonds for whom the Republic of Bulgaria is a home country may take a decision for the general meeting to be held in any Member State, provided that all the necessary conditions and information are ensured in such Member State so as the bondholders be able to exercise their rights. In this case the issuer shall notify the Commission of its choice.

(5) *(New - SG. No 103/2012)* The choice under par. 4 is also applied with reference to holders of bonds with a unit nominal value of at least the BGN equivalent of EUR 50 000 or equivalent amount in another currency, in which the bonds are denominated at the date of their issue, which are admitted to trading on a regulated market in the European Union prior 31. December 2010, upon observance of the requirements of par. 4.

(6) *(Former par. 5 – SG No. 103/2012)* The Commission shall make public the information received through the register of public companies and other issuers of securities kept by it.

(7) *(Former par. 6, Last Amendment – SG No. 103/2012)* Paragraphs 1 – 6 shall apply *mutatis mutandis* to issuers of other debt securities.

#### **Article 100w**

*(Last Amendment - SG No. 21/2012)*



(1) *(Last Amendment - SG No. 21/2012)* The requirements under this Section shall not apply to issuers from a third country if the Commission deems that the law of the third country in question lays down equivalent requirements to those stipulated herein and in the statutory instruments for application of this Act. The Commission notifies ESMA of its opinion under the first sentence. The conditions under which the Commission may deem that the requirements of the law of the third country are equivalent to the requirements herein and the statutory instruments for application of this Act shall be set out by ordinance.

(2) The information that the persons under paragraph 1 shall disclose according to national law shall be disclosed under the terms of Articles 100r and 100t.

(3) The persons under paragraph 1 shall disclose under the terms of Articles 100r and 100t the information which they disclose under their national law and which may be of importance for the public in the Community, even if such information is not regulated information.

(4) The Commission shall publish on its website a list of the countries whose laws provide for requirements equivalent to the requirements herein and the statutory instruments for application of this Act.

#### **Section IV**

*(New, SG No. 52/2007, effective 3.07.2007)*

#### **Supervision requirements**

#### **Article 100x**

*(New, SG No. 52/2007, effective 3.07.2007)*

(1) The issuer shall notify the Commission of:

1. any changes in its articles of association;
2. any changes in its management and supervisory bodies;
3. the decision on transformation of the company;
4. other circumstances specified by ordinance.

(2) The obligation under paragraph 1 shall be performed by the issuer by the close of the working day following the day of taking the decision or coming of knowledge of the specific circumstance, and where it is subject to entry in the commercial register, by the close of the working day following the day of coming of knowledge of the entry but no later than 7 days after the entry.

(3) The Commission shall make public the information received under paragraph 1 through the register of public companies and other issuers of securities kept by it.

#### **Article 100y**

*(New, SG No. 52/2007, effective 3.07.2007)*

(1) The requirements to the format of the reports and notifications under this Chapter, the procedure and manner of their submission to the Commission, as well as the procedure and manner of making the reports public shall be set out by ordinance.

(2) The circumstances subject to disclosure by an issuer undergoing liquidation or bankruptcy proceedings shall be set out by ordinance.

(3) The obligations of the issuer under this Chapter shall be terminated by the decision of the Deputy Chairperson on deleting the issuer from the register under Article 30, paragraph 1, item 3 of the Financial Supervision Commission Act.

(4) The terms and procedure for entry and deletion of issuers from the register under Article 30, paragraph 1, item 3 of the Financial Supervision Commission Act shall be set out by ordinance.

#### **Section V**

*(New, SG No. 52/2007, effective 3.07.2007)*

#### **Supervision and cooperation**

#### **Article 100z**

*(Last Amendment - SG No. 42/2016)*

(1) To ensure compliance with the provisions of this Chapter, besides the powers provided for in the other titles herein and of the statutory instruments for application of this Act, the Deputy Chairperson may:

1. require from auditors, the issuer and the persons controlling it or which are controlled by it to provide specific information and documents;
2. require from the issuer to disclose publicly the information under paragraph 1 in a manner and within a time limit set out by him/her;
3. publish, after presentation of an explanation by the issuer, the information under paragraph 1 at his/her own initiative in the cases where the issuer or the persons that control it or are controlled by it have not fulfilled their obligation under item 2;
4. require from the members of the management and supervisory bodies and the procurators of the issuer to provide information set out in this Chapter and where necessary, additional information and documents;
5. ban trading in specific securities on a regulated market for a period not exceeding 10 days if he/she has reasonable grounds to assume that the provisions of this Chapter and the instruments for its application are violated;
6. ban trading on a regulated market if the provisions of this Chapter and the instruments for its application are violated or there are reasonable grounds for him/her to assume that they are violated;
7. obligate the issuer to take specific measures for timely disclosure of information to ensure public access to it simultaneously in all Member States in which the issuer's securities are admitted to trading;
8. *(Repeal - SG No. 42/2016)*;
9. obligate the issuer within a reasonable time limit set by it to remove any deficiencies or non-conformities herewith and with the statutory instruments for application of this Act, including the International Accounting Standards, established in the financial statements, records and other accounting documents.

(2) In the cases under paragraph 1, item 1 the auditor shall be exempt from the limitations on disclosure of information set out in law, by-law or contract. The auditor shall not be responsible for disclosure of information under paragraph 1, item 1 to the Commission and the Deputy Chairperson.

(3) *(New - SG No. 103/2012)* The rights under par. 1, pt. 1, 2, 4 - 7 and 9 are exercised by the deputy chairperson under the procedure of art. 213.

(4) *(Former par. 3, Last Amendment – SG No. 103/2012)* The Commission may disclose any coercive administrative measure taken or penalty imposed for infringement of the provisions of this Chapter and the instruments for its application, save where such disclosure would seriously jeopardize the stability of financial markets or cause disproportionate damage to the parties involved.

#### **Article 100 aa**

*(Last Amendment - SG No. 42/2016)*

(1) The Commission shall cooperate and exchange information with relevant competent authorities of the other Member States, where this necessary for the purpose of carrying out its duties and shall render assistance in view of the exercise of their functions.

(2) *(New - SG No. 21/2012)* Where a request by the Commission for assistance under Par. (1) has been denied or no actions have been undertaken in due time, the Commission may notify about it ESMA with a view to receiving assistance in accordance with Regulation (EU) No 1095/2010.

(3) *(Former Par. (2), Last Amendment - SG No. 42/2016)* Where the Republic of Bulgaria is a Member State of origin and the Commission establishes that an issuer violates the Act and the statutory instruments for its application it shall notify the competent authority in the home country thereof and ESMA.

(4) *(Former Par. (3), Last Amendment - SG No. 42/2016)* If, despite the measures taken by the competent authority in the Member State of origin or where such measures prove inadequate, the issuer persists in infringing this Act or the statutory instruments for its application, the Commission may, after informing the competent authority of the home country, take all the appropriate measures in order to protect investors. The Commission shall notify the European Commission and ESMA of the measures taken within 7 days after their implementation.

(5) *(Former Par. (4) - Last Amendment - SG No. 42/2016)* Where the Commission is notified by the relevant competent authority of the Member State of origin of an issuer for whom the Republic of Bulgaria is a home country and who infringes the law of the Member State on whose territory its securities are admitted to trading, the Commission, the Deputy Chairperson respectively, shall apply relevant enforcement administrative measures."

## **Chapter Seven**

### **TRADING IN SECURITIES**

#### **Section I**

*(Repealed, SG No. 52/2007)*

#### **General Dispositions**

### **Article 101**

*(Amended, SG No. 61/2002, SG No. 8/2003, amended and supplemented SG No. 39/2005, amended, SG No. 86/2006, repealed, SG No. 52/2007)*

#### **Section II**

*(Repealed, SG No. 52/2007)*

#### **Trading on Official Securities Market**

#### **Article 102**

*(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*

### **Article 103**

*(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*

### **Article 104**

*(Amended, SG No. 86/2006, SG No. 25/2007, repealed, SG No. 52/2007)*

Article 105

*(Repealed, SG No. 52/2007)*

## **Article 106**

*(Amended, SG No. 86/2006 , repealed, SG No. 52/2007)*

## **Article 107**

*(Amended, SG No. 39/2005, SG No. 86/2006, repealed, SG No. 52/2007)*

## **Article 108**

*(Amended, SG No. 39/2005, SG No. 86/2006, repealed, SG No. 52/2007)*

Section III

*(Repealed, SG No. 52/2007)*

**Article 109**

*(Repealed, SG No. 52/2007)*

## **Section IV**

**Settlement System for Financial Instruments within the Meaning of the Financial Instruments Markets Act**

*(Last amendment - SG No. 101/2010 in force as of 30.06.2011)*

## **Article 109a**

## *(Last amendment - SG No. 103/2012)*

(1) *(Last Amendment - SG No. 103/2012)* With reference to settlement of financial instrument transactions within the meaning of art. 3 of Markets in Financial Instruments Act are created and operated settlement finality systems within the meaning of art. 78a of the Payment Services and Payment Systems Act, further referred to as "systems".

(2) The Central Depository, the members thereof and other legal persons, designated in the rules and operating procedures of the system, shall be participants in a system referred to in Paragraph (1). The building and organizing of a system to register and service trading in government securities shall be regulated by a separate statutory instrument.

(3) *(Last Amendment – SG No. 103/2012)* The rules and operating procedures of the system shall define the moment of settlement finality as a moment after which a book entry transfer order, entered into the system, may not be canceled by a system participant or by a third party, nor can the execution of any such order be otherwise frustrated.

(4) *(New - SG No. 101/2010 in force as of 30.06.2011)* The rules of Chapter Five "a" of the Law on payment services and payment systems are applied respectively to the systems for settlement of transactions under paragraph (1).

## **Article 109b**

*(Repeal - SG No. 101/2010 in force as of  
30.06.2011)*

## **Article 109c**

*(Repeal - SG No. 101/2010 in force as of  
30.06.2011)*

## **Chapter Eight**

**PUBLIC COMPANY**

**Section I**

**General Dispositions**

**Article 110**

*(Last Amendment - SG No. 62/2017)*

- (1) *(Last Amendment - SG No.23/2009, in force as of 27.03.2009 )* To be public, a joint-stock company with a Central Office in the republic of Bulgaria, which:
1. have issued shares under the terms of a primary public offering, or
  2. *(Amended, SG No. 8/2003, amended and supplemented, SG No. 39/2005, amended, SG No. 86/2006)* have a share issue recorded in the register referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act for the purpose of trading on a regulated market, or
  3. *(New, SG No. 39/2005)* have more than 10,000 shareholders on the last day of two successive calendar years.
- (2) *(Amended, SG No. 61/2002)* Any company referred to in Article 122 (1) herein shall likewise be public.
- (3) *(Amended, SG No. 8/2003, supplemented, SG No. 39/2005)* Any company referred to in Item 1 of Paragraph (1) shall become public as from the recording of the respective company or of the increase of capital thereof in the Commercial Register. Any such company shall be obligated to submit documents for recording referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act in the register within seven days after recording in the Commercial Register.
- (4) *(Amended, SG No. 86/2006)* Any company referred to in Item 2 of Paragraph (1) shall become public as from the decision to register the issue of shares for the purpose of trading on a regulated market.
- (5) *(New, SG No. 61/2002, repealed, SG No. 86/2006).*
- (6) *(Last Amendment - SG No. 103/2012)* Any company covered under Paragraph (1) shall be recorded as public in the Commercial Register. Any such company shall be obligated to declare this circumstance for recording in the Commercial Register within 7 days of its occurrence.
- (7) *(Last Amendment - SG No. 62/2017)* The Commission shall give any company referred to in Paragraph (1) written notice of the recording thereof in the register referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act within two working days.
- (8) *(Renumbered from Paragraph (6) and amended, SG No. 61/2002, amended, SG No. 8/2003, supplemented, SG No. 39/2005)* The terms and the procedure for recording and expungement in the register of public companies referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act shall be established by ordinance.
- (9) *(Renumbered from Paragraph (7) and amended, SG No. 61/2002)* The persons who manage and represent a public company shall be obligated:
1. *(Last Amendment - SG No. 62/2017)* to declare each succeeding share issue for recording in the register referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act within two working days after recording in the Commercial Register;
  2. *(Last Amendment - SG No. 62/2017)* to apply for admission of each succeeding share issue to trading on any regulated market which has admitted to the emission of the same class within two working days after recording in the register referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act.
- (10) *(New - SG No. 62/2017)* The Financial Supervision Commission enters the issue under para. 9, pt. 1 in the registry under art. 30, para. 1, pt. 3 of the Financial Supervision Commission Act within two business days after the receipt of the application, respectively after the submission of all documents necessary for the entry.

## **Article 110a**

*(New, SG No. 39/2005, effective 1.01.2006 in respect of the requirements for public companies under Article 94 (1) and (2), Article 95 and Article 98a, repealed, SG No. 86/2006, effective 28.10.2006)*

### **Article 110b**

*(Last Amendment -SG No.23/2009, in force as of 27.03.2009)*

Any public company shall ensure equal treatment of the shareholders enjoying equal status, including with regard to the participation and exercise of voting right at the general meeting of the shareholders.

### **Article 110c**

*(Last Amendment - SG No. 103/2012)*

(1) (Former text of Art. 110c – SG No. 103/2012) Any public company shall ensure all the necessary conditions and information so as to enable the shareholders to exercise their rights, as well as to guarantee the integrity of this information.

(2) *(New - SG No. 103/2012)* The public company is obliged to create and maintain its own Internet web page. Companies which have not been public fulfill their obligation for creating an Internet web page within three months after acquisition of the public company capacity.

## **Article 111**

*(Last Amendment - SG No. 62/2017)*

(1) *(Amended, SG No. 61/2002)* Noting power in the General Meeting of any public company shall arise upon full payment of the issue price of each share and upon recording of the company or of the increase of capital thereof, as the case may be, in the Commercial Register.

(2) The capital of any (public) company may not be reduced by compulsory cancellation of shares.

(3) The shares in any company referred to in Paragraph (1) shall be dematerialized. Sentence two of Article 185 (2) of the Commerce Act shall not apply.

(4) *(New, SG No. 61/2002)* A public company may not issue preference shares entitling the holder to more than one vote or to extra portion of the residual distribution of the company's assets in the event of winding-up.

(5) *(New, SG No. 61/2002)* During any calendar year, a public company may not acquire more than 3 per cent of its own voting shares in the event of reduction of capital by cancellation of shares and repurchase save under the terms and according to the procedure of tender offering under Article 149B herein. In such a case, the requirements to holders of at least 5 per cent wishing to acquire more than one third of the voting shares shall not apply.

(6) *(Last Amendment - SG No. 62/2017)* A public company shall be obligated to notify the Commission and the public according to Art. 100r, Par. 3 and 4 of the number of own shares which the said company will repurchase within the restriction referred to in paragraph 5 and regarding the investment intermediary wherewith an order of the repurchase has been placed. Notification shall be made no later than the close of the working day preceding the date of the repurchase. The Commission shall make public the information received through the register of public companies and other issuers of securities kept by it.

(7) *(New, SG No. 61/2002)* Upon an offer to acquire its own non voting shares in the cases covered under Paragraph (5), any public company shall be obligated to repurchase the shares held by the shareholders who or which have accepted the offer in proportion to the capital stock held thereby prior to the purchase. In such a case, Article 149b herein shall not apply.

(8) *(New - SG No. 62/2017)* Following the procedure of art. 100s, para. 3 and 4, the public company notifies the Commission and the public as well as the regulated market to which the shares are admitted to trading about the number of the own shares repurchased not

later than the end of the business day, following the day of the repurchase performed in compliance with para. 5.

(9) *(New - SG No. 62/2017)* Upon non-observance of art. 187a, para. 5, respectively of art. 187d of the Commerce Act, the public company is obligated to convene a shareholders general meeting within one month after the expiration of the time limit under art. 187a, para. 4, respectively under art. 187d of the Commerce Act during which a decision to be adopted regarding reduction of the company capital as a result of the withdrawal of the own shares owned in violation of the indicated provisions.

(10) *(Former Par. 8 - SG No. 62/2017)* A public company which acquires or transfers its own shares directly or through another person acting on own behalf but on the account of the public company, shall disclose information about the number of votes attaching to such shares, under the terms and procedure of Articles 100r and 100t forthwith, but no later than 4 working days after the acquisition or transfer thereof, where their number reaches, exceeds or falls below 5 or 10 per cent of the voting shares.

(11) *(Former Par. 9 - SG No. 62/2017)* The voting rights shall be calculated on the basis of the total number of voting shares.

### **Article 111a**

*(Last Amendment - SG No. 103/2012)*

(1) Any public company shall disclose under the conditions of Articles 100r and 100t any changes in the rights of separate classes of shares, including changes in the rights to derivative financial instruments issued by it, which give right to acquisition of shares of the company.

(2) Any public company shall notify the Commission of any decision on issuance of new shares, including decisions on distribution, subscription, cancellation or conversion of bonds into shares.

(3) The obligation under paragraphs 1 and 2 shall be discharged by the close of the working day following the day of taking the decision, and where it is subject to entry in the commercial register, by the close of the working day following the day of coming of knowledge of the entry but no later than 7 days after the entry.

(4) The Commission shall make public the information received through the register of public companies and other issuers of securities kept by it.

## **Article 112**

*(Last Amendment - SG No. 103/2012)*

(1) Upon increase of capital of any public company, each shareholder shall have the right to acquire shares in proportion to the capital stock held thereby prior to the increase. Article 194 (4) and Article 196 (3) of the Commerce Act shall not apply.

(2) Upon increase of capital of any public company by issuing of new shares, rights as defined in Item 3 of § 1 herein shall be issued. One right shall be issued for each existing share.

(3) *(New - SG No. 103/2012)* The requirement under par. 2 is not applied upon increase in the capital of a public company in which only members of the management and/ or controlling body and/ or its employees have the right to participate. The public company capital may not be increased in accordance with sentence one with more than 1 percent within a year, and no consecutive increases in the capital under this procedure exceeding 3 percent of the capital may be made, regardless of the period elapsed between them, if, in the interim, there has not been implemented successful increase in the capital in accordance with para.2 during which the registered capital has been increased with at least 10 percent. At no point may the shares issued in accordance with sentence one exceed 5 percent of the



public company capital. Decision for increase in the capital in accordance with sentence one may only be taken by the general meeting of the shareholders of the public company.

(4) *(Former Par. 3 – SG No. 103/2012)* The capital of a public company may not be increased by increase of the nominal value of previously issued shares, nor by conversion into shares of bonds which have not been issued as convertible.

(5) *(Former Par. 4 – SG No. 103/2012)* Upon increase of the capital of a public company, the issue price of the new shares must be fully paid up, except upon increase of capital according to Article 197 of the Commerce Act, as well as through conversion of bonds into shares. Sentence two of Article 188 (1) of the Commerce Act shall not apply.

## **Article 112a**

*(New, SG No. 61/2002, amended, SG No. 39/2005, repealed, SG No. 86/2006)*

## **Article 112b**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 34/2015)* The resolution or decision on increase of capital of a public company shall name the investment intermediary owning capital to an amount not less than the amount provided for in Article 8 (2) of the Markets in Financial Instruments Act herein, which shall handle the increase of capital, and shall state other essential particulars regarding the issues of rights and shares. The company shall be obligated to transmit to the Commission, to the regulated market and to the Central Depository the minutes recording the resolution or decision on increase of capital before the end of the working day next succeeding the day of holding of the General Meeting or the day of holding of the meeting of the management body.

(2) *(Last Amendment - SG No. 62/2017)* The right to participate in the increase of capital shall be limited to the persons who or which have acquired shares not later than fourteen days after the date of the resolution of the General Meeting on increase of capital or, where the decision on increase of capital has been made by the management body, the persons who or which have acquired shares not later than seven days after the date of publishing of the public notice referred to in Article 92a (1) herein. Within three working days from the expiration of the 14-day, 7-day period, respectively, of sentence one, the Central Depository shall open rights accounts of the persons referred to in sentence one proceeding from the particulars in the register of shareholders.

(3) *(Last Amendment - SG No. 62/2017)* Upon receipt of the resolution of the General Meeting referred to in Paragraph (1) or, where the decision on increase of capital has been made by the management body, upon publishing of the public notice referred to in Article 92a (1) herein, the regulated market whereon the shares are traded shall forthwith announce the latest date for conclusion of transactions in the said shares as a result of which the transferee of the shares shall be entitled to participate in the increase of capital. For the duration of the period wherein the shares are transferred with a right to participate in the increase of capital, the regulated market may apply special rules regarding price restrictions on the orders or quotations as entered and on the transactions as concluded.

(4) *(Amended, SG No. 86/2006)* The period between the earliest and latest date for transfer of the rights may not be shorter than fourteen days nor longer than thirty days.

(5) *(Amended, SG No. 86/2006)* The period between the earliest and latest date for subscription for shares may not be shorter than thirty days. The earliest date for subscription for shares shall be identical with the earliest date for transfer of the rights. The latest date

for subscription for shares shall be at least fifteen working days later than the latest date for transfer of the rights.

(6) *(Amended, SG No. 86/2006)* The transfer of the rights shall be effected on a regulated market. The regulated market, where to shares in the public company have been admitted to trading, shall be obligated to admit to trading the rights issued by the said company.

(7) On the fifth business day after the latest date for transfer of the rights, the public company, acting through the investment intermediary referred to in Paragraph (1), shall offer the rights, wherefor no shares of the new issue have been subscribed before the latest date for transfer of the rights, for sale under the terms of open-bidding auction on the regulated market. The company shall distribute the proceeds from the sale of unexercised rights, less the cost of the sale, proportionately among the holders of the rights.

(8) The proceeds from the sale of rights shall be credited to a special account opened by the Central Depository and may not be used until recording of the increase of capital.

(9) The public company shall organize the subscription in a manner affording an opportunity for remote subscription for shares through the Central Depository and the members thereof.

(10) At the start of each business day during the subscription, the Central Depository shall make public information regarding the rights as were exercised before the end of the last succeeding business day.

(11) Paragraphs (1) to (10) shall apply, *mutatis mutandis*, to the issuing of warrants and convertible bonds.

(12) *(Amended, SG No. 39/2005)* Within three business days after the closure of the subscription, the public company shall notify the Commission of the conduct of the said subscription and the results thereof, including any difficulties, disputes and other such in the trading of the rights and the subscription for the shares. The said notification may not contain any untrue or deficient material particulars.

(13) *(New - SG No. 103/2012)* The public company may issue rights over shares listed in the period between the conclusion of the subscription to the issue of the new shares, listed upon increase in the capital, under terms and procedure, specified with an ordinance. The public company indicates in the increase of the capital prospectus its intention of issue of rights over listed shares, the rights related to them and the terms and procedure for their issue and transfer.

(14) *(New - SG No. 62/2017)* The Commission adopts an ordinance regarding the application of this article.

## **Article 112c**

*(Last Amendment - SG No. 103/2012)*

Recording in the Commercial Register of the increase of capital of a public company shall be admissible solely subject to the condition of compliance with the provisions of this chapter. The company shall be obligated to present proofs that the requirements of Article 112 (5), Article 112b (2), (8) and sentence one of Article 112b (12) herein have been complied with or, where the decision on increase of capital of the company has been made by the General Meeting, also the requirements of Article 115 (4) herein.

## **Article 112d**

*(Repeal - SG No. 62/2017)*

### **Article 112e**

*(Last Amendment - SG No. 109/2013, in force as of 20.12.2013)*

Any public company shall disclose under the conditions of Articles 100r and 100t information about the total number of voting shares and the size of the capital at the end of the month, when the change of the capital occurred, by the 10th day of the month next succeeding the month in which an increase or reduction of the capital occurred. The information shall be disclosed for every class of shares.

## **Article 113**

*(Last Amendment – SG No. 103/2012)*

(1) *(Last Amendment, SG No. 61/2002)* The capital of a public company may not be increased according to the procedure established by Articles 193, 195 and Article 196 (3) of the Commerce Act.

(2) Paragraph (1) shall not apply:

1. *(Last Amendment – SG No. 103/2012)* to any bank, investment intermediary, insurance company or other company, where the increase of capital shall be necessary for implementation of a rehabilitation programme to bring the capital adequacy thereof in conformity with the requirements of the law or where subject to a coercive administrative measure requiring increase of the capital thereof according to the procedure established by Article 195 of the Commerce Act;

2. where the increase of capital according to the procedure established by Article 195 of the Commerce Act shall be necessary for merger by acquisition, tender offer for exchange of shares, or safeguarding the rights of the holders of warrants or convertible bonds.

## **Article 114**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 103/2012)* The persons who manage and represent the public company, including the persons- representatives of a legal entity which is a member of a management body of the public company may not, without being explicitly authorized for that by the general meeting of the public company, enter into transactions as a result of which:

1. *(Last Amendment - SG No. 103/2012)* the company acquires, transfers, receives or surrenders for use or furnishes as security in any form whatsoever any assets to a value exceeding:

(a) *(Last Amendment - SG No. 62/2017)* one third of the lower value of the assets according to the last two prepared balance sheets of the company, at least one of which is audited, and which are publicly disclosed under the procedure of art. 100s;

(b) *(Last Amendment - SG No. 62/2017)* 2 per cent of the lower of the value of the assets according to the balance sheet of the said company as the last two prepared balance sheets of the company, at least one of which is audited, and which are publicly disclosed under the procedure of art. 100s where interested parties participate in the transactions;

2. *(Last Amendment - SG No. 103/2012 (the amendment does not affect the English version))* the company incurs obligations to a single person or to related parties to an aggregate value exceeding the value referred to in Littera (a) of Item 1 or, where the said obligations are incurred to interested parties or in favour of interested parties, to an aggregate value exceeding the value referred to in Littera (b) of Item 1;

3. (*Last Amendment - SG No. 103/2012*) the receivables of the company from a single person or from related parties exceed the value referred to in Littera (a) of Item 1 or, where interested parties are debtors of the company – 50% of the value referred to in Littera (b) of Item 1.

4. (*Last Amendment - SG No. 62/2017*) the company participates in the establishment or in the increase of the capital of a company or makes additional contributions in a company with assets with total value of more than 10 percent of the lower value of the assets in accordance with last audited or last prepared balance sheet of the public company" are replaced with "the last two prepared balance sheets of the company, at least one of which is audited, and which are publicly disclosed under the procedure of art. 100s, and when the transactions are made upon performance of the ordinary business activities of the company and in favour of a subsidiary- over the value under pt. 1, letter "a".

5. (*Last Amendment - SG No. 62/2017*) the company participates in the establishment or in the increase of the capital of other companies or makes additional contributions in companies with assets whose value with reference to each of the companies is below the threshold under pt.4, provided their total value within one calendar year is above the value under pt.1, letter "a";

6. (*Last Amendment - SG No. 62/2017*) the company acquires or transfers a commercial enterprise or acquires or transfers a set of rights, obligations or factual relations, representing part of a commercial enterprise;

7. (*Last Amendment - SG No. 62/2017*) the company transfers, concedes for use or as collateral to a daughter company assets with total value of 10 percent of the lower value of the assets in accordance with the last two prepared balance sheets of the company, at least one of which is audited, and which are publicly disclosed under the procedure of art. 100s.

(2) (*Last Amendment - SG No. 103/2012*) The transactions of a public company with the participation of interested persons outside those specified under par.1 are subject to preliminary approval by the management body of the public company.

(3) (*New - SG No. 103/2012*) The persons who manage and represent the public company which is a daughter company of the public company, including the persons- representatives of a legal entity, which is a member of the management body of such company, may not, without a preliminary approval by the management body of the public company, enter into transactions as a result of which the daughter company:

1. (*Last Amendment - SG No. 62/2017*) acquires, transfers, concedes for use or as collateral assets under any form, with total value above:

a) one third lower value of the assets in accordance with the latest audited or the latest drawn-up balance sheet of the daughter company;

b) (*Last Amendment - SG No. 62/2017*) five percent lower value of the assets in accordance with the latest audited or the latest drawn-up balance sheet of the daughter company, provided interested persons participate in the transactions;

2. (*Last Amendment - SG No. 62/2017*) participates in the establishment and/or in the increase of the capital and/or makes additional contributions in a company with assets with value above the thresholds under pt.1.

(4) (*New - SG No. 62/2017*) A subject to prior approval of the management body of the public company is also the decision of a subsidiary not to participate in the increase of the capital of its subsidiary, as a result of which the participation of the subsidiary will fall under 25 per cent or a number multiple of 25 per cent of the capital of its subsidiary.

(5) (Former Par. 4 - SG No. 62/2017) The value of the property acquired and received for use under Item 1 of Paragraph (1) shall be the agreed price, and the value of the property transferred, surrendered for use or furnished as security under para. 1, pt. 1 and 7 shall be the highest one between the market value of the said property and its value according to the financial statement of the company as last audited which is publicly disclosed under the procedure of art. 100s. Market price under sentence one is the price, calculated in accordance with an assessment made by an independent assessors under art. 5 of Independent Assessor Act. The value of the property, subject to the transactions under para. 3 is the higher value in accordance with the latest audited and the latest balance sheet of the daughter company. The value of the obligations and receivables referred to in Items 2 and 3 of Paragraph (1) shall include interest as agreed. In case subject to transactions under para.1 and 3 are securities admitted to trading on a regulated market, they are evaluated in accordance with their current market price in case of acquisition transactions, in all other cases- in accordance with a market price if it is higher than the value calculated in the latest audited financial statement of the company which is publicly disclosed under the procedure of art. 100s.

(6) (Former Par. 5 - SG No. 62/2017) Any transactions as a result of which the company acquires, transfers, receives or provides assets for use or as a collateral in any form, or transactions as a result of which obligations arise for the company towards one person or related persons, or transactions as a result of which receivables arise for the company towards one person or related persons, or transactions with reference to transferring of a commercial enterprise or with reference to transfer of rights, obligations or factual relationships which are part of a commercial enterprise as well as transactions under para. 3, each of which is below the thresholds under para. 1, pt. 1-3, 6 and 7 and para. 3 but in aggregate lead to a change of property exceeding the said thresholds, shall be treated as a single whole if effected within a period of three calendar years and in favour of a single person or of related parties, or if a single person or related parties are parties to the transactions, as the case may be. In such cases, the act or the transaction whereby the thresholds under Paragraph (1) and (3) are exceeded shall be subject to endorsement by the Shareholders' General Meeting, and in case of transactions under Par. (3) – by the management body.

(7) (Former Par. 6 - SG No. 62/2017) Interested parties are the members of the management and the controlling bodies of the public company, the persons- representatives of legal entities, members of such bodies, its procurator, persons who directly and/ or indirectly hold at least 25 percents of the votes in the general meeting of the company or who control it, and upon transactions of daughter company- the members of its management and controlling bodies, the persons- representatives of legal entities, members of such bodies, its procurator, persons who directly and/ or indirectly hold at least 25 percent of the votes in the general meeting of the company, different from the public company, as well as the persons connected with them, when they:

1. are party, its representative or an intermediary to the transaction or the transactions or the activities are performed to their benefit, or
2. (Last Amendment - SG No. 62/2017) hold directly and/ or indirectly at least 25 percent of the votes in the general meeting or control a legal entity which is a counterparty, its representative or intermediary to the transaction, or to whose benefit the transactions or the activities are performed or;
3. are members of management or controlling bodies, representatives of legal entities, members of such bodies or procurators of legal entity under pt.1 and 2.

(8) (Former Par. 7 - SG No. 62/2017) The receipt or surrender for use in any form whatsoever of fixed assets on the part of a public company must be effected under the terms and according to the procedure established by a contract of joint venture under Section III if the property:

1. is surrendered to a company holding, directly or indirectly, at least 25per cent of the votes in the General Meeting of the public company, or controlling the public company, or is a party related thereto; and

2. serves to carry on the core business of the public company within the meaning of Article 126B (2) herein or of a substantial part of the said core business.

(9) *(Former Par. 8 - SG No. 62/2017)* Should the conditions referred to in Items 1 and 2 of Paragraph (8) occur after surrender of the property for use, the public company and the counterparty shall be obligated to take steps forthwith for conclusion of a contract of joint venture, including submission of an application to the Deputy Chairperson under Article 126c herein within one month.

(10) *(Former Par. 9 - SG No. 62/2017)* The ordinances under par. 1 and 3 is not applied in the cases of:

1. (Last Amendment - SG No. 62/2017) upon conclusion of bank credit contracts and the provision of collateral with reference to them as well as upon transactions made upon performance of the ordinary business activities of the company; sentence one is not applied upon participation of interested persons in any of the transactions specified;

2. (Last Amendment - SG No. 62/2017) upon the public company's assuming of obligations and/or provision of assets as collateral upon granting or in relation to granting a subsidiary a bank credit; sentence one is not applied upon participation of interested parties in any of the transactions specified with the exception of the interest between the public company and the subsidiary;

3. (Last Amendment - SG No. 62/2017) crediting of a to a subsidiary by the parent company and submission of deposits by a daughter company under terms not less favorable than the market ones in the country;

4. when there is a joint venture contract under Section III of this Chapter.

5. (New - SG No. 62/2017) of transactions made in performance of mandatory provisions regulating the company's specific branch of activities.

(11) *(Former Par. 10 - SG No. 62/2017)* "Ordinary business activities", as referred to in Item 1 of Paragraph (10), shall be the totality of acts and transactions effected by the company within the objects thereof and in conformity with the customary commercial practice, excluding any transactions and acts arising from contingency circumstances.

(12) *(Former Par. 11 - SG No. 62/2017)* Any transactions effected in violation of Paragraphs (1) through (10) incl. shall be void.

(13) *(Former Par. 12 - SG No. 62/2017)* Where deposits are provided under Item 3 of Paragraph (10), the mother company shall be obligated to notify the Commission within seven days.

(14) *(New - SG No. 62/2017)* In the cases of a transaction under para. 10, pt. 5, the persons who manage or represent the public company are obligated to notify the Commission within 7 days prior its conclusion and, following the procedure of art. 100s, pt. 3, to announce information with reference to the grounds for conclusion and the conditions of the transaction, including parties, subject, value, term and participation of interested parties. In case the announcement of particular data about the transaction could lead to considerable damage for the company, the respective data are not included in the information under sentence one and this circumstance is announced. In case of impossibility to indicate particular data due to the type of the transaction, this circumstance is announced.

## **Article 114a**

*(Last Amendment - SG No. 62/2017)*

(1) The management body shall present to the General Meeting a reasoned report on the expediency and terms and conditions of the transactions covered under Article 114 (1)

herein. The said report shall be part of the materials provided to shareholders upon convocation of the General Meeting. The circumstances disclosable by the management body to the General Meeting shall be prescribed by ordinance.

(2) *(Last Amendment - SG No. 62/2017)* In the cases of acquisition or disposition of assets referred to in Article 114 (1) herein, the General Meeting of the company shall pass a resolution by a majority of three quarters in value of the capital stock represented and, in the rest of the cases, by a simple majority.

(3) *(Last Amendment - SG No. 62/2017)* The management body of the daughter company submits to the management body of the public company a request for approval under art. 114, par. 3, as well as information related to the expediency and the essential conditions of the transaction, including parties, subject, value, deadline and participation of interested parties, as well as the respective balance sheets whose values have been used with reference to the assessment for crossing the respective threshold under art. 114, par. 3. In case the announcement of certain data related to the transaction might lead to substantial damages for the daughter company, the data is not included in the information under sentence one and this circumstance is made public. The public company notifies the Commission for the request made and submits the received documents and information within 4 business days after their receipt.

(4) *(Last Amendment - SG No. 62/2017)* Upon passage of a resolution under Article 114 (1) herein, the interested parties shall not exercise the voting power thereof. When determining the quorum for making a decision under sentence one, all votes cast to the general meeting shall be taken into consideration, and the votes of the persons concerned shall not be included in the determination of the majority of the decision. The members of the management body of the public company who or which are interested parties shall not take part in the making of decisions under Article 114 (2) and (3) herein.

(5) *(Last Amendment - SG No. 62/2017)* The transactions referred to in Item 1 of Article 114 (1) and in Article 114 (2) herein, wherein interested parties participate as well as under Art. 114, (1), Item 6 may be effected solely at market value. Valuation shall be prepared by the management body or, in the cases of Littera (b) of Item 1 and Item 6 of Article 114 (1), by assessors under art. 5 of Independent Assessors Act designated by the said management body.

(6) *(Last Amendment - SG No. 62/2017)* The decision under art. 114, par. 1 - 3 should be indicated in the essential conditions of the contract, including deadline, parties, subject and value, to whose benefit the transaction is made. In case the decision does not indicate a particular counter party to the transaction, the calculation for the purposes of art. 114, par. 1 and 3 is made upon application of the thresholds for transactions with the participation of interested parties. The decision may also not indicate a specific transaction value, in case there is a minimum and a maximum value indicated, and in such case the calculation for the purposes of art. 114, par. 1 and 3 is performed in relation to the maximum value.

(7) *(New - SG No. 103/ 2012)* The public company is obliged to announce, under the terms and procedure of art. 100r, par. 1 and 3, the transactions made under art. 114, par. 3 within 7 days after coming to know about them.

## **Article 114b**

*(Last Amendment - SG No. 103/2012)*

(1) *(Amended, SG No. 39/2005, SG No. 86/2006)* The members of the management bodies and supervisory bodies of a public company, the managerial agent of any such company, and the persons holding, directly or indirectly, at least 25 per cent of the votes in the

General Meeting of the company or controlling the company, shall be obligated to disclose to the management body of the public company, as well as to the Commission and the regulated market whereon the shares in the company have been admitted to trading, information:

1. regarding the legal persons wherein the said persons hold, directly or indirectly, at least 25 per cent of the votes in the General Meeting or which the said persons control;
2. regarding the legal persons whereof the said persons are members of the management bodies or supervisory bodies or managerial agents;
3. *(Last Amendment – SG No. 103/2012 (the amendment does not affect the English version))* regarding any current and future transactions of which they are aware and in which, in their opinion, the said persons may be treated as interested parties.

(2) The members of the management bodies and supervisory bodies of the public company and the managerial agent thereof shall be obligated to disclose the circumstances covered under Paragraph (1) within seven days after election, and the persons holding, directly or indirectly, at least 25 per cent of the votes in the General Meeting of the company or controlling the company shall be obligated to disclose the said circumstances within seven days after acquisition of the votes or of control, as the case may be. The persons referred to in sentence one shall be obligated to update the disclosure thereof within seven days after occurrence of the relevant circumstances.

## Article 115

*(Last Amendment - SG No. 62/2017)*

(1) The General Meeting of any public company shall be held at the registered office thereof. The ordinary general meeting shall be held prior to the end of the first half-year after preparation of annual accounts for the next preceding the accounting year.

(2) *(Last amendment, SG No. 23/2009 in force as of 27.03.2009)* Besides the information under art.223, para4 of the Commerce act, the general assembly invitation shall include additional information about:

- 1.the total number of the equities and rights to vote at the general assembly at the date when the decision for convening of the general assembly is adopted, including the total number for each class of equities provided the fund is divided into equity classes, as well as information about the shareholders' right for participation in the general assembly;
- 2.the right of the shareholders to include items in the agenda and to make proposals for the resolution of items which are included in the agenda, the final date of this competence; the invitation may include only the final date of the competence ,provided the organization internet site address that contain detailed information about this competence is given.
3. *(New - SG No. 62/2017)* the shareholders' right to make proposals of essence with reference to each issue , included in the agenda and upon observance of the requirements of the law such as the restriction under art. 118, para. 3 is respectively applied; the deadline for exercising this right is until the end of the discussions with reference to this issue prior the decision voting by the general meeting;
4. *(Former Pt. 3 - SG No. 62/2017)* The right of the shareholders to put questions during the general assembly;
5. *(Former Pt. 4 - SG No. 62/2017)* The rules for voting through a proxy, the forms which are used for voting through a proxy and the way through which the organization is going to be informed for electronic authorizations.



6. (Former Pt. 5 - SG No. 62/2017) The rules for voting through postal mail or electronic means where it is applicable.

7. (Former Pt. 6 - SG No. 62/2017) The date under art.115b, para. 1 and an instruction, notifying that only those individuals who have registered as shareholders at the particular date are within their rights to participate and vote at the general assembly;

8. (Former Pt. 7 - SG No. 62/2017) The place and the way of receiving the written materials connected to the agenda of the general assembly under art.224 of the Commerce act;

9. (Former Pt. 8 - SG No. 62/2017) The internet website where the information under para.5 is published.

(3) (New,SG No. 23/2009 in force as of 27.03.2009 )The voting rules under para2,section 5 are adopted by the general assembly, in case the statutes allows the voting rules may be specified by the managing body of the company. That set of rules settles the requirements related to content of the voting form, the ways of receiving the form by the shareholders and the stipulations for the shareholders' identification.

(4) (Last Amendment - SG No. 109/2013, in force as of 20.12.2013) The company is obliged to publish the invitation under Par. (2) at the commerce registry and to make it public in accordance with the terms and conditions specified by art.100τ, par. 1 and 3 at least thirty days before the establishment of the general meeting of the shareholders. The publicly traded company is disallowed to charge the shareholders for the preparation and publishing of the bidding.

(5) (Last Amendment - SG No. 62/2017) The invitation under para2. And the materials related to the general assembly under art.224 of the Commerce Act shall be send to the committee and the regulated market to which the company's shares are admitted to trading within the time fixed in para.4 and shall be published on the internet website of the companies for a period that spans from the publishing of the invitation until the end of the general assembly. The information which is related to the first sentence and is published at the internet webpage of the company has to be identical with the information that is given to the public.

(6) (New,SG No. 23/2009 in force as of 27.03.2009) If it is applicable, the publicly traded company publishes the proxy vote forms and the postal vote forms .On occasion the forms cannot be published due to technical reasons, the company is obliged to give information at its internet webpage for the ways of getting form hard copies. In such cases if the shareholders requires a form, the company is obliged to send them by post and for at its expense.

(7) (Last Amendment - SG No. 62/2017) In the cases under art. 118, (2), pt. 4 of the Commerce act , the shareholders have to submit the materials under art.223a, para.4 of the Commerce act to the committee, to the public company and the regulated market to which the company's shares are admitted to trading on the next workday after the publishing of the items at the commerce registry. The publicly traded company is obliged to update the invitation and to publish it together with the written materials in observance with the terms and procedure specified in art.100τ, para1 and 3 immediately, but no later than the end of the workday after the day when the notification for the publishing of the items in the agenda is received. In the updated invitation it is indicated that the shareholders who are to vote through authorised representatives explicitly authorise the authorised representatives with reference to the issues of the agenda which are included under the procedure of art. 118, para. 2, pt. 4.

(8) (Last Amendment - SG No. 62/2017) The publicly traded company may provide in its statutes and/or the general meeting calling invitation a possibility of conducting the general assembly by using electronic means with the means of one or more than one of the following forms:

1. Real-time transmission of the general assembly;

2. Two-way real-time messages, allowing the shareholders to take part in the discussion and the general assembly adoption of resolutions from distance;

3. A mechanism for voting before or at the time of the general assembly without the authorization of an individual that is obliged to personally participate in the general assembly to be necessary.

(9) (New, SG No. 23/2009 in force as of 27.03.2009) The shareholders' participation in the general assembly through electronic means in accordance with para 8 is registered at the quorum assignment and the vote is registered in the record of the general assembly. To the record of the general assembly there shall be applied a list of the individuals that have voted through electronic means and a list with the number of the owned shares which both are certified by the chairperson and the secretary of the general assembly.

(10) (New – SG, No. 23/2009 in force as of 27.03.2009) The publicly traded company provides the due measures for the identification of the shareholders and the individuals that represent them in their participation in the general assembly by use of electronic means; it also provides the secure connection in so far as it is necessary for achieving these purposes.

(11) (Former Paragraph 6 – Amendment, SG No. 23/2009 in force as of 27.03.2009) The members of the control bodies and the prosecutor of the company are obliged to answer correctly, comprehensively and essentially to questions related to the economic and financial status and the trade activities of the company which are asked at the general assembly by the shareholders. They are not obliged to give answer to questions which concern inner information. The shareholders are within their right to ask such question nevertheless they are not related to the agenda.

(12) (New, SG No. 23/2009 in force as of 27.03.2009) When there is lack of quorum in the cases under art.227, para.1 and 2 of the Commerce act a new assembly may be set down but no earlier than 14 days and it is considered legal notwithstanding the submitted capital. The date of the new assembly may be indicated also in the invitation for the first assembly. Items under the procedure of art223a of the Commerce Act may not be included in the agenda of the new assembly

### **Article 115a**

*(New, SG No. 52/2007, effective 3.07.2007)*

Any public company may use electronic means to provide information to the shareholders where the general meeting has taken such a decision and all of the following conditions obtain:

1. the use of electronic means is not contingent on the registered office or address of the shareholders or of the persons under Article 146, paragraph 1, items 1 – 8;

2. measures for identification are taken so as to ensure effective provision of the information to the shareholders or the persons who are entitled to exercise the voting right or determine its exercise;

3. the shareholders or the persons under Article 146, paragraph 1, items 1 – 5 who have the right to acquire, transfer or exercise the voting right have expressly stated their written consent for the provision of the information via electronic means or within 14 days from receipt of a request of such consent from the public company have not expressly objected thereof; on request from the persons under sentence one the public company shall also provide them at all times with the information on paper;

4. determination of the costs relating to the provision of information via electronic means does not prejudice the principle under Article 110b on ensuring equal treatment."

# Article 115b

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* The voting right is exercised by the persons who are recorded in the Central Depository Registry as ones with voting rights 14 days prior the general meeting date.

(2) *(Last Amendment - SG No.23/2009, in force as of 27.03.2009 )*The Central Depository shall be obligated to provide to the company lists of the shareholders referred to in Paragraph (1) and to the foreign persons under Art. 136 (1) upon request by the person empowered to manage and represent the company.

(3) *(Amended, SG No. 52/2007, effective 3.07.2007, Repeal,SG No. 23/2009 in force as of 27.03.2009) .*

(4) *(New,SG No. 23/2009 in force as of 27.03.2009)* The public traded company may provide in its statutes an opportunity the right to vote to be exercised before the date of the general assembly through the post including through the electronic mail, courier or another possible technical way.

(5) *(New,SG No. 23/2009 in force as of 27.03.2009)* Voting through the post is considered valid if the vote is received by the company no later than the day preceding the date of conducting the general assembly. The shares of the individuals that have voted through correspondence are taken into account in the assignment of the quorum and the vote is indicated in the record of the general assembly. To the record of the general assembly there shall be applied a list with the names of the individuals that have exercised their right to vote in the general assembly through correspondence and a list with the owned shares which both are certified by the chairperson and the secretary of the general assembly.

(6) *(New,SG No. 23/2009 in force as of 27.03.2009)* If the shareholder present personally at the general assembly the exercised by him right to vote through correspondence is considered valid unless the shareholder declare the opposite. The already given through correspondence vote on items on which the shareholder votes personally at the general assembly are annulled.

(7) *(New,SG No. 23/2009 in force as of 27.03.2009)* The publicly traded company may attach conditions to specifying the quality of a shareholder and to the correspondence vote which are necessary for the identification of the shareholders in so far as it is appropriate for achieving this purpose.

# Article 115c

*(Last Amendment - SG No. 62/2017, in force as of 01.01.2018)*

(1) *(Last Amendment - SG No. 62/2017, in force as of 01.01.2018)* The public companies are entitled the right to pay a 6-month and an annual dividend if this is provided in the statutes and upon the respective application of art. 247a of the Commerce Act.

(2) *(New - SG No. 62/2017, in force as of 01.01.2018)* The public companies may pay an interim dividend on the basis of a six-month financial statement only if the following conditions are met:

1. there is a six-month financial statement prepared; there is a report to the statement which is prepared on the basis of the accounting information and proves that the company has enough funds to pay the dividends and that their payment will not lead to the company's indebtedness to creditors, personnel, budget and others;

2. the financial result of the six-month period is a profit and there is profit allocation decision adopted by the shareholders' general meeting;

3. the amount of the funds which could be allocated in compliance with art. 247a of the Commerce Act may not exceed the total profit received as:

a) the current accounting result for the period between 1 January and 30 June of the current year;

b) the non-allocated profit from previous years;

c) the sum of reserves whose allocation is not prohibited by law or the company's statute;

d) the total sum under letters "a"- "c" is reduced with the losses and the legal reserves formed in compliance with the requirements of art. 246 of the Commerce Act and/ or the reserve requirements under the company's statute;

4. the limited liability company has no assumed and unpaid obligations whose repayment term has expired prior the adoption of the profit allocation decision and, after the payment of the interim dividends, it will be able to perform its obligations for the current financial year.

(3) *(New - SG No. 62/2017, in force as of 01.01.2018)* The right to receive a dividend is entitled to the persons, registered in the Central Depository Registry as such with right of dividend on the 14th day after the date of the general meeting during which the annual, respectively the 6-month financial statement is adopted and a profit allocation decision is made. Article 115b, para. 2 is respectively applied.

(4) *(Former Par. 2 - SG No. 62/2017, in force as of 01.01.2018)* The company shall be obligated to notify forthwith the Commission, the Central Depository and the regulated market of the resolution of the General Meeting regarding the type and amount of dividend, as well as regarding the terms and the procedure for payment thereof, including to specify at least one financial institution through which payments will be made. The types of financial institutions through which payments may be made shall be set out by ordinance.

(5) *(Former Par. 3 - SG No. 62/2017, in force as of 01.01.2018)* Upon receipt of any notice referred to in Paragraph (4), the regulated market whereon the shares are allowed to trade shall forthwith announce the latest date for conclusion of transactions in such shares as a result of which the transferee of any such shares shall have the right to claim the dividend carried by the said shares as voted by the General Meeting.

(6) *(Former Par. 4 - SG No. 62/2017, in force as of 01.01.2018)* Until the lapse of the business days next succeeding the day of notification under Paragraph (4) and the latest day for conclusion of transactions under Paragraph (5), special rules may be applied on the regulated securities market regarding price restrictions on the orders or quotations as placed and the transactions as concluded.

(7) *(Former Par. 5 - SG No. 62/2017, in force as of 01.01.2018)* The company shall be obligated to ensure payment of the dividend as voted at the General Meeting to the shareholders within 60 days after holding the said meeting. The costs of payment of the dividend shall be for the account of the company.

(8) *(Former Par. 6 - SG No. 62/2017, in force as of 01.01.2018)* Paying of the dividend shall be effected with the cooperation of the Central Depository. The procedure for payment of dividend shall be established by ordinance.

## **Article 115d**

(New, SG No. 23/2009 in force as of 27.03.2009)

- (1) The shareholders of a publicly traded company are within their right to entitle each physical body or legal entity to vote on their behalf in the general assembly .The third sentence of art.220, para1 of the Commerce Act is not applied when the shareholder has specified the way of voting on each item of the agenda.
- (2)The proxy has the same rights to make statements and ask questions at the general assembly as the shareholder he represents.
- (3)The proxy is obliged to exercise his right to vote in accordance with the shareholder's instructions that are given in the power of attorney.
- (4)The proxy may represent more than one shareholder at the general assembly of the publicly traded company. In such case the proxy may vote differently for the shares owned by the separate shareholders he represents.
- (5)The authorization may be also made through electronic means. The publicly traded company is obliged to provide for at least one mode for acquiring of a power of attorney through electronic means. It is obliged to publish on its internet webpage the conditions and the procedure for acquiring of a power of attorney through electronic means.
- (6)The publicly traded company may attach conditions to the authorisation, submitting of the power of attorney to the company and the shareholder's instructions for the way of voting, if there are such, these conditions are necessary for the shareholder and proxy's identification or in order a possibility for examination of the instructions to be ensured and all of the above said have to be in conformity with the achieving of these purposes.
- (7)The procedure under para.5 and 6 is applied also in case of withdrawing the power of attorney.

## Article 116

*(Last Amendment - SG No. 62/2017)*

- (1)(Last amendment SG No. 23/2009 in force as of 27.03.2009) (1)The written power of attorney for representation of a shareholder at the general assembly of a publicly traded company have to be issued for a particular general assembly, it also have to be specific and to give at least:
  1. Personal data of the shareholder and the proxy;
  2. The number of the share to which the power of attorney is related;
  3. The agenda of the items that are submitted for discussion;
  4. The proposals for solution of each item of the agenda;
  5. The way of voting for each of the items, if applicable;
  6. Date and signature.
- (2) (Repeal, SG No. 61/2002. New,SG No. 23/2009 in force as of 27.03.2009). In the cases when the way of voting for the separate items of the agenda is not indicated in the power of attorney, there shall be indicated that the representative has the right to choose the means through which to vote and whether to vote or not in his judgment.
- (3) *(New, SG No. 52/2007, effective 3.07.2007)*any public company shall submit a copy of the written power of attorney on paper or electronically, where applicable, together with the materials for the general meeting or at request after its calling.
- (4) *(Amended, SG No. 61/2002, renumbered from Paragraph (3), SG No. 52/2007, effective 3.07.2007 )* Any sub-delegation of the rights referred to in Paragraph (1), as well as any proxy granted in breach of the rules established by Paragraphs (1) and (2), shall be void.
- (5) *( Renumbered from Paragraph (4), SG No. 52/2007)*Any solicitation of proxy from a shareholder or shareholders holding more than 5 per cent of the votes in the Shareholders'

General Meeting of any public company must be inserted in a national daily newspaper or dispatched to each shareholder concerned. Any such solicitation shall contain at a minimum the following particulars:

1. the agenda of the matters proposed for consideration at the General Meeting, and the motions for resolutions thereon;
2. an invitation to the shareholders to provide instructions as to the manner of voting on the matters on the agenda;
3. a statement of the manner in which the solicitor will vote on each of the matters on the agenda, should the shareholder who or which accepts the solicitation fail to provide instructions as to the voting.

(6) (*Renumbered from Paragraph (5), amended, SG No. 52/2007, effective 3.07.2007*) The solicitor shall be obligated to vote at the General Meeting of the company in conformity with the instructions of the shareholders as stated in the proxy or, should no such instructions have been provided, in conformity with the statement referred to in Item 3 of Paragraph (5). The solicitor may depart from the instructions of the shareholders or from the statement of the solicitor as to the manner of voting, as the case may be, if:

- (a) any circumstances have occurred which were not known at the time of making of the solicitation or of signing of the proxy by the shareholders;
- (b) the solicitor has been unable to request in advance new instructions and/or to make a new statement, or has not received promptly new instructions from the shareholders;
- (c) the departure is necessary for safeguarding the interests of the shareholders.

(7) (*Amended, SG No. 61/2002, renumbered from Paragraph (6), SG No. 52/2007, effective 3.07.2007*) The company may not require presentation of the proxies referred to in Paragraph (1) earlier than two business days before the day of the General Meeting. The company shall inform those present at the Shareholders' General Meeting of the proxies as received upon the opening of the General Meeting.

(8) (*Amended, SG No. 61/2002, renumbered from Paragraph (7), SG No. 52/2007, effective 3.07.2007*) Should more than one proxy referred to in Paragraph (1) be presented as granted by one and the same shareholder, the proxy which has been granted later shall prevail.

(9) (*Renumbered from Paragraph (8), SG No. 52/2007, effective 3.07.2007*) Unless the company receives written notice from a shareholder of withdrawal of any proxy prior to the opening of the General Meeting, any such proxy shall be deemed to be valid.

(10) (*Renumbered from Paragraph (9), SG No. 52/2007, effective 3.07.2007*) If the shareholder attends the General Meeting in person, any proxy granted thereby and applicable to the said General Meeting shall be valid unless the said shareholder states otherwise. In respect of the matters on the agenda whereon the shareholder votes in person, the respective right of the proxy shall lapse.

(11) (*Repeal - SG No. 62/2017*)

(12) (*Repeal SG No. 23/2009 in force as of 27.03.2009*)

## **Article 116a**

*(Last Amendment - SG No. 62/2017)*

(1) (*Last Amendment - SG No. 62/2017*) Any person, who is under an effective sentence for offences against property, economic offences or offences against the financial system, the tax system or the social insurance system, committed in the Republic of Bulgaria or abroad,

shall be ineligible to the management bodies and supervisory bodies of any public company unless rehabilitated.

(2) At least one third of the members of the Board of Directors or of the Supervisory Board of any public company must be independent persons. To qualify as independent, a member of the board may not be:

1. a person serving the public company;
2. a shareholder holding, whether directly or through related parties, at least 25 per cent of the votes in the General Meeting, or a party related to the company;
3. a person who is in a sustained business relationship with the public company;
4. a member of a management body or supervisory body, a managerial agent or a person serving any commercial corporation or any other legal person referred to in Items 2 and 3;
5. a party related to another member of a management body or supervisory body of the public company.

(3) Any persons, who have been elected to management bodies and supervisory bodies, shall be obligated to notify immediately the management body of the public company in the event of occurrence of any circumstances covered under Paragraph (1) or (2) after the date of election thereof. In such a case, the said persons shall cease to perform the functions thereof and shall not receive compensation.

(4) *(Last Amendment – SG No. 103/2012)* The candidate for elective office shall prove the non-existence of the circumstances covered under Paragraph (1) by means of a conviction status certificate, and the non-existence of the circumstances covered under Paragraph (2) by a declaration. The documents under sentence one are a part of the written materials for the general meeting in whose agenda it is provided for selection of members of the board of directors or supervisory board. The persons under sentence one witness the authenticity of the documents submitted in accordance with the previous sentence, at the general meeting to which their selection is proposed.

(5) *(New - SG No. 103/2012)* Upon selection of the independent members of the board of directors or the supervisory board of the public company, the shares owned by persons under par. 2, pt. 1 - 5 are included in the submitted capital of the general meeting only if no other shareholders present or are represented at the meeting.

## **Article 116b**

*(Last Amendment - SG No. 62/2017)*

(1) The members of the management bodies and supervisory bodies of any public company shall be obligated:

1. to perform the duties thereof exercising the care of responsible merchantship, in a manner which they reasonably believe is in the interest of all shareholders of the company, and by using solely information which they reasonably believe is true and comprehensive;
2. to show loyalty to the company by:
  - (a) placing the interest of the company before their own interest;
  - (b) *(Last Amendment - SG No. 62/2017)* avoiding direct or indirect of interests between their own interest and the interest of the company or, should any such conflicts arise - disclosing the said conflicts promptly and fully in writing to the competent body and not participating nor exerting influence on the rest of the members of the board in decision-making in such cases;
  - (c) not disclosing nonpublic information of the company even after they cease to be members of the relevant bodies until public disclosure of the relevant circumstances by the company.

(2) The provision of Paragraph (1) shall furthermore apply to any natural persons representing legal persons which are members of the management bodies and supervisory bodies of the company, as well as to any managerial agents of a public company.

(3) (New - SG No. 103/2012) The members of the management body of the public company are obliged to:

1. exercise ongoing control related to the observance of the requirements of art. 114, par. 3 and art. 114a, par. 3 upon performing of the activities of the daughter and public companies; with reference to the obligation under sentence one, the person representing the public company is obliged to provide for the submission of the relevant information by the daughter company, as well as of information related to all transactions concluded under art. 114, par. 3 within five days after their conclusion;

2. submit to the Commission the record of the meeting of the management body of the public company which objectifies the empowering decisions under art. 114, par. 2 and 3 within 4 business days after the meeting is held.

(4) (New - SG No. 62/2017) "Conflict of interests" within the meaning of para. 1, pt. 2, letter "b" is present when there is a conflict between the obligations of a member of a management or controlling body of a public company as such, of the one part, and his or her private interest, of the other part. Private interest is any interest which leads to material or immaterial benefit for the person or persons related to him or her, including cash or property income, acquisition of stocks or shares, provision, transfer or waiver of rights, acquisition of goods or services free of charge or at prices, lower than the market ones, acquisition of support or influence, advantage, getting a job or a promise for a job, position, gift, prize or promise for avoiding a loss, responsibility, sanction or another unfavourable event.

## Article 116c

*(Last Amendment - SG No. 62/2017)*

(1) (Last Amendment - SG No. 21/2012) Public companies adopt and implement remuneration policies for their employees. The requirements for remuneration policies and their announcement shall be determined in a regulation. The compensations and tantiemes of the members of the management bodies and supervisory bodies of any public company, as well as the period wherefor they are payable, shall mandatorily be fixed by the General Meeting.

(2) The persons referred to in Paragraph (1) shall be obligated to furnish a managerial bond within seven days after the election thereof.

(3) The bond shall be furnished in Bulgarian leva. The amount of the bond shall be fixed by the Shareholders' General Meeting and may not be less than the three-month gross compensation of the persons referred to in Paragraph (1).

(4) The bond shall be blocked in favour of the company with a bank within the territory of Bulgaria. Interest accruing on the bonds blocked with a bank shall not be blocked and shall be withdrawable on demand by the bond furnisher.

(5) (New - SG No. 103/2012) Within 7 days after giving the collateral for their management, the persons under par. 1 are obliged to submit to the Commission a document, issued by the bank under par. 4, which certifies that the blocking of the collateral is performed in accordance with par. 2- 4. The bank under par. 4 issues the document upon request made by the person who has put up the collateral.

(6) (Former Par. 5 – SG No.103/2012) In the event of failure to furnish the bond within the prescribed time limit, the person affected shall not receive compensation as member of the relevant body until the full amount of the bond is furnished.

(7) (Former Par. 6 – SG No.103/2012) The bond shall be released:



1. in favour of the bond furnisher referred to in Paragraph (1): after the date of General Meeting resolution relieving the said furnisher from liability and after the said furnisher vacates office;

2. in favour of the company: in case the General Meeting has passed a resolution to this effect upon detection of detriment inflicted on the company.

(8) *(Last Amendment - SG No. 62/2017)* The general meeting may relieve a member of a management and a controlling body from responsibility upon the presence of an annual financial statement for the previous year adopted at the general meeting of the shareholders and certified by a registered auditor, and in the cases of relief from responsibility of a member of a management and controlling body for the current year- upon the presence of an interim financial statement, certified by a registered auditor, for the period from the beginning of the current year to the last day of the month preceding the month when the general meeting calling invitation is promulgated.

(9) *(Former Par. 8, Last Amendment – SG No.103/2012)* Paragraphs (1) to (8) shall furthermore apply to managerial agents, with the powers of the General Meeting being executed by the Supervisory Board or by the Board of Directors, as the case may be. These bodies shall account to the General Meeting for the amount of compensations received, the bonds as fixed, and the extent of performance of the duties entrusted to the relevant person.

## Article 116d

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* The management body of each public company shall be obligated to appoint an investor relations director to serve under a contract of employment. Companies which have not been public fulfill their requirement under sentence one within three months after the acquisition of its public company capacity. Upon termination of the labour contract of the director of investor relations, the management body, within two months from the termination, appoints a new director of investor relations.

(2) The investor relations director must be appropriately qualified and experienced to perform the duties thereof and may not be a member of a management body or supervisory body or a managerial agent of the public company.

(3) The investor relations director shall perform the following functions:

1. implement effective liaison between the management body of the company and the shareholders thereof and the persons who have expressed interest in investing in securities of the company, supplying them with information regarding the current financial position and state of economic affairs of the company, as well as with any other information whereto they are entitled by law in the capacity thereof as shareholders or investors;

2. be in charge of the dispatch, within the statutory time limit, of the materials on each General Meeting as convened to all shareholders who have requested to familiarize themselves with the said materials;

3. *(New - SG No. 62/2017)* maintains and keeps a record on the meetings of the management and controlling body held, in which the date and time of opening and time of closing the meeting, agenda and decisions adopted are chronologically entered in a manner preventing making subsequent amendments or supplements in it;

4. *(Former Pt. 3 - SG No. 62/2017)* take and keep in custody accurate and full minutes of the meetings of the management body and supervisory body of the company;

5. *(Former Pt. 4 - SG No. 62/2017)* be in charge of the prompt dispatch of all required reports and notices of the company to the Commission, the regulated market whereon the securities of the company are allowed to trade, and the Central Depository;

6. (Former Pt. 5 - SG No. 62/2017) keep a register of the materials dispatched under Items 2 and 5, as well as for the requests received and the information supplied under Item 1, describing the reasons in case any requested information has not been supplied.

(4) The investor relations director shall account for the performance thereof to the shareholders at the Annual General Meeting.

(5) The persons who manage the company shall be obligated to cooperate with the investor relations director, as well as to control the performance of functions covered under Paragraph (3).

(6) Article 116a (1) and Article 116b herein shall apply to the investor relations director.

## Article 117

(Last amendment SG No. 23/2009 in force as of 27.03.2009)

(1) (Last Amendment - SG No. 62/2017) The results of the voting that are indicated in the record of the meeting of the general assembly shall include information related to the number of the shares for which are given actual votes, what part of the fund they are, the total number of the given actual votes, the number of the votes "for" and "against", and the number of the abstentions for each of the resolutions of the items of the agenda if it is necessary. The voting through representatives is indicated in the general meeting protocol.

(2) (Former Paragraph 1 – Amendment, SGNo. 23/2009 in force as of 27.03.2009) The company is obliged to send the record of the meeting of the general assembly to the committee within three workdays after it is conducted

(3) (Last Amendment - SG No. 62/2017) The publicly traded company publishes the record of the general assembly at its internet webpage under the procedure set by para. 2 for a certain period which is at least 5 years long.

## Article 118

(Last Amendment - SG No. 62/2017)

(1) Any persons holding, whether jointly or separately, at least 5 per cent of the capital of any public company may bring before the court the actions of the company against third parties upon an omission of the management bodies of the said company to do so should any such omission jeopardize the interests of the company. The company may be called as party to the case.

(2) (Amended, SG No. 61/2002) The persons referred to in Paragraph (1) may:

1. bring an action before the district court exercising jurisdiction over the company's registered office for indemnification of any detriment inflicted on the company wilfully or by gross negligence through acts or omissions by any members of the management bodies and supervisory bodies or by any managerial agent of the company;
2. requisition the General Meeting or the district court to appoint examiners to examine the entire accounting documentation of the company and to report the findings thereof;
3. requisition the district court to convene a General Meeting or to empower a representative thereof to convene a General Meeting with an agenda set thereby.

4. (New, SG No. 23/2009 in force as of 27.03.2009) To demand the inclusion of items and to propose resolutions on items that is already included in the agenda of the general assembly in accordance with the regulations of art.223a of the Commerce Act.

(3) (*New - SG No. 62/2017*) The right under para. 2, pt. 4 is not applied when the agenda of the general meeting includes an item whose subject is the adoption of a decision under art. 114, para. 1. The persons under para. 1 are not entitled the right to include in the agenda of the general meeting any new items regarding adoption of a decision under art. 114, para. 1.

(4) (*Former Par. 3 - SG No. 62/2017*) The court shall pronounce forthwith on any requisitions referred to in Items 2 and 3 of Paragraph (2).

## **Article 118a**

*(New, SG No. 61/2002)*

Any person, who or which controls a public company, as well as any other person, who or which, by means of the influence thereof on a public company has procured any member of the management bodies or supervisory bodies of the said company or a managerial agent of the said company to act or to refrain from acting against the interest of the company, shall incur solidary liability for the detriment inflicted on the company. Item 1 of Article 118 (2) herein shall apply accordingly.

## **Article 119**

*(Last Amendment - SG No. 62/2017)*

(1) *Last Amendment - SG No. 62/2017*) The company under art. 110, par. 1 ceases to be public after the decision of the commission for deregistration from the register under Art. 30, Par. 1, Pt. 3 of the Financial Supervision Commission Act if:

1. (*Last Amendment, SG No. 103/2012*) the General Meeting of the said company has passed a resolution on the expungement thereof by a majority of two-thirds in value of the capital stock represented and provided that:

(a) the number of shareholders was fewer than 50 persons fourteen days before the General Meeting, as well as on the last day of the two last succeeding calendar years, or

(b) the value of the assets of the company was less than BGN 200,000 according to the latest monthly balance sheet, as well as according to the two latest audited annual balance sheets;

2. (*Last Amendment - SG No. 62/2017*) the general meeting of the company, which has been attended or are represented by all shareholders, has unanimously taken a decision for its deletion.

3. (*Amended, SG No. 61/2002*) a tender offering has been made under Article 149a herein and:

(a) the shareholders owning at least one-half of the total number of shares subject to the tender offer have accepted the tender offer, or

(b) (*Amended, SG No. 52/2007, effective 3.07.2007*) the General Meeting of the company has passed a resolution on the expungement thereof by a majority of one-half in value of the capital stock represented; the capital stock represented shall exclude the shares which the tender offeror has acquired prior to registration with the Commission of the tender offer referred to in Article 149a (1) herein; the voting power of the tender offeror shall be limited to the shares acquired thereby as a result of the said tender offer and thereafter.

4. *(New, SG No. 52/2007, effective 3.07.2007)* repurchase of all voting shares in the general meeting of the public company as per Article 157a is in place.
5. *(Last Amendment - SG No. 33/2016, in force as of 26.04.2016)* the company is a bank in a bankruptcy procedure.
6. *(New - SG No. 62/2017)* the company is declared insolvent;
7. *(New - SG No. 62/2017)* there is an effective coercive administrative measure under art. 212, para. 1, pt. 10.
  - (2) *(New - SG No. 103/2012)* A company which has become public as a result of reorganization through separation cannot be deleted on the grounds of par. 1, pt. 2, unless the grounds are also at hand with reference to the reorganized public company.
  - (3) *(Former Par. 2 - SG No. 103/2012)* Any notice of convocation of a General Meeting referred to in Item 1 of Paragraph (1) must specify the reasoning of the draft resolution on expungement of the company.
  - (4) *(Last Amendment - SG No. 62/2017)* In the application for deletion from the register under Art. 30, Par. 1, Pt. 3 of the Financial Supervision Commission Act, the company indicates the transactions and the activities which have contributed significantly to the decline of the number of shareholders and the value of the company's assets below the respective thresholds under par. 1, pt. 1. Article 91 herein shall apply accordingly.
  - (5) *(Last Amendment - SG No. 62/2017)* The Financial Supervision Commission shall refuse to expunge in the register register under Art. 30, Par. 1, Pt. 3 any public company which does not fulfil the conditions referred to in Item 1 - 3 or 4 of Paragraph (1), *inter alia* where fulfilment of the said conditions has violated the law.
  - (6) *(Last Amendment - SG No. 62/2017)* Upon the entry into force of the decision of the Commission on expungement of any public company in the register under Art. 30, Par. 1, Pt. 3 of the Financial Supervision Commission Act, the indication that the said company is public shall be dropped from the Articles of Association thereof. Any such company shall be obligated to declare the said alteration for recording in the Commercial Register, as well as to present updated Articles of Association according to the procedure established by Article 174 (4) of the Commerce Act.
  - (7) *(Last Amendment - SG No. 62/2017)* After a decision by the Commission on expungement in the register under Art. 30, Par. 1, Pt. 3 of the Financial Supervision Commission Act, the shares in the company may not be traded on a regulated securities market.
  - (8) *(Last Amendment - SG No. 62/2017)* Any public company may be transformed into a limited liability company solely after a decision by the Commission on expungement in the register under Art. 30, Par. 1, Pt. 3 of the Financial Supervision Commission Act.
  - (9) *(Repealed, SG No. 61/2002).*

## Article 120

*(Last amendment SG No. 23/2009 in force as of 27.03.2009)*

Chapter Six, Section IV herein shall apply to any public company, including the form, manner and procedure for disclosure of information under Article 115 (5) and (7) and Article 117 herein, as well as the public dissemination of any such information.

### Article 120a

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* Articles 110b, 110c, 111, paragraphs 10 and 11, Articles 111a, 112e, 115, paragraph 2 and pt.1, Articles 115a, 115c, paragraph 4 on specification of a financial institutions and Article 116, paragraph 3 shall also apply to issuers of shares from a third country for whom the Republic of Bulgaria is a home country under Article 100j, paragraph 2, item 1.

(2) *(Last Amendment - SG No. 42/2016)* The requirements under paragraph 1 shall not apply to issuers from a third country for whom the Republic of Bulgaria is a Member State of origin if the Commission deems that the law of that country lays down requirements equivalent to the requirements herein and the statutory instruments for the application of this Act. The Commission notifies ESMA of its opinion under the first sentence. The conditions under which the Commission may deem that the requirements of the law of that country are equivalent to the requirements herein and the statutory instruments for the application of this Act shall be set out by ordinance.

(3) The information that the persons under paragraph 1 shall disclose according to national law shall be disclosed under the terms of Articles 100r and 100t.

(4) The Commission shall publish on its website a list of the countries whose laws provide for requirements equivalent to the requirements herein and the statutory instruments for application of this Act.

#### **Article 120b**

*(Last Amendment - SG No. 62/14.08.2015, in force as of 14.08.2015)*

(1) The provisions of Articles 115 - 116 and Article 117 do not apply where measures for restructuring or powers and mechanisms under the Restoration and Restructuring and Credit Institutions and Investment Agents Act are implemented.

(2) In case of increase of capital of a public company necessary for restructuring under the Restoration Restructuring and Credit Institutions and Investment Agents Act the invitation for General Meeting may be announced in a time period shorter than the one envisaged in Article 115 (4) but not shorter than 10 days; provided that General Meeting adopts a decision with three thirds of the capital to gather a majority or amends the Articles of Association regarding the summoning of the General Meeting and provided that the provisions of Articles 44 and 46 of the Restructuring and Credit Institutions and Investment Agents Act are applied посредници.

## **Article 121**

*(Last Amendment - SG No. 34/2015)*

(1) *(Former Article 121 - SG No. 34/2015)* The provisions of the Commerce Act shall apply to any cases unregulated hereby.

(2) *(New - SG No. 34/2015)* The restrictions under Article 3 (7), Items 1 and 2 of the Agricultural Land Ownership and Use Act are applicable to companies under Article 100 of this Act and Article 263 of the Collective Investment Schemes and Other Enterprises for Collective Investment Act.

## **Section II**

### **Transformation**

#### **Article 122**

(1) *(Amended, SG No. 39/2005)* In the cases of transformation under Chapter Sixteen of the Commerce Act, wherein at least one public company is involved, the new company and the acquiring company or companies shall likewise be public companies.

(2) *(Amended, SG No. 61/2002, SG No. 39/2005, SG No. 34/2006)* Recording in the Commercial Register of any company transformed under Paragraph (1) shall be admitted solely after presentation of the decision of the Deputy Chairperson referred to in Article 124a herein.

(3) *(Amended, SG No. 39/2005)* Within seven days after recording in the Commercial Register of the transformation, the management bodies of the any new company or the acquiring company shall be obligated:

1. to submit to the Commission documents for recording in the register referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act;
2. to submit to the Central Depository documents for registration of the share issues thereof and the distribution of the said shares to accounts or the transfer of the shares.

(4) *(Repealed, SG No. 39/2005).*

(5) *(Amended and supplemented, SG No. 61/2002, repealed, SG No. 39/2005).*

(6) *(Repealed, SG No. 39/2005).*

(7) *(Repealed, SG No. 39/2005).*

(8) *(Repealed, SG No. 39/2005).*

(9) *(New, SG No. 61/2002, repealed, SG No. 39/2005).*

## Article 123

*(Amended, SG No. 39/2005)*

(1) In addition to the particulars covered under Article 262g of the Commerce Act, the transformation agreement or plan referred to in Article 262g of the Commerce Act must furthermore state:

1. the fair price of the shares in each of the transforming companies or company, as the case may be, as well as the ratio of exchange of shares in the transforming companies or company, as the case may be, for shares in the new companies or company, as the case may be, or in the acquiring company, fixed at a date which may not precede the date of the transformation agreement or plan by more than one month;
2. justification of the price referred to in Item 1 on the basis of generally accepted valuation methods;
3. other measures offered to the holders of shares whereto special rights are attached and to the holders of securities other than shares, notwithstanding the rights referred to in Item 8 of Article 262g (2) of the Commerce Act , should any such be envisaged.

(2) The requirements for the contents of the justification referred to in Item 2 of Paragraph (2), including the requirements for the application of the valuation methods, shall be established by ordinance.

(3) The transformation agreement or plan referred to in Paragraph (1) shall be examined by an independent auditor under Article 262k of the Commerce Act, who is included in a list endorsed by the Deputy Chairperson.

## Article 124

*(Last Amendment - SG No. 95/08.12.2015, in force as of 01.01.2016)*

(1) *(Last Amendment – SG No. 103/2012)* The transformation agreement or plan, as well as the reports of the management body under Article 262i of the Commerce Act and of the auditor under Article 262l of the Commerce Act of each of the companies involved in the transformation, shall be approved by the Deputy Chairperson before adopting the resolution under Art. 262n of Commerce Act.

(2) The transforming companies or company, as the case may be, shall submit an application for the grant of approval, enclosing therewith:

1. the transformation agreement or plan, satisfying the requirements established by Articles 262f and 262g of the Commerce Act;

2. a report by the management body of each of the transforming and acquiring companies under Article 262i of the Commerce Act, stating *inter alia* the reasons compelling the transformation;
  3. a report by the auditor under Article 262l of the Commerce Act and, respectively, under Article 262t of the Commerce Act , as well as a declaration by the auditor to the effect that the said auditor is not a party related to any of the companies involved in the transformation and has no other relationships therewith as may give rise to reasonable doubts about the impartiality thereof;
  4. (*Last Amendment - SG No. 95/08.12.2015, in force as of 01.01.2016*) the annual financial statements referred to in Article 29 (1) of the Accountancy Act and the reports on the operation of all transforming and acquiring companies for the three last preceding financial years, if such statements and reports exist and have not been submitted to the Commission;
  5. a balance sheet drawn up as at the last day of the month preceding the date of the transformation agreement or plan;
  6. the draft of new Articles of Association of each of the new companies or of clauses amending and supplementing the Articles of Association of each of the transforming and acquiring companies, as the case may be;
  7. a copy of the application to the Central Depository referred to in Article 262w of the Commerce Act;
  8. any other documents as may be prescribed by ordinance.
- (3) The balance sheet referred to in Item 5 of Paragraph (1) must be prepared applying the same accounting policies and using the same layout as the last annual financial statement.

## **Article 124a**

*(New, SG No. 61/2002, repealed, SG No. 39/2005)*

## **Article 125**

*(Last Amendment - SG No. 103/2012)*

- (1) (New - SG No. 103/2012) The deputy chairperson passes his decision related to the application under art. 124, par. 2 within 20 business days after its receipt, and when there are additional documents and data requested- within the same period after their receipt.
- (2) (Former text of Art. 125 – SG No. 103/2012) The Deputy Chairperson shall refuse to grant approval if the written materials covered under Article 124 (2) herein do not satisfy the requirements of the law, if the information contained therein is not presented in a way comprehensible to shareholders or does not disclose truthfully and fully the material circumstances of relevance to the making by shareholders of a reasoned decision on the proposed transformation, or if the interests of the shareholders are prejudiced in any other manner. Article 91 and Article 92 (2) and (3) herein shall apply accordingly.

## **Article 126**

*(Amended, SG No. 39/2005)*

- (1) Each shareholder, who or which has withdrawn from the company according to the procedure established by Article 263q of the Commerce Act, shall be entitled to receive the equivalent of the shares held thereby prior to the transformation at the price specified in the transformation plan or agreement. In such case, Article 111 (5) herein shall not apply.

(2) Within thirty days after the date of notice of termination of participation under Article 263q of the Commerce Act, the new company and/or the acquiring company shall be obligated to buy out the shares held by the shareholders referred to in Paragraph (1).

## **Article 126a**

*(New, SG No. 61/2002, repealed, SG No. 39/2005)*

## **Section III**

*(New, SG No. 61/2002)*

# **Contract of Joint Venture**

### **Article 126b**

*(Last Amendment - SG No. 42/2016)*

(1) By a contract of joint venture, a public company undertakes to carry on the core business thereof or part of the said core business in common interest with another company which holds, directly or indirectly, at least 25 per cent of the votes in the General Meeting of the public company, which controls the said public company or is related thereto.

(2) "Core business", within the meaning given by Paragraph (1), shall be the totality of legal and factual acts and transactions by the company which generate not less than 25 per cent of the income accruing thereto from the sale of goods and provision of services in conformity with the latest audited annual financial statement.

(3) Any joint venture shall be managed jointly by the management bodies of the companies parties to the contract or independently by the management body of one of the said companies or by persons designated by the management bodies, as the case may be.

(4) *(Last Amendment - SG No. 42/2016)* The persons referred to in Paragraph (3) shall submit to the Commission annual and semiannual financial reports on their activity and notification on the financial status or a quarterly financial statement under Chapter Six "a", Section II, as well as any other information specified by ordinance. The procedure, terms and the manner of submitting the information under sentence one to the Commission and the procedure, terms and manner of its dissemination shall be set out by ordinance.

(5) *(New, SG No. 52/2007, effective 3.07.2007)* The Commission shall make public the information received under paragraph 1 through the register kept by it under Article 30, paragraph 1 of the Financial Supervision Commission Act.

(6) *( Renumbered from Paragraph (5), SG No. 52/2007, effective 3.07.2007)* The distribution of the operating profit and loss of the joint venture shall conform to the proportion between the assets and the other forms of contribution whereby each of the companies participates in the joint venture.

(7) *( Renumbered from Paragraph (6), SG No. 52/2007, effective 3.07.2007)* The contract must regulate the form and manner of participation of each of the companies in the joint venture, the objects, the manner of management, the methods of distribution of the profit and loss of the joint venture, as well as the terms and procedure for termination of the contract.

## **Article 126c**



*(Last Amendment – SG, No. 109/2013, in force as of 20.12.2013)*

(1) The management body of each public company party to the contract of joint venture shall prepare a written report containing the legal and economic reasoning of the contract, an appraisal of the assets and the other forms of contribution whereby each one of the companies participates in the joint venture, as well as a justification of the fair price of the shares in the relevant public company proceeding from generally accepted valuation methods. The requirements to the contents of the justification of the fair price, including the application of valuation methods, shall be established by ordinance.

(2) *(Last Amendment - SG No. 109/2013, in force as of 20.12.2013)* The report referred to in Paragraph (1) must be examined by not more than three independent assessors under art. 5 of Independent Assessors Act, approved by the Deputy Chairperson on a motion by the companies parties to the contract. The costs of the expert examination shall be for the account of the companies.

(3) *(Last Amendment - SG No. 109/2013, in force as of 20.12.2013)* The independent assessors shall prepare a written report to the shareholders, which must specify the methods of valuation of the forms of contribution of the contracting parties and the methods of determination of the fair price of the shares in the public company, how far application of these methods is appropriate, as well as the valuation difficulties, should any such have arisen. The said report shall furthermore indicate any other material circumstances of relevance to the making by shareholders of a reasoned decision on the draft contract.

(4) *(Last Amendment - SG No. 109/2013, in force as of 20.12.2013)* Each independent assessors shall have the right to access to any information and written materials concerning each of the companies participating in the joint venture as are relevant to the assignment thereof, as well as to conduct all requisite examinations.

## **Article 126d**

*(New, SG No. 61/2002)*

(1) *(Amended, SG No. 39/2005)* The draft contract of joint venture and the reports covered under Article 126c herein must be approved by the Deputy Chairperson.

(2) *(Amended, SG No. 39/2005, SG No. 52/2007)* Each public company party to the contract of joint venture shall submit an application for endorsement to the Commission, enclosing therewith other documents as shall be prescribed by ordinance. The Deputy Chairperson shall pronounce on any such application within thirty days after the date of receipt thereof or, where rectification of deficiencies and non-conformities or submission of additional information has been requested, within fourteen days after the additionally submitted documents.

(3) *(New, SG No. 52/2007)* Based on the documents submitted the Deputy Chairperson shall determine the extent whereto the requirements for issuing of the approval have been satisfied. Should the particulars and documents as submitted be found deficient or invalid, or should any additional information or evidence authenticating the particulars be required, the Commission shall transmit a communication and shall set a time limit for removal of the deficiencies or non-conformities found and/or for submission of the additional information and documents required.

(4) *(New, SG No. 52/2007)* If the notification under paragraph 3 is not accepted at the correspondence address specified by the applicant, the time limit for their submission shall be effective from posting thereof on a notice board expressly provided therefor on the premises of the Commission. Any such posting shall be attested by a memorandum drawn up by officers designated by an order of the Chairperson of the Commission.

(5) *(New, SG No. 52/2007)* The applicant shall be notified in writing of the decision taken within 7 days.

(6) *(Amended, SG No. 39/2005, renumbered from Paragraph (3), SG No. 52/2007)*The Deputy Chairperson shall issue a reasoned refusal of endorsement solely if the documents referred to in Paragraph (1) do not satisfy the requirements of the law, if the information contained therein is not presented in a way comprehensible to shareholders or does not disclose fairly and fully material circumstances of relevance to the making by shareholders of a reasoned decision on the draft contract, or if the interests of the shareholders in a public company party to the contract of joint venture are prejudiced in any other manner.

## Article 126e

*(New, SG No. 61/2002)*

(1) The contract of joint venture shall enter into force after endorsement by the general meeting of each one of the companies parties to the contract. Any such General Meeting resolution shall be passed by a majority of three-quarters in value of the capital stock represented.

(2) *(Amended, SG No. 8/2003, amended and supplemented, SG No. 39/2005)*The companies shall submit the contract of joint venture, the decision of the Deputy Chairperson on the approval of the said contract and the resolutions of the general meetings thereof to the Commercial Register within seven days after the entry of the said contract into force. Within the same time limit, the public company party to the contract shall furthermore declare the said contract for recording in the register referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act.

(3) The termination and rescission of a contract of joint venture shall have a proactive effect. In such cases, Paragraph (1) shall apply accordingly.

(4) Any supervening amendments to the contract of joint venture shall follow, *mutatis mutandis*, the provisions of this Chapter.

## Article 126f

*(New, SG No. 61/2002)*

(1) *(Amended, SG No. 39/2005)* Each shareholder in a public company party to a contract of joint venture shall be entitled to request that the company buy out all or part of the shares owned by the said shareholder at the price named in the report of the management body of the said company as approved by the Deputy Chairperson, if the said shareholder has voted against the General Meeting resolution on approval of the contract or of a supervening amendment thereto. In such a case, Article 111 (5) herein shall not apply.

(2) The contract may provide for an entitlement of the persons referred to in Paragraph (1) to request, in lieu of buy-out by the public company, exchange for shares in the company counterparty to the contract. In such a case, the report of the management body referred to in Article 126C herein must contain data on the rights attaching to the shares in the controlling company and a justification, proceeding from generally accepted valuation methods, of the fair price of the shares in the controlling company and of the ratio of exchange for shares in the public company.

(3) The persons referred to in Paragraph (1) must submit a request for buy-out or exchange of shares to the relevant public company within thirty days after the date of the General Meeting.

(4) Within thirty days after the expiration of the time limit referred to in Paragraph (3), but not prior to the entry into force of the contract of joint venture, the public company shall be obligated to buy out the shares held by the shareholders who or which have so requested.

# Article 126g

*(New, SG No. 61/2002)*

(1) The persons who manage the joint venture shall be obligated to act in the interest of the parties to the contract and the shareholders thereof. Article 116b herein shall apply accordingly.

(2) The persons referred to in Paragraph (1) shall incur solidary liability for any detriment as may be inflicted on each of the companies parties to the contract of joint venture by reason of dereliction of the duties of the said persons in the course of management of the joint venture.

(3) Any person, who or which, by means of the influence thereof on another person managing the joint venture, has procured the latter person to act or to refrain from acting against the interest of the parties to the contract, shall incur solidary liability for the detriment inflicted.

(4) Any persons holding, whether jointly or separately, at least 5 per cent of the capital of any public company party to a contract of joint venture may bring before the district court exercising competence over the registered office of the public company action for indemnification of any detriment inflicted on the said public company through acts or omissions by the persons referred to in Paragraph (2).

# Article 126h

*(New, SG No. 61/2002)*

(1) The contracts of joint venture with an international element shall be governed by the provisions of this Section and the mandatory provisions of Bulgarian law.

(2) Any parties to the contract, who or which are non-resident persons, as well as any non-resident persons who or which manage the joint venture, shall be obligated to name a representative and an address in Bulgaria.

## Chapter Nine

### CENTRAL DEPOSITORY

#### Article 127

*(Last Amendment - SG No. 103/2012)*

(1) *(Last Amendment – SG No. 103/2012)* The issuing and disposition of dematerialized financial instruments shall take effect as from the registration thereof at the Central Depository.

(2) *(Last Amendment – SG No. 103/2012)* The Central Depository shall be a joint-stock company with a one-tier management system and the following objects:

1. opening and maintenance of financial instruments accounts for financial instruments referred to in Paragraph (1);
2. registration of transactions in financial instruments referred to in Paragraph (1);
3. maintenance of cash accounts and effecting of payments in connection with transactions in financial instruments referred to in Paragraph (1);
4. administration of financial instruments, including maintenance of share registers for dematerialized shares and bonds;
5. immobilizing financial instruments in the cases covered under Article 141 (2) herein;
6. any other activities as may be specified in the ordinance provided for in Article 140 herein.

(3) *(Amended, SG No. 52/2007)*The Central Depository may not effect commercial transactions, save as where necessary for the performance of the activities covered under Paragraph (2).

(4) *(New, SG No. 52/2007)* The Central Depository may not:

1. grant loans or secure receivables of third parties;
2. issue bonds;
3. receive loans under conditions less favourable than the market conditions for the country.

(5) *(Last Amendment, SG No. 57/2011)* The Central Depository shall form Reserve Fund under the terms and conditions of Art. 246 of the Commerce Act and guaranty fund under the terms and conditions of Art. 132.

(6) *(Repeal, SG No. 57/2011)*.

(7) *(Renumbered from Paragraph (3), SG No. 52/2007)*The Central Depository must have skilled personnel, logistics, technical equipment and software as shall be necessary for the effective and secure performance of the activities covered under Paragraph (2).

(8) *(Renumbered from Paragraph (3), SG No. 52/2007)*An Arbitration Tribunal shall be established with the Central Depository. The General Meeting of the Central Depository shall adopt Rules of Arbitration and shall elect a President and a Vice President of the Arbitration Tribunal.

(9) *(Renumbered from Paragraph (3), SG No. 52/2007)*The Central Depository may not be dissolved by resolution of the General Meeting. No bankruptcy proceedings shall be instituted against the Central Depository.

## **Article 128**

### *(Last Amendment, SG No. 57/2011)*

(1) The Central Depository shall issue solely registered shares entitling the holder to a single vote. The Central Depository may not issue preference shares.

(2) *(Last Amendment, SG No. 57/2011)* The shareholders in the Central Depository may be the Ministry of Finance, the Bulgarian National Bank, banks, investment intermediaries and persons under Art. 131 (1), pts. 4 and 5.

(3) *(New, SG No. 57/2011)* Shareholders other than those indicated in par. 2 may hold up to 10% of the Central Depository stock.

(4) *(Former par. (3), SG No. 57/2011)* No single shareholder of the Central Depository may own more than 5 per cent of the shares therein, whether directly or through related parties. This restriction shall not apply in respect of the participating interest of the Ministry of Finance, the Bulgarian National Bank and the persons referred to in Items 4 and 5 of Article 131 (1) herein.

## **Article 129**

### *(Last Amendment - SG No. 103/2012)*

(1) *(Last Amendment, SG No. 57/2011)* The members of the Board of Directors of the Central Depository must:

1. have permanent residence in the country when empowered to represent the Central Depository;

2. have qualification and professional experience in the sphere of the activities carried out by the Central Depository, as well as university degree in the economics, law, finance, banking or information technologies;
  3. not have been convicted for intentional crime of general type;
  4. not have been members of managing or controlling body, or shareholders with unlimited liability in a company which has been declared in bankruptcy if unsatisfied creditors have remained;
  5. not have been declared in bankruptcy or subject to pending bankruptcy procedure;
  6. not be related parties within the meaning of this Act;
  7. not be deprived of the right to occupy position carrying financial responsibility.
- (2) *(New, SG No. 57/2011)* The circumstances under par. 1, pts. 4 – 7 shall be verified by declaration.
- (3) *(New, SG No. 57/2011)* The requirements under par. 1 apply to natural persons representing legal persons – members of the Board of Directors of the Central Depository, as well as to other persons empowered to manage and represent the Central Depository.
- (4) *(Former par. (2), SG No. 57/2011)* The Board of Directors of the Central Depository shall exercise the following powers:
1. *(Last Amendment – SG No. 103/2012)* adopt Rules of Organization and Operation of the Central Depository, containing the operating rules of the system with settlement finality of which the Central Depository is a system operator;
  2. admit and expel members of the Central Depository;
  3. organize and control payments on concluded transactions;
  4. impose penalties on the members under terms and according to a procedure established by the ordinance provided for in Article 140 herein;
  5. exercise any other rights as may be vested therein according to the law, the ordinance provided for in Article 140 herein, the Articles of Association and the Rules;
  6. adopt decisions and issue orders in connection with the exercise of the rights thereof.
- (5) *(Former par. (3), SG No. 57/2011)* Representatives of the Commission may likewise be present at the meetings of the Board of Directors.

## **Article 130**

### *(Last Amendment, SG No. 57/2011)*

- (1) *(Former text of Art. 130, SG No. 57/2011)* The Rules of the Central Depository shall establish:
1. the terms and a procedure for the admission of members and for the suspension or expulsion thereof;
  2. the terms and a procedure for the performance of the activities and provision of the services covered under Article 127 (2) herein;
  3. the organization of internal controls;
  4. the terms and a procedure for the imposition of penalties on the members of the Central Depository;
  5. the terms and a procedure for disclosure of information on the services provided, the requirements for maintenance of the registers of the Central Depository, as well as verification of compliance therewith;
  6. *(Last Amendment, SG No. 57/2011)* the terms and a procedure for collection of funds and management of the guarantee fund provided for in Article 132 herein and for payment of damages from the said fund.

(2) *(New, SG No. 57/2011)* Amendments and supplements to the Rules of the Central Depository may be carried out only after preliminary approval by the Deputy Chairperson. Art. 85 (3) and (4) of the Markets in Financial Instruments Act shall apply mutati mutandis.

## **Article 131**

(1) Membership of the Central Depository shall be limited to:

1. banks;
2. investment intermediaries;
3. management companies;
4. *(Amended, SG No. 52/2007)* regulated markets or market operators where they are persons other than regulated markets;
5. foreign depository and clearing institutions.

(2) No member of the Central Depository may enjoy any privileges over any other member thereof.

## **Article 132**

*(Last Amendment - SG No. 103/2012)*

(1) A guarantee fund shall function with the Central Depository for indemnification of any detriment as may be incurred upon performance of the operation of the Central Depository.

(2) *(Last Amendment, SG No. 57/2011)* Each member of the Central Depository shall be obligated to pay an entrance and an annual contribution to an amount determined in the Rules referred to in Article 130 (1) herein. Resources in the said fund shall furthermore be raised from deductions from the incomes from the activity of the company under the terms and conditions defined by the Rules of the Central Depository, loans, donations, international aid etc.

(3) *(Last Amendment - SG No. 103/2012)* The management of risks at the settlement of financial instruments shall be regulated by the ordinance provided for in Article 140 herein.

## **Article 133**

**(Last Amendment - SG No.  
62/09.08.2016, in force as of 09.08.2016)**

(1) *(Last Amendment - SG No. 103/2012)* Each investor shall have the right to access to the registers of the Central Depository through a member of the said Depository solely in respect of the information concerning the financial instruments held by the said investor and transactions in financial instruments whereto the said investor is a party. The Central Depository or any member thereof may not refuse to provide the services referred to in sentence one.

(2) *(Last Amendment - SG No. 103/2012)* No member of the Board of Directors of the Central Depository, no employee thereof, nor any other person working for the said Depository, may disclose, unless authorized therefore, or use to their own benefit or to the

benefit of any other persons any facts and circumstances regarding the assets and operations on the financial instruments accounts maintained by the Central Depository as may have come to the knowledge thereof in the discharge of the official and professional duties thereof.

(3) *(Last Amendment - SG No. 103/2012)* Upon assumption of position or commencement of activity at the Central Depository, any person covered under Paragraph (2) shall sign a declaration, pledging to safeguard any secrets covered under Paragraph (2).

(4) The provision of Paragraph (2) shall furthermore apply to the cases where the said persons are off duty or have been suspended.

(5) *(Last Amendment - SG No. 103/2012)* Except to the Commission or to the Deputy Chairperson, as the case may be, for the purposes of the control activities thereof, the Central Depository may disclose any information covered under Paragraph (2) solely:

1. with the consent of the members of the Central Depository or of the clients thereof, or
2. *(Amended, SG No. 52/2007)* in pursuance of a judgment of the [competent] court of law rendered under the terms and according to the procedure established by Article 35, paragraphs 6 and 7 of the Markets in Financial Instruments Act.

**3. (Last Amendment, SG No. 93/2009 in force as of 24.12.2009) on a written request from the director of the National Investigation Service, the Chair of the State Agency for National Security or the Chief Secretary of the Ministry of the Interior regarding companies with over 50 per cent state and/or municipal participation;**

4. *(New, SG No. 52/2007, effective 3.07.2007)* on a request from the chief prosecutor or his/her authorized deputy upon available data about organized criminal activity or money laundering.

5. *(New - SG No. 62/09.08.2016, in force as of 09.08.2016)* at the request of Inspector General or Inspector of the Inspectorate at the Supreme Judicial Council

## **Article 134**

(1) The Central Depository shall maintain an archive of all records, including erroneous and corrected entries, for an indeterminate duration.

(2) The Central Depository shall maintain at the Bulgarian National Bank a duplicate of the data base storing all records referred to in Paragraph (1).

(3) The ordinance provided for in Article 140 herein shall specify measures for prevention of loss of information from the registers of the Central Depository and suspension of the operation thereof in the event of an accident, natural disaster or other such emergency.

## **Article 135**

### *(Last Amendment – SG No. 103/2012)*

(1) *(Last Amendment - SG No. 103/2012)* Any company issuing dematerialized financial instruments shall be obligated to register any such financial instruments at the Central Depository according to a procedure established by the ordinance provided for in Article 140 herein. A registration of an issue of financial instruments at the Central Depository may be closed upon presentation of a decision by the Deputy Chairperson on expungement in the register referred to in Item 3 of Article 30 (1) of the Financial Supervision Commission Act.

(2) The Central Depository may refuse to effect registration if:

1. all requisite particulars or documents are not available or have not been submitted according to the established procedure;
2. certain essential elements are missing, or the particulars referred to in Paragraph (1) are inaccurate and inconsistent;
3. the assets on the accounts of the transferor or transferee are insufficient for performance of the transaction operation within the settlement period as established by the Rules of the Central Depository;
4. the particulars presented by the transferor and the transferee disagree upon comparison;
5. there are statutorily established prohibitions or restrictions;
6. in any other cases as may be prescribed in the ordinance provided for in Article 140 herein.

(3) In the cases covered under Items 1, 2 and 4 of Paragraph (2), the Central Depository shall require rectification of the defects within an established time limit and shall transmit directions therefor. In the cases referred to in Item 3 of Paragraph (2), the transactions shall be arranged under terms and according to a procedure established by the Rules of the Central Depository.

## **Article 136**

### *(Last Amendment – SG No. 103/2012)*

(1) *(Last Amendment - SG No. 103/2012)* In the register of the Central Depository there shall be recorded the names of the holders of dematerialized financial instruments, as well the names of the non-resident persons referred to in Article 41 (1) of the Markets in Financial Instruments Act herein who or which have acquired financial instruments acting in their own name but for the account of other non-resident persons.

(2) *(Last Amendment - SG No. 103/2012)* The Central Depository shall maintain the registers of shareholders of companies issuing dematerialized shares, as well as the registers of holders of other dematerialized financial instruments, according to a procedure established in the ordinance provided for in Article 140 herein. The Central Depository may establish and maintain other types of records and accounts, if so provided in the by-laws, subject to the requirements specified by ordinance.



(3) *(Last Amendment - SG No. 103/2012)* As to the creditors of the Central Depository, the investment intermediaries referred to in Item 1 of Article 5 (3) of the Markets in Financial Instruments Act herein and any other third parties, any financial instruments recorded in the Central Depository shall be deemed to be financial instruments owned by the holders thereof.

(4) The guarantee funds and any performance bonds given by the members of the Central Depository shall not be deemed to be rights of the Central Depository and of the members thereof as to the creditors thereof.

(5) *(Last Amendment - SG No. 103/2012)* The distribution of interest, dividend, notifications and performance of other acts comprehended in the administration of financial instruments, as well as the relevant liabilities incurred by the public companies and the other issuers, by the Central Depository and the investment intermediaries referred to in Item 1 of Article 5 (3) of the Markets in Financial Instruments Act herein, shall be regulated by the ordinance provided for in Article 140 herein.

## **Article 137**

### *(Last Amendment - SG No. 103/2012)*

(1) The issuing and disposition of dematerialized securities shall be certified by a registration certificate. The terms and procedure for the issuing of a registration certificate for financial instruments or a registration certificate for a non-resident person referred to in Article 136 (1) herein as recorded in the register of the Central Depository shall be established in the ordinance provided for in Article 140 herein.

(2) A statement of registration of financial instruments shall be issued to members of the Central Depository wherefor or wherethrough the recording referred to in Article 127 (1) herein has been effected. At the request of any holder of dematerialized financial instruments, the Central Depository shall issue thereto a certificate of ownership of financial instruments through a member of the Central Depository. The members of the Central Depository may not refuse to provide the service referred to in sentence two to the clients thereof.

(3) Any non-resident person referred to in Paragraph (2) may issue depository receipts to the non-resident clients thereof for any financial instruments acquired for the account of the said clients after the Central Depository has restricted the disposition of the said financial instruments within Bulgaria.

## **Article 138**

### *(Last Amendment - SG No. 103/2012)*

(1) *(Last Amendment - SG No. 103/2012)* The acquisition of financial instruments on a regulated financial instruments market by a bona fide party shall be valid regardless of whether the transferor owns the said financial instruments.

(2) *(Last Amendment - SG No. 103/2012)* Any transactions in financial instruments concluded and accepted for execution by the Central Depository shall be finalized according to the Rules of the Central Depository, irrespective of any contestations and presented claims. Exceptions shall be admissible in the cases specified in the ordinance provided for in

Article 140 herein. Damages for detriments shall be regulated according to commercial and civil legislation.

(3) The procedure for correction of erroneous entries effected by the Central Depository shall be regulated by the ordinance provided for in Article 140 herein.

## Article 139

(1) *(Amended, SG No. 39/2005)*The Commission and the Deputy Chairperson shall exercise control over the operation of the Central Depository.

(2) *(Amended, SG No. 39/2005)*The Central Depository shall be obligated to submit to the Commission an annual report on or before the 31st day of March in the next succeeding year, as well as a six-month report on or before the 31st day of August in any current year.

(3) *(Amended, SG No. 39/2005)*The reports referred to in Paragraph (1) shall state particulars of the operation of the Central Depository, of the composition of the shareholders and the members of the Central Depository, as well as an annual financial statement according to Article 26 (1) of the Accountancy Act as audited by a registered auditor. Any such reports shall be drawn up in a standard form as endorsed by the Deputy Chairperson.

(4) *(Amended, SG No. 39/2005)*The Central Depository shall be obligated, upon request, to submit to the Commission and to the Deputy Chairperson any other particulars and documents pertaining to the operation thereof.

(5) *(Amended, SG No. 39/2005)*The Deputy Chairperson shall conduct on-site inspections.

## Article 140

*(Amended, SG No. 61/2002, SG No. 67/2003, SG No. 39/2005)*

The Commission shall issue an ordinance on the application of this Chapter.

## Chapter Ten

### **PUBLIC OFFERING IN THE REPUBLIC OF BULGARIA OF SECURITIES ISSUED BY NON-RESIDENT PERSONS. PUBLIC OFFERING ABROAD OF SECURITIES ISSUED BY RESIDENT PERSONS**

## Article 141

*(Amended, SG No. 37/2004)*

(1) *(Amended, SG No. 37/2004, SG No. 86/2006)*The requirements of Chapters Six and Seven herein shall apply accordingly to the public offering of securities which are issued by persons having their registered office in third countries and which have not been offered to the public and have not been admitted to trading on a regulated market in another Member State, as well as subject to fulfilment of the following conditions:

1. that the securities satisfy the requirements of this Act;
2. that the issuer has presented evidence of conformity with the law of the place of registration thereof;
3. that realization of the rights of the resident investors be guaranteed.

(2) Should any securities referred to in Paragraph (1) be physical, the said securities may be offered to the public after being immobilized at the Central Depository.

(3) *(Amended, SG No. 39/2005)* Where so provided by an international contract whereto the Republic of Bulgaria is a party, the Commission may recognize the prospectus for securities published according to the law of the place of confirmation thereof if the purposes of Article 81 herein are attained. In such a case, the said Commission may require from the issuer any additional information and documents as may be necessary for performance of the functions thereof.

## **Article 142**

(1) *(Amended, SG No. 39/2005, SG No. 86/2006)* The Commission shall be notified of any public offering in third countries of securities issued by resident persons.

(2) *(Amended, SG No. 39/2005, SG No. 86/2006)* Upon submission of documents for public offering in a third country to the competent authorities of the third country, the issuer or the offeror shall submit to the Commission:

1. the draft prospectus and any other documents as may be required according to the foreign law;
2. *(Amended, SG No. 39/2005, SG No. 86/2006)* a declaration pledging to submit to the Commission copies of all documents as may be published or presented in a third country according to the foreign law;
3. any other documents as may be prescribed by ordinance.

## **Article 143**

*(Amended, SG No. 37/2004)*

The conclusion and/or execution of transactions resulting from a public offering according to the procedure established by Article 141 or Article 142 herein shall furthermore comply with the requirements of the Foreign Exchange Act.

### **Article 144**

*(Amended, SG No. 52/2007)*

Chapter Six herein shall apply, *mutatis mutandis*, to any unregulated cases.

## **Chapter Eleven**

### **DISCLOSURE OF PARTICIPATING INTEREST AND TENDER OFFERING FOR SECURITIES**

#### **Section I**

#### **Disclosure of Participating Interest**

#### **Article 145**

*(Last Amendment - SG No. 62/2017)*

(1) Any shareholder who acquires or transfers directly and/or under Article 146 a voting right in the general meeting of the public company shall notify the Commission and the public company where:

1. following the acquisition or transfer his voting right reaches, exceeds or falls below 5 per cent or a multiple of 5 per cent of the number of voting rights in the general meeting of the company;

2. his voting right reaches, exceeds or falls below the thresholds under paragraph 1 as a result of events leading to a change of the total number of voting rights based on the information disclosed under Article 112e.

(2) The voting rights shall be calculated on the basis of the total amount of voting shares regardless of whether a restriction is imposed on the right to exercise it. Calculation shall be made for every class of shares.

(3) Where the thresholds under paragraph 1 are reached or exceeded as a result of direct acquisition or transfer of voting shares, the obligation under paragraph 1 shall also arise for the Central Depository. The format, content and the procedure for notification shall be set out by ordinance.

(4) Paragraph 1 shall not apply to voting rights attaching to:

1. shares acquired only for the purpose of making clearing or settlement within the normal settlement cycle, which may not be longer than three working days from the conclusion of the transaction;

2. shares held by custodians in said capacity and provided that they may exercise voting rights attaching to the shares only on the order of a client given in writing or electronically.

(5) *(Last Amendment - SG No. 42/2016)* No notification is required from a market maker acting in said capacity, where his voting right reaches, exceeds or falls below 5 per cent of the number of the votes in the general meeting, provided that the market maker:

1. *(Last Amendment - SG No. 42/2016)* has been granted authorisation for performing activity as an investment intermediary in compliance with Markets in Financial Instruments Act, the applicable law of another Member State, and owns initial capital in compliance with art. 8, pt. 1 of the Markets in Financial Instruments Act;

2. does not participate in the management of the company and does not exert influence on the company for the purchase of the shares or maintenance of their prices.

(6) *(New - SG No. 42/2016)* Paragraph 1 is not applied with reference to the voting rights or the voting rights related to shares held in the trading book within the meaning of art. 102 of Regulation (EU) N<sup>o</sup> 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) N<sup>o</sup> 648/2012 (OJ, L 176/1 of 27 June 2013) of a credit institution or investment intermediary under the condition that:

1. the voting rights held in the trading book do not exceed 5 per cent of the number of the voting rights in the general meeting of the company, and

2. the voting rights related to shares held in the trading book are not exercised or otherwise used for the purpose of interfering in the company management.

(7) *(New - SG No. 42/2016)* Paragraph 1 is not applied with reference to the voting rights related to shares acquired for the purpose of stabilisation in accordance with 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 stabilization of financial instruments, under the condition that the voting rights related to these shares are not exercised or otherwise used for interference in the company's management

(8) *(New - SG No. 62/2017)* Paragraph 1 shall not be applied by the repurchase parties for the relevant volumes entered in the respective repository registry

## **Article 146**

*(Last Amendment - SG No. 42/2016)*

(1) The obligation under Article 145, paragraph 1 shall furthermore apply to a person who has the right to acquire, transfer or exercise the voting rights in the general meeting of a public company in one or more of the following cases:

1. voting rights held by a third party with whom the person has entered into agreement on pursuit of a long-term common policy on the management of the company through joint exercise of the voting rights held by them;
2. voting rights held by a third party with whom the person has entered into agreement on a temporary transfer of the voting rights;
3. voting rights attaching to shares provided as security to the person, provided that the latter may control the voting rights and has expressly stated its intention to exercise them;
4. voting rights attaching to shares provided for use by the person;
5. voting rights held or which may be exercised under items 1 – 4 by a company controlled by the person;
6. voting rights attaching to shares deposited with the person, which rights the person may exercise at its discretion without special instructions by the shareholders;
7. voting rights held by third parties on their behalf but on the account of the person;
8. *(Last Amendment - SG No. 103/2012)* voting rights that the person may exercise in its capacity as representative where the person may exercise them at his discretion, without special instructions by the shareholders.

(2) *(Last Amendment - SG No. 109/2013, in force as of 20.12.2013)* The voting rights of the parent undertaking of a management company shall not be added to the voting rights of the management company, attaching to shares included in an individual portfolio managed by it under Article 86, paragraph 2, item 2, of the Collective Investment Schemes and Collective Investment Undertakings Activities Act provided that the management company exercises the voting rights independently from the parent undertaking.

(3) *(Last Amendment - SG No. 42/2016)* The voting rights of the parent undertaking of an investment intermediary who has been granted authorization for carrying on activity under Markets in Financial Instruments Act or the applicable law of other Member State field shall not be added to the voting rights of the investment intermediary, attaching to shares included in a portfolio managed by it under § 1, item 7 of the supplementary provisions of the Markets in Financial Instruments Act, provided that:

1. *(Last Amendment - SG No. 42/2016)* the investment intermediary is authorized to manage a portfolio under Article 5, paragraph 2, item 4 of the Markets in Financial Instruments Act;
2. *(Last Amendment - SG No. 42/2016)* the investment intermediary may exercise the voting rights attaching to the shares only on instruction given in writing or electronically, or shall guarantee that the portfolio is managed separately from the other services and under conditions equivalent to the conditions under Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) ( OJ L 302, 17.11.2009), called thereafter "Directive 2009/65/EC" through the implementation of appropriate measures;
3. the investment intermediary exercises its voting rights independently from the parent undertaking.

(4) *(Last Amendment - SG No. 42/2016)* Paragraphs 2 and 3 shall not apply in cases where the parent undertaking or another company controlled by the parent undertaking has invested in voting shares included in a portfolio managed by the management company or the investment intermediary and the management company, as the case may be, and the investment intermediary has not the right to exercise the voting rights at its own discretion but only in accordance with direct or indirect instructions given to it by the parent undertaking or another company controlled by the parent undertaking.

(5) (*Last Amendment - SG No. 42/2016*) Paragraphs 2 – 4 shall also apply to companies whose registered office is in a third country for which an authorization would be required under Article 6 of Directive 2009/65/EC or for management of portfolio under item 4 of Section "A" of the Annex I to 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 if they had a registered office in a Member State, or in the cases of investment intermediary, if its head office was located in a Member State provided that equivalent requirements are complied with for independent exercise of the voting rights or in portfolio management as management company or investment intermediary, as the case may be. The conditions where the requirements are considered equivalent shall be set out in ordinance.

**Article 147**

*(Amended, SG No. 52/2007, effective  
3.07.2007)*

The requirements under Articles 145 and 146, paragraph 1, item 3 shall not apply to shares provided to or by the European Central Bank, the Bulgarian National Bank or the central banks of the other Member States in the performance of their monetary policy functions, including shares provided to or by them as security, in repo agreements or similar agreements on liquidity provision for the purposes of the monetary policy or within one payment system, if the transactions are concluded for a short period of time and the voting rights attaching to the shares are not exercised.

**Article 148**

*(Amended and supplemented, SG No.  
86/2006, amended, SG No. 52 /2007 ,  
effective 3.07.2007)*

(1) The notification under Article 145, paragraph 1 and Article 146 , paragraph 1 shall contain at a minimum:

1. the number of the votes resulting from the change;
2. the controlled persons through which the person exercises the voting rights, where applicable;
3. the date on which the voting rights of the person reach, exceed or fall below the thresholds under Article 145, paragraph 1;
4. data about the shareholder, regardless of whether he may exercise the voting rights under Article 146, paragraph 1, and about the persons who have the right to exercise the voting right on account of the shareholder.

(2) The notification shall be prepared either in Bulgarian or in a language normally used in the field of international finance. The public company is not obligated to provide translation of the notification into the language adopted by the Commission or the other competent authorities.

(3) The obligation for notification under Article 145, paragraph 1 and Article 146, paragraph 1 shall be fulfilled without delay but no later than 4 working days after the day following the day on which the shareholder or the person under Article 146, paragraph 1:

1. becomes aware of the acquisition, transfer or the option to exercise his voting rights under Article 146 or on which, depending on the specific circumstances, he should have become aware of, regardless of the date on which the acquisition or transfer was carried out or the option for exercise of the voting rights arose;

2. has been notified of the occurrence of the events under Article 145, paragraph 1, item 2.

(4) The obligation for notification under Article 145, paragraph 3 shall be fulfilled no later than the day following the acquisition or the transfer of the shares.

(5) The requirement under paragraph 1 shall not apply to the person whose obligation for notification has been fulfilled by its parent undertaking, and where the parent undertaking is a controlled company, by its parent undertaking.

(6) Attached to the notification shall be a declaration of existence of the circumstances under Article 145 and/or Article 146.

(7) The form and procedure for giving notification as well as additional requirements to its content, the cases where it is deemed that the person must have become aware of the acquisition and transfer, the conditions where it is deemed that the exercise of the votes or the management of a portfolio by the management company and the investment intermediary are independent, as well as the measures for exercising control on compliance with the conditions for exemption from the obligations for notification under this Section shall be set out by ordinance.

#### **Article 148a**

*(Last Amendment - SG No. 42/2016)*

(1) *(Last Amendment - SG No. 42/2016)* The obligation for notification under art. 145, para. 1 refers to the persons who hold directly or indirectly:

1. financial instruments which, by virtue of a written contract, entitle the persons who own them at the date of the of maturity the unconditional right to acquire voting shares issued by the company whose shares are admitted to trade on a regulated market;

2. financial instruments which are not included in pt. 1 but are connected to the shares specified in pt. 1 and which have economic effect, similar to the effect of the financial instruments specified in pt. 1, regardless of the fact whether they provide right of settlement by supply of the underlying securities.”

2. New para. 2 and para. 3, 4 and 5 are created:

(2) *(New - SG No. 42/2016)* The notification under para. 1 includes breakdown by type of financial instruments under para. 1 and differentiates the financial instruments providing the right of settlement by supply of the underlying securities and the financial instruments providing monetary settlement right.

(3) *(New - SG No. 42/2016)* The voting rights are calculated on the basis of the nominal value of the underlying shares of the financial instrument, except for the cases in which the financial instrument guarantees only a monetary settlement in which case the voting rights are calculated on a basis, corrected in accordance with the “delta” coefficient by multiplying the nominal value of the underlying shares and the “delta” coefficient of the instrument. For the purposes of the notification under para. 1, the persons owning financial instruments add together all financial instruments related to the company which has issued the underlying shares. Upon calculation of the voting rights only the long positions are taken into account. The long positions are not netted off against short positions connected to the same company which has issued the underlying shares.

(4) *(New - SG No. 42/2016)* Provided they meet any of the conditions, the following are considered financial instruments within the meaning of para. 1:

1. securities;

2. options;

3. futures;
4. swaps;
5. forward rate agreements;
6. contracts for differences;
7. other contracts or agreements with similar economic effect with reference to which settlement by supply of the underlying securities or monetary settlement can be performed;
8. other instruments, specified with a decision adopted by the deputy chairperson.

(5) *(New - SG No. 42/2016)* The requirements under para. 1-4 are not applied in the cases under art. 145, para. 4-6 and under art. 146, para. 2-4

(6) *(Former Par. (2) - Last Amendment - SG No. 42/2016)* The procedure for giving the notification, the nature of the contract, the content, term and form of the notification as well as any other requirements relating to the notification shall be set out by ordinance.

#### **Article 148b**

*(New, SG No. 52/2007, effective 3.07.2007)*

Any public company shall disclose publicly under the terms of Article 100r the information provided with the notifications by the persons under Article 145 and Article 146 within three working days from notification thereof.

#### **Article 148c**

*(Last Amendment - SG No. 42/2016)*

(1) To ensure compliance with the provisions of this Section, in addition to the powers provided for in the other parts of the Act and the statutory instruments for its application, the Deputy Chairperson may:

1. require from the public company, the Central Depository, the shareholders, the persons holding other financial instruments, and the persons under Articles 146 and 148a to provide particular information and documents;
2. require from the public company to disclose publicly the information under paragraph 1 in a manner and within the term set by him;
3. publish the information under paragraph 1 at its own initiative in the cases where the public company has not fulfilled its obligation under item 2 and after submission of explanation from the company;
4. require from the Central Depository, the shareholders and the persons holding other financial instruments as well as from the persons under Articles 146 and 148a to provide the information under this Section, and where necessary, additional information and documents;
5. *(Repeal- SG No. 42/2016)*

(2) *(Last Amendment - SG No. 103/2012)* The Commission may disclose any coercive administrative measure taken or penalty imposed for infringement of the provisions of this Section and the instruments for its application, save where such disclosure would seriously jeopardize the stability of financial markets or cause disproportionate damage to the parties involved.

#### **Article 148d**

*(Last Amendment - SG No. 42/2016)*

(1) The Commission shall cooperate and exchange information with the relevant competent authorities of the other Member States where this necessary for the purpose of carrying out its duties under this Section and shall render assistance in view of the exercise of their functions.

(2) *(New - SG No. 21/2012)* Where a request by the Commission for assistance under Par. (1) has been denied or no actions have been undertaken in due time, the Commission may notify about it ESMA with a view to receiving assistance in accordance with Regulation (EU) No 1095/2010.

(3) *(Former Par. (2), Last Amendment - SG No. 42/2016)* Where the Republic of Bulgaria is a Member State of origin and the Commission establishes that an issuer, shareholder or holder of other financial instruments or the person under Article 146 infringes this Act and



the statutory instruments for its application it shall notify the competent authority in the home country and ESMA.

(4) *(Former Par. (3), Last Amendment - SG No. 42/2016)* If, despite the measures taken by the competent authority in the Member State of origin or where such measures prove inadequate, the issuer, the shareholder or the holder of other financial instruments or the person under Article 146 persists in infringing this Act or the statutory instruments for its application, the Commission may, after informing the competent authority of the Member State of origin, take all the appropriate measures in order to protect investors. The Commission shall notify the European Commission and ESMA of the measures taken within 7 days after their implementation.

(5) *(Former Par. (4) - SG No. 21/2012)* Where the Commission is notified by the relevant competent authority of the host country within the meaning of Article 100j, paragraph 2, item 2 that a public company, shareholder or holder of other financial instruments or the person under Article 146 infringes the law of the relevant Member State, the Commission, the Deputy Chairperson respectively, shall apply relevant enforcement administrative measures.

#### **Article 148e**

*(Last Amendment - SG No. 42/2016)*

(1) *(Last Amendment - SG No. 42/2016)* This Section shall furthermore apply to issuers from a third country, whose shares are admitted to trading on a regulated market and for whom the Republic of Bulgaria is a Member State of origin within the meaning of Article 100j, paragraph 2, item 1.

(2) In the cases of Article 145, paragraph 1, item 2 where the issuer is from a third country notification shall be made upon occurrence of equivalent events which lead to changes in the total number of voting rights.

(3) *(Last Amendment - SG No. 21/2012)* The requirements of Article 148b for the term for disclosure shall not apply to the persons under paragraph 1 if the Commission considers that the law of that country lays down equivalent requirements. The Commission notifies ESMA of its opinion under the first sentence. The conditions under which the Commission may consider that the requirements of the law of the third country are equivalent to the requirements of Article 148b shall be set out by ordinance.

(4) The Commission shall publish on its website a list of the countries whose laws set out requirements equivalent to the requirements under Article 148b.

#### **Article 148f**

*(New, SG No. 52/2007, effective 3.07.2007)*

The provisions of this Section shall not apply to:

1. the units of collective investment undertakings other than the closed end type within the meaning of Article 77x, paragraph 1, items 8 and 9, or to units acquired or transferred within such collective investment undertaking;
2. money market instruments with a maturity of less than 12 months.

#### **Article 148g**

*(Last Amendment - SG No. 42/2016)*

(1) The obligation for notification under art. 145, 146 and 148a is applied with reference to the person, the unincorporated company or the trust when the voting rights held directly or indirectly by the person, the unincorporated company or the trust in accordance with art. 145 and 146, added together with the voting rights related to the financial instruments which are owned directly or indirectly in accordance with art. 148a, reach, exceed or drop below 5 per cent or a number multiple of 5 per cent of the votes in the general meeting of the company in compliance with art. 145, para. 1.

(2) The notification under para. 1 includes a breakdown of the voting rights connected to shares held in compliance with art. 145 and 146 and the voting rights connected to financial instruments under art. 148a.

(3) A new notification is submitted with reference to the voting rights connected to financial instruments for which a notification under art. 148a has already been submitted if the person, the unincorporated company or the trust has acquired the underlying shares and as a result of their acquisition, the total number of the voting rights connected to shares issued by the same company reach or exceed 5 per cent or a number multiple to 5 per cent of the number of the votes in the general meeting of the company as specified in article 145, para. 1.

## **Section II**

### **Tender Offering for Purchase or Exchange of Shares**

#### **Article 148h**

*(Former Article 148g - SG No. 42/2016)*

Within the meaning of this Section "related persons", who on the basis of an explicit or tacit, written or verbal agreement with the offerer or the company- subject of a tender offer, aim at the acquisition of control over the public company or prevention of the successful closing of a tender offer. The persons controlled by another person within the meaning of § 1, pt. 44 of the Additional Provisions are considered related persons with that persons and among themselves, as well as with the persons with whom the person controlling them is related under § 1, pt. 13, letters "c" and "d" of the Additional Provisions. Related persons are also the persons under § 1, pt. 13, letters "c" and "g" of the Additional Provisions.

#### **Article 148i**

*(Former Article 148h - SG No. 42/2016)*

(1) *(Former Art. 148h - SG No. 62/14.08.2015, in force as of 14.08.2015)* This Section shall not apply to tender offerings regarding:

1. securities issued by companies whose purpose is collective investment of funds raised through public offering of units, operating on the principle of risk-spreading and on request from holders of such units buy back directly or indirectly their units at a price based on their net asset value;
2. shares issued by the central banks of the Member States.

(2) *(New - SG No. 62/14.08.2015, in force as of 14.08.2015)* The obligation for registration of trade offer do not arise in cases where measures for restructuring or powers and mechanisms under the restoration and Restructuring and Credit Institutions and Investment Agents are implemented.

#### **Article 149**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 103/2012)* A person who acquires, directly or through related persons, more than one third of the votes at the general meeting of a public company in which there is no person or persons holding, directly or through related persons, more than 50 percent of the votes in the general meeting, is obliged within 14 days after the acquisition, respectively within one month after the entry of the reorganization or the reduction of the capital in the Commercial Register, when the crossing of the threshold is a result of the reorganization or disposition of shares:

1. *(Amended, SG No. 39/2005)* acting according to Article 151 herein, to register with the Commission a tender offer to the rest of the voting shareholders for purchase of the shares thereof and/or for exchange of the said shares for shares which will be issued by the offeror for this purpose; or
2. *(Last Amendment - SG No. 103/2012)* transfer the requisite number of shares so as to hold, whether directly or through related parties, less than one third of the votes in the General Meeting.

(2) The provisions of Paragraph (1) shall furthermore apply:

1. *(Last Amendment - SG No. 103/2012)* in respect of persons who or which hold jointly more than one third of the voting shares and who or which have concluded an agreement in writing on implementation of a common policy for management of the company concerned through joint exercise of the voting power thereby held;

2. *(Last Amendment - SG No. 103/2012)* where other persons hold, for the account of any person referred to in Paragraph (1), voting shares and the aggregate voting power carried by the said shares exceeds one third of all votes in the General Meeting.

(3) *(Last Amendment - SG No. 62/2017)* Upon acquisition through related parties, as well as in the cases referred to in Item 1 of Paragraph (2), the tender offeror shall be the person holding directly the largest number of the aggregate number of votes held, and in the cases referred to in Item 2 of Paragraph (2), the offeror shall be the person for the account whereof the shares are held.

(4) *(Amended, SG No. 39/2005)* In the cases covered under Paragraph (2), the offeror shall be obligated to register a tender offer with the Commission within fourteen days after conclusion of the agreement or after acquisition of the shares for the account of the person referred to in Paragraph (1), as the case may be.

(5) *(Last Amendment - SG No. 62/2017)* Until publication of the tender offer according to the procedure established by Article 154 herein or until transfer of the shares, as the case may be, no person covered under Paragraphs (1) and (2) shall have the right to exercise the voting power thereof in the General Meeting. Upon acquisition of shareholding through related persons in the cases under para. 1 and 2, the controlled direct shareholder in the public company cannot exercise his or her voting right in the general meeting until making of a tender offer or until the loss of control over it on behalf of the person under para. 1 and 2.

(6) *(Last Amendment - SG No. 103/2012)* The obligation under par. 1, pt. 1 arises also with reference to a person, who acquires directly, through related persons or indirectly under par. 2 more than 50 percent of the votes in the general meeting of a public company, unless, within 14 days after the acquisition, the person transfers the necessary number of shares so as to hold directly, through related persons or indirectly under par. 2 less than 50 percent, respectively less than two thirds of the votes. Paragraphs 3, 4 and 5 are respectively applied.

(7) *(Last Amendment - SG No. 103/2012)* In case a person crosses more than one of the thresholds specified in par. 1 and 6 at the same time or, within the term under par. 1, after crossing the lower threshold, crosses another threshold of those specified under par. 6, he registers one tender offer. The term for registration of a tender offer is the term which would expire at the earliest if there was an obligation for making separate tender offers upon crossing of each of the specified thresholds.

(8) *(Last Amendment - SG No. 103/2012)* A person who holds directly, through related persons and/ or indirectly under par. 2 more than one third, but not more than two thirds of the votes at the general meeting, is not entitled the right, within a year, to acquire, including through related persons or indirectly under par. 2, voting shares in amount more than 3 percent of the total number of the shares in the company, unless as a result of a tender offer made under art. 149b. Upon violation of the requirement under sentence one, the voting rights are restricted in accordance with par. 5 until publication of a tender offer under art. 149b. The obligation under sentence one does not relate to a person who crosses the threshold as a result of increase in the capital with rights issue.

(9) *(New - SG No. 103/2012)* The obligation under par. 6, respectively under par. 8 does not relate to a person who has made, within one year prior crossing of a threshold under para.6, respectively under par. 8, a tender offer under par. 1 or a tender offer under par. 6 in the hypothesis of a crossed threshold of 50 percent of the votes in the general meeting of the public company, or the tender offer under art. 149b, with reference to which the offer

has been made to all shareholders, the price specified in accordance with art. 150, par. 7, and as a result of a tender offer, the person has not acquired more than 50 percent of the votes in the general meeting of the public company, as well as to person who has crossed a threshold under par. 6, respectively under par. 8 as a result of such offer.

(10) (New - SG No. 103/2012) The obligation under par. 1 does not relate to a person who has crossed the threshold specified in par. 1 as a result of making a tender offer under art. 149b which meets the requirements.

(11) (New - SG No. 103/2012) Obligation under par. 6 in the hypothesis of a crossed threshold of two thirds of the votes in the general meeting of the public company arises with reference to a person who crosses the threshold as a result of increase in the capital with rights issue, if, prior the increase of the capital the respective person has held more than 50 percent of the votes in the general meeting of the public company.

(12) (*Former Par. 9 - Last Amendment - SG No. 34/2015*) The persons referred to in Paragraphs (1), (2), (6) and (8) shall be obligated to effect the tender offering through an investment intermediary thereby authorized, using the opportunities for remote acceptance of the tender offer through the Central Depository. The investment intermediary must possess capital to an amount not less than the amount provided for in Article 8 (2) of the Markets in Financial Instruments Act herein.

## Article 149a

*(Last Amendment - SG No. 103/2012)*

(1) (*Last Amendment - SG No. 103/2012*) Any person, who or which acquires, whether directly, through related parties or indirectly in the cases covered under Article 149 (2) herein, more than 90 per cent of the votes in the General Meeting of any public company, shall have the right to register a tender offer for purchase of the shares held by the rest of the shareholders. Article 149 (3), (4) and (12) herein shall apply accordingly.

(2) (*Amended, SG No. 39/2005*) If any person referred to in Paragraph (1) fails to register a tender offer within fourteen days after the acquisition of the number of shares referred to in Paragraph (1), the said person shall be obligated to notify the shareholders, the regulated market and the Commission of the intentions thereof to register a tender offer at least three months in advance. The said person shall be obligated to notify forthwith the shareholders, the regulated market and the Commission in case the intentions regarding a tender offer are abandoned, citing the reasons for such abandonment.

(3) (*Last Amendment - SG No. 103/2012*) In case the person under art. 149, par. 1 and/or par. 6, within the term specified under art. 149, par. 1 determined in accordance with art. 149, par. 7, if it is necessary, acquires directly, through related persons or indirectly under art. 149, par. 2 more than 90 percent of the votes in the general meeting of the public company along with the performance of its obligation under art. 149, par. 1 and/or par. 6, may exercise his right under par. 1 by registering a tender offer.

(4) (*Amended, SG No. 39/2005, renumbered from Paragraph (3), SG No. 52/2007, effective 3.07.2007*) The Commission may refuse publication of a tender offer referred to in Paragraph (1) if the offeror has breached the requirement established by Article 149 (8) herein within the last twenty-four months.

(5) (*Last Amendment - SG No. 103/2012*) After the expiration of the term under art. 152, par. 1, respectively under art. 153, par. 1, in case the Commission does not issue a prohibition in this term, as well as within 14 days after the closing date of the tender offer, the person under par. 1 is obliged, upon a request, to purchase the shares of each shareholder. In this case art. 150, par. 6 is respectively applied.

# Article 149b

*(Last Amendment - SG No. 103/2012)*

(1) *(Last Amendment - SG No. 103/2012)* Any person holding at least 5 per cent of the votes in the General Meeting of any public company and seeking to acquire, whether directly, through related parties or indirectly in the cases covered under Article 149 (2) herein, more than one-third of the votes in the General Meeting of the said company, may publish a tender offer for purchase or for exchange of shares to all voting shareholders after advance confirmation of a draft tender offer by the Commission. Article 149 (3), (4) and (12) herein shall apply accordingly.

(2) The offeror referred to in Paragraph (1) shall be obligated to purchase or to exchange, as the case may be, all voting shares held by any shareholder who or which has accepted the offer. Should the number of voting shares deposited on the part of all shareholders who or which have accepted the offer exceed the total quantity of shares under the tender offer, the offeror shall purchase or exchange shares from each of the accepting shareholders in proportion to the shares deposited thereby.

(3) The person referred to in Paragraph (1) may set a minimum number of shares to be offered thereto for acquisition as precondition for validity of the specific offer.

(4) *(Amended, SG No. 39/2005)* The Commission may suspend trading in shares in the company whereof the shares are subject to the tender offer if this is necessary with a view to the principles covered under Article 150 (1) herein.

# Article 150

*(Last Amendment - SG No. 62/2017)*

(1) Tender offering shall be effected in accordance with the following principles:

1. *(Supplemented, SG No. 52/2007, effective 3.07.2007)* ensuring equal treatment of the shareholders enjoying equal status in the company subject to tender offer and protection of the other shareholders upon acquiring control of the company;

2. *(Supplemented, SG No. 52/2007, effective 3.07.2007)* allowing sufficient time and providing sufficient information to the shareholders of the company as may be needed for an informed assessment of the offer and for making a reasoned decision regarding acceptance of the said offer. In the giving of an opinion on the tender offer the management body of the offeree company shall give its opinion on the consequences from accepting the tender offer on the employees, the conditions of the contracts of employment and the place of carrying on activity.

3. *(Amended, SG No. 52/2007, effective 3.07.2007)* the management bodies acting in the best interest of the company as a whole, without preventing the shareholders from the possibility to take decision on the substance of the tender offer;

4. not admitting market manipulation in the securities of the company subject to tender offer, as well as in other companies affected by the tender offering.

5. *(New, SG No. 52/2007, effective 3.07.2007)* making a tender offer only after providing opportunity for full payment or exchange, as the case may be, of the shares to the shareholders who have accepted the offer;

6. *(New, SG No. 52/2007, effective 3.07.2007)* the company that is the subject of tender offer shall not be placed in a situation which inhibits its activity for an unjustifiably long period of time.

(2) *(Supplemented, SG No. 61/2002)* Any offer referred to in Article 149 (1), (6) and (8), Article 149A and Article 149B herein must contain the following information:

1. *(Last Amendment - SG No. 52/2007)* the name or business name, registered office and address of the tender offeror and of the investment intermediary thereby authorized;
2. *(New, SG No. 52/2007, effective 3.07.2007)* the shares or the class of shares, as the case may be, for which the tender offer refers;
3. *(Supplemented, SG No. 61/2002, renumbered from Paragraph (2), SG No. 52/2007, effective 3.07.2007)* the number of voting shares which the offeror does not hold and is obligated to seek or seeks to acquire;
4. *(Amended, SG No. 39/2005, renumbered from Paragraph (3), SG No. 52/2007, effective 3.07.2007)* the proposed price per share issued by the company subject to tender offer and/or the ratio of exchange of such shares for shares referred to in Item 1 of Article 149 (1) herein, the issue price, and particulars of the rights attaching to the said shares;
5. *(New, SG No. 52/2007, effective 3.07.2007)* the compensation for the rights of the shareholders which may be restricted under the terms of Article 151a, paragraph 4, including the procedure and manner of its payment and the methods of its setting;
6. *(Renumbered from Paragraph (4), SG No. 52/2007, effective 3.07.2007)* information concerning the types and number of shares which the offeror holds, whether directly or through related parties, as well as under the terms referred to in Article 149 (2) herein, in the company subject to tender offer;
7. *(Renumbered from Paragraph (5), SG No. 52/2007, effective 3.07.2007)* the time limit for acceptance of the offer;
8. *(Renumbered from Paragraph (6), SG No. 52/2007, effective 3.07.2007) (Supplemented, SG No. 61/2002)* the terms and conditions whereunder the offeror shall finance the acquisition of the shares and proof of availability of the resources necessary for the purchase or of the securities necessary for exchange;
9. *(Renumbered from Paragraph (7), amended, SG No. 52/2007, effective 3.07.2007)* the intentions of the offeror regarding the future operation of the company subject to tender offer and of the offeror - legal person to the extent the latter is affected by the tender offer, regarding retention of the members of the management bodies and the staff of the said companies, including material changes in the terms and conditions of the contracts of employment and in particular the strategic plans of the offeror for the two companies and for the likely repercussions of the offer on the employees and the locations of the companies's places of business;
10. *(Renumbered from Paragraph (8), SG No. 52/2007, effective 3.07.2007)* the time limit for fulfilment of obligations upon acceptance of the tender offer;
11. *(Renumbered from Paragraph (9), SG No. 52/2007, effective 3.07.2007)* the particulars covered under Article 82 (1) herein, where an exchange of shares is furthermore offered;
12. *(New, SG No. 52/2007, effective 3.07.2007)* applicable law to the contracts between the offeror and the shareholders upon acceptance of the tender offer and the competent court,";
13. *(Amended, SG No. 39/2005, renumbered from Paragraph (3), SG No. 52/2007, effective 3.07.2007)* any other particulars and documents as may be prescribed by ordinance or as may be requested by the Commission according to the procedure established by Article 152 (1) herein.

(3) *(Amended, SG No. 61/2002, SG No. 39/2005, SG No. 52/2007, effective 3.07.2007)* Any tender offer referred to in Article 149a herein must indicate that upon expiry of the time limit for acceptance of the said offer the company may cease to be public even if the condition referred to in Item 1 of Article 119 (1) herein is not fulfilled, as well as whether the offeror intends to apply for expungement of the company in the register of the Commission. Items 3 and 11 of Paragraph (2) shall not apply to any such tender offer.

(4) *(Last Amendment - SG No. 103/2012)* Any tender offer shall be signed by the offeror and by the investment intermediary referred to in Article 149 (12) herein, who shall declare that the said offer conforms to the requirements of the law.

(5) The offeror and the signing investment intermediary shall incur solidary liability for any detriment as may be inflicted by reason of any untrue, misleading or deficient particulars in the tender offer.

(6) *(Amended, SG No. 61/2002 ,SG No. 52/2007, effective 3.07.2007)* Any tender offer referred to in Article 149 (1) and (6) herein and in Article 149a herein shall include a justification of the proposed price or of the proposed rate of exchange referred to in item 4(2) herein, as the case may be. The said justification shall name the fair price per share in the company, calculated proceeding from generally accepted valuation methods. The requirements to the contents of the justification, including the application of valuation methods, shall be established by ordinance.

(7) *(Amended, SG No. 61/2002)* The price or the rate of exchange referred to in Item 3 of Article 150 (2) herein, as the case may be, may not be lower than the highest value between:

1. *(Amended, SG No. 52/2007, effective 3.07.2007)* the fair price of the share as named in the justification referred to in Paragraph (6);

2. *(Last Amendment - SG No. 62/2017)* the average weighted market price of the shares during the 6 last preceding months prior the registration of the offer, respectively prior the date on which the obligation under art. 149, par. 1 or 6 had to be fulfilled, if the tender offer has not been registered until this date, and provided this price is not higher than the average value of the shares in the last 6 months prior the registration of the offer;

3. *(Last Amendment - SG No. 103/2012)* the highest price per share paid by the offeror, the persons related to him or the persons under Article 149, paragraph 2 during the last 6 months before the registration of the offer, respectively prior the date, on which the obligation under art. 149, par. 1 or 6 had to be fulfilled, if the tender offer has not been registered until this date, and provided this price is higher than the highest price per share, paid by the same persons during the last six months prior the registration of the offer; in the cases where the price of the shares cannot be determined in accordance with the preceding sentence, it shall be determined as the last issue value or the last price paid by the tender offeror, whichever is higher.

(8) *(Last Amendment - SG No. 62/2017)* The price of any tender offers referred to in Article 149 (8) herein, as well as in Article 149b herein, may not be lower than the average weighted market price of the shares during the 6 last preceding months or, where no such market price exists, the highest price per share paid by the offeror, by the persons related to him or by the persons under Article 149, paragraph 2 during the six months last preceding the registration of the offer. The tender offeror may justify the price proposed thereby according to Paragraph (6).

(9) *(New - SG No. 103/2012)* For calculation of the highest price per share, paid by the offeror, by his related persons or by the persons under art. 149, par. 2, in case of shares, acquired upon increase in the capital, to the issue value of one new share is added the highest price for rights for participation in the increase of the capital paid by the offeror, by his related persons or by the persons under art. 149, par. 2, if such rights are purchased by the offeror, by his related persons or by the persons under art. 149, par. 2 for participation in the increase of the capital.

(10) *(Former Par. 9 - SG No. 103/2012)* if until expiry of the term of the tender offer the tender offeror acquires directly, through related parties or indirectly under Article 149, paragraph 2 voting shares in the general meeting of the offeree company at a price higher than that offered in the tender offer the tender offeror shall increase the offered price to such higher price. In this case the purchase of the shares shall be effected at the higher price in respect of all shareholders who have accepted the offer before or after the increase.

(11) *(Former Par. 10 - SG No. 103/2012)* Any offer for exchange of shares must mandatorily state an alternative option for purchase of the voting shares held by the rest of the shareholders.

(12) *(Former Par. 11 - SG No. 103/2012)* The time limit referred to in Item 7 of Paragraph (2) may not be shorter than twenty-eight days and longer than seventy days after the publication date of the tender offer save in the cases of competitive tender offer made where the term of the tender offer shall be extended until expiry of the term for acceptance of the competitive tender offer.

## **Article 151**

### *(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 103/2012)* The tender offers are registered at the Commission and may be published, unless within 20 business days the Commission imposes a temporary prohibition. The failure of the Commission to pass a decision within the terms under sentence one, is considered tacit approval of the tender offer.

(2) *(New, SG No. 52/2007, effective 3.07.2007)* Paragraph 1 shall not apply to tender offer for acquisition and/or exchange of voting shares of the company which has its registered office in a Member State and whose shares are admitted to trading on a regulated market in the Republic of Bulgaria, which was subject to approval and has been approved by the competent authority of that Member State. In this case the Commission may require from the tender offeror to make a translation of the tender offer as well as include in it additional information which is specific for the market in the Republic of Bulgaria, relating to the conditions of acceptance of the tender offer, receipt of the price of the shares or their stock exchange value, as well as any fees due thereon.

(3) *(Amended, SG No. 39/2005, SG No. 86/2006, renumbered from Paragraph (2), amended and supplemented, SG No. 52/2007, effective 3.07.2007)* On the day of registration under Paragraph (1), the tender offeror shall be obligated to present the offer to the management body of the company subject to tender offer of the representatives of its employees or, where there are no such representatives, to the employees themselves, as well as on the regulated market whereon the shares in the said company have been admitted to trading. Any such notices shall expressly state that the Commission has not yet pronounced on the tender offer.

(4) *(Last Amendment - SG No. 62/2017)* The members of the management body of the company- subject to tender offer submit the tender offer to the representatives of its employees or to the employees themselves, when there are no such representatives, and announce the information about the offer submitted and the essential conditions related to it under the procedure of art. 100s until the end of the business day. Essential conditions within the meaning of sentence one are: information regarding the offeror, the price offered per share, issued by the company subject to tender offer and/or its ratio of exchange with shares under art. 149, para. 1, pt. 1, the number of the voting shares which the offeror does not own and is obligated to request or wants to acquire, information about the offeror's future intentions and strategic plans with reference to the company-subject to the tender offer, and a justification of the price resume.

(5) *(Amended, SG No. 61/2002, SG No. 39/2005, renumbered from Paragraph (3), amended, SG No. 52/2007, effective 3.07.2007)* Within 7days after receipt of any tender offer, the management body of the company affected shall present a reasoned opinion on the transaction proposed to the Commission, to the offeror, and to the representatives of the employees or, where there are no such representatives, to the employees themselves, *inter*



*alia* as to the repercussion from accepting the tender offer on the company and the employees and the strategic plans of the offeror for the offeree company and their likely repercussion on the employees and the place of business as per Article 150, paragraph 2, item 9. The opinion must furthermore contain information concerning the existence of possible agreements stipulating the exercise of the voting power carried by the shares in the offeree company, in so far as any such information is known to the management body, as well as information concerning the number of shares in the company held by the members of the management body thereof and whether the said members intend to accept the offer. When the management body of the offeree company receives within the time limit under sentence one an opinion from the representatives of the employees on the repercussion of the tender offer on the employees, this opinion shall be attached to the opinion of the management board.

(6) ( *Renumbered from Paragraph (4), amended, SG No. 52/2007, effective 3.07.2007* ) Upon receipt of any offer referred to in Paragraph (3) and until publication of the results of the tender offering or until termination of the said offering, as the case may be, the management body of the offeree company may not perform any other acts except for seeking a competitive tender offer, whereof the principal aim is frustration of the acceptance of the tender offer or infliction of material difficulties or material additional expenses on the offeror such as issue of shares or conclusion of transactions which would result in a significant change in the property of the company, unless said acts are performed with the prior approval of the general meeting of the offeree company.

(7) (*New, SG No. 52/2007, effective 3.07.2007*) The general meeting shall approve any decision of the management body on taking measures under paragraph 6, taken before receipt of the tender offer, which is not effected in full or in part and which is not part of the ordinary business of the company and which may frustrate acceptance of the tender offer.

#### **Article 151a**

*(New, SG No. 52/2007, effective 3.07.2007)*

(1) All restrictions on the transfer of voting shares provided for in the articles of association of the offeree company, in agreements between the offeree company and the shareholders or in agreements among the shareholders shall not apply to the tender offer within the term for acceptance of the tender offer.

(2) Any restrictions on the voting right provided for in the articles of association of the offeree company, in agreements between the offeree company and the shareholders or in agreements among the shareholders shall not apply in taking decisions by the general meeting concerning the taking of measures under Article 151, paragraphs 6 and 7.

(3) Where as a result of a tender offer the offeror acquires more than 75 per cent of the votes in the general meeting of a public company, the restrictions under paragraphs 1 and 2 shall not apply as well as the exclusive rights of the shareholders related to election or dismissal of the members of the management bodies set out in the articles of association of the offeree company.

(4) The offeror shall pay compensation to the shareholders for restricting their rights under paragraphs 1 and 2. The conditions and procedure for the payment of the compensation shall be determined by the offeror and shall be specified in the tender offer. Any disputes regarding the amount of the compensation set shall be settled under the general procedure.

(5) Paragraphs 2 and 3 shall not apply to shares where the restrictions on the voting right are compensated for by additional dividend or other pecuniary payments.

(6) Paragraphs 1 – 4 shall not apply to the special rights of the State relating to its participation in the offeree company.”

## **Article 152**

## *(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 42/2016)* The notifications and the communications in the proceeding under para. 1 are performed following the procedure of art. 61, para. 2 of the Administrative Procedure Code.

(2) *(Last Amendment - SG No. 42/2016)* In the cases in which the notifications and the communications in the proceedings under para. 1 are not received under the procedure of para. 2, they are considered performed with their posting on an expressly provided for the purpose place in the Commission premises or with their publication on the internet webpage of the Commission. The latter two circumstances are certified with a protocol prepared by officials, specified with an ordinance of the chairperson of the Commission..

(3) *(New, SG No. 61/2002, amended, SG No. 8/2003, amended and supplemented, SG No. 39/2005)* Should any notification or communication in the proceedings referred to in Paragraph (1) be not received at the address, telex or facsimile number as named by the persons or as recorded in the register referred to in Article 30 (1) of the Financial Supervision Commission Act , the said notification or communication shall be presumed effected by the posting thereof on a notice board expressly provided therefor on the premises of the Commission. Any such posting shall be attested by a memorandum drawn up by officers designated by an order of the Chairperson of the Commission.

(4) *(Last Amendment - SG No. 62/2017)* The person removes the indicated inadequacies and irregularities or provides the additional information and documents required within 20 business days after the receipt of the notice for that. With reference to the corrected tender offer art. 151, par. 3 – 5 is respectively applied.

## **Article 153**

### *(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* In case, within 10 days after the receipt of the requested documents, the Commission does not issue a final prohibition for publishing of the offer, the offeror may publish it.

(2) *(Supplemented, SG No. 61/2002, amended, SG No. 39/2005)* The Commission may issue a reasoned prohibition referred to in Paragraph (1) solely if the offer and the enclosures thereto do not satisfy the requirements of this Act and of the instruments for the application thereof, or the interests of investors are otherwise impaired. Article 152 (2) and (3) herein shall apply accordingly.

(3) *(New, SG No. 61/2002, amended, SG No. 39/2005)* The Commission may issue a final prohibition in respect of a tender offer referred to in Article 149b herein solely if the circumstances covered under Article 150 (2) herein are materially deficient. Article 152 (2) and (3) herein shall apply accordingly.

(4) *( Renumbered from Paragraph (3), SG No. 61/2002, amended, SG No. 39/2005)* The Commission shall not be held responsible for the accuracy of any particulars contained in a tender offer.

(5) *(Renumbered from Paragraph (4), SG No. 61/2002, amended, SG No. 39/2005)* The Commission may, by reasoned decision, terminate a tender offering prior to the expiry of the time limit for acceptance of the offer should the requirements of this Act and of the instruments for the application thereof be breached upon or after the publication of the said

offer. Acceptance of the offer by the shareholders prior to termination of the tender offer shall be inoperative.

(6) *(Last Amendment - SG No. 62/2017)* In the cases in which the Commission has issued a temporary prohibition under art. 152, para. 1, the prohibition under art. 149, para. 5 is considered valid until the submission of a corrected tender offer under art. 152, para. 4. Where the Commission has issued a final prohibition under Paragraph (1) or has terminated the tender offering under Paragraph (5), the effect of the prohibition referred to in Article 149 (5) herein shall be revived until publication of a successive tender offer.

## **Article 154**

### *(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* Within three business days after the expiration of the time limit under art. 151, para. 1, respectively under art. 153, para. 1, the offeror publishes in one central daily newspaper or on the internet webpage of an information agency or another medium which may provide the effective dissemination of the regulated information to the public in all Member States, a notification about the tender offer and its essential conditions under art. 151, para. 4 and submits the tender offer in its final revision to the public company and the regulated market to which the shares are admitted to trading. Within the term under sentence one, the offeror is obliged to provide the tender offer to the representatives of its officials and to the representatives of the officials of the company-subject of the tender offer, or to the officials, provided there are no such representatives. The public company, the investment intermediary under art. 149, para. 12 and the regulated markets to which the public company shares are admitted to trading announce the tender offer on their internet webpages for the period of its adoption; the public company also announces the tender offer and the public company controlling body opinion under the procedure of art. 100s, para. 3. With reference to the publishing of the information under sentence one, additional requirements may also be provided for by virtue of an ordinance.

(2) *(Last Amendment - SG No. 62/2017)* Any advertisement and insert in connection with a tender offering must indicate the issue number and the publication date of the national daily newspaper and websites referred to in Paragraph (1).

(3) *(New, SG No. 52/2007, effective 3.07.2007)* Where the shares of the offeree company are admitted to trading on a regulated market in another Member State the offeror shall, within the time limit under paragraph 1, make available the tender offer to the shareholders in the countries where its shares are admitted to trading. At request from the competent authority of the Member State the tender offeror shall make a translation of the tender offer in the language adopted by the relevant competent authority as well as include additional information which is specific for the relevant market and refers to the conditions of acceptance of the tender offer, receipt of the price of the shares or the stock exchange value or the fees due thereon.

## **Article 155**

### *(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* In any case other than tender offering referred to in Article 149b herein, a tender offer may not be withdrawn on the part of the offeror after the publication of any such offer. Exceptions shall be admissible solely where the offer may not be effected through circumstances beyond the control of the offeror, the time limit for acceptance of the said offer has not expired, and the Commission has granted approval to the withdrawal. Article 151 (1) and (3), Articles 152 and 153 herein shall apply accordingly. Within seven days after being notified of an approval granted, the offeror shall cause insertion of a notice of withdrawal of the offer in one central daily newspaper or on the internet webpage of an information agency or another medium which can ensure the effective dissemination of the regulated information to the public in all Member States.

(2) Upon withdrawal of any tender offer according to Paragraph (1), the effect of the prohibition referred to in Article 149 (5) herein shall be revived until publication of a successive tender offer.

(3) *(Amended, SG No. 39/2005)* The Commission shall forthwith notify the regulated market, as well as the investment intermediary or the Central Depository wherewith the documents certifying the shares have been deposited, of the withdrawal of the offer. Within three days after receipt of any such notice, the investment intermediary or the Central Depository shall ensure conditions for restoration of the certifying documents to the shareholders who or which have accepted the offer.

(4) *(Last Amendment – SG No. 103/2012)* The offeror may extend the time limit for acceptance of the offer within the maximum admissible period referred to in Article 150 (12) herein, as well as increase the proposed price per share. In such a case, the purchase of shares shall be effected at the higher price in respect of all shareholders who or which have accepted the offer, whether before or after the increase. The offeror may introduce other alterations in the offer as well, subject to approval by the Commission.

(5) *(Last Amendment - SG No. 62/2017)* Any alterations referred to in Paragraph (4) shall be registered with the Commission and shall be published forthwith by insertion in one central daily newspaper or on the internet webpage of an information agency or another medium which can ensure the effective dissemination of the regulated information to the public in all Member States, unless the Commission issues a prohibition within three business days. Article 151 (3), Articles 152 and 153 herein shall apply accordingly.

## **Article 156**

(1) *(Amended, SG No. 61/2002, SG No. 52/2007, effective 3.07.2007)* A tender offer shall be accepted by means of express declaration of will and deposit of the documents certifying the shares with an investment intermediary or with the Central Depository, as well as by performance of other acts as may be necessary in connection with the transfer. Acceptance of the offer may be withdrawn prior to the expiration of the time limit referred to in Item 7 of Article 150 (2) herein or of the extended time limit referred to in Article 155 (4) herein, as the case may be.

(2) *(Amended, SG No. 52/2007, effective 3.07.2007)* The transaction shall be deemed concluded as at the time of expiration of the time limit referred to in Item 7 of Article 150 (2) herein or of the extended time limit referred to in Article 155 (4) herein, as the case may be.

(3) Payment of the price or exchange of the securities, as the case may be, shall be effected within seven business days after finalization of the transaction in conformity with Paragraph (1).

(4) The rights attaching to the shares subject to a tender offer shall pass to the offeror by the registration of the transfer of shares at the Central Depository.

# Article 157

*(Amended, SG No. 39/2005, SG No. 52/2007, effective 3.07.2007)*

Upon expiration of the time limit for acceptance of the offer, the offeror shall forthwith cause publication of the result of the tender offering according to the procedure established by Article 154 herein and shall notify the Commission and the regulated market.

## **Article 157a**

*(Last Amendment - SG No. 103/2012)*

(1) *(Last Amendment – SG No. 103/2012)* A person who as a result of a tender offering made to all voting shareholders acquires directly, through related parties or indirectly in the cases under Article 149, paragraph 2 at least 95 per cent of the votes in the general meeting of a public company shall have the right, within three months of the term of the tender offer, to repurchase the voting shares out of the remaining shareholders. Article 149, paragraphs 3, 4 and 12 herein shall apply *mutatis mutandis*.

(2) The proposed repurchase shall be approved by the Commission.

(3) The price under paragraph 1 shall be at least equal to the price:

1. proposed in the tender offer whereby the threshold under paragraph 1 is reached and upon mandatory making of the offer;
2. proposed in the tender offer whereby the threshold under paragraph 1 is reached and where making of the offer was optional and provided that the person under paragraph 1 has acquired no less than 90 per cent of the voting shares proposed in the said tender offer;
3. determined in accordance with Article 150, paragraphs 6 and 7 – in the other cases.

(4) For issuance of approval the person under paragraph 1 shall submit to the Commission a proposal for repurchase, which shall contain the data under Article 150, paragraph 2, items 1 – 4, 6, 8, 10, 12 and 13. Article 150, paragraphs 4 and 5 herein shall apply *mutatis mutandis*.

(5) The Commission shall pronounce on the application for issuance of approval within 14 days after the date of receipt thereof. Articles 152 and 153 herein shall apply *mutatis mutandis*.

(6) Within three days from issuance of the approval the person under paragraph 1 shall submit the proposal to the company and the regulated market whereon the shares of the company are admitted to trading and shall publish it under Article 154.

(7) *(Last Amendment - SG No. 103/2012)* The transfer of shares and the payment of the price are performed simultaneously within 7 business days after the publication of the offer.

## **Article 157b**

*(New, SG No. 52/2007)*

(1) Any shareholder may require from the person who has acquired directly, through related parties or indirectly in the cases of Article 149, paragraph 2 at least 95 per cent of the votes in the general meeting of a public company as a result of tender offer, to repurchase its voting shares within three months from the deadline of the tender offer. The request shall be in writing and shall contain data about the shareholder and the shares held thereby. In this case Article 157a, paragraph 3 herein shall apply accordingly.

(2) The person under paragraph 1 shall repurchase its shares within 30 days from receipt of the application.

## **Article 157c**

*(New, SG No. 52/2007)*

(1) The Commission shall supervise tender offers where the offeree company has its registered office in the Republic of Bulgaria and the shares issued thereby are admitted to trading on a regulated market in the Republic of Bulgaria or in a third country.

(2) The Commission shall furthermore supervise the tender offer where the shares of the offeree company are admitted to trading on a regulated market in the Republic of Bulgaria

but are not admitted to trading on a regulated market in the Member State at its registered office.

(3) Where the shares of the offeree company under paragraph 2 are admitted to trading on a regulated market in the Republic of Bulgaria and in another Member State the supervision of the tender offering shall be exercised by the Commission if the shares of the company are admitted to trading on a regulated market in the Republic of Bulgaria for the first time.

(4) Where the shares of the offeree company under paragraph 2 are admitted to trading on a regulated market in the Republic of Bulgaria and in another Member State the supervision of the tender offering shall be exercised by the Commission if the company has determined it as the competent authority to exercise supervision of tender offering. The company shall communicate its decision to the Commission and the competent authorities of the other Member States in which the shares of the company are admitted to trading on a regulated market as well as the respective regulated markets on the first day of trading.

(5) The Commission shall disclose publicly the decision under paragraph 4, designating it as the body responsible for the exercise of supervision of the tender offering.

(6) This Act or the statutory instruments for its application shall apply to the cases under paragraph 2 – 4 on the issues regarding the price and/or the stock exchange value of the tender offer, the decision of the offeror on making a tender offer, the contents of the tender offer and its publication, and to issues regarding the information to be provided to the employees of the offeree company and company law, including the cases wherein an obligation arises for making a tender offer and wherein this obligation is not applied, as well as the circumstances wherein the offeree company may take actions that could frustrate the tender offering the law of the Member State where the registered office of the offeree company is located shall apply.

#### **Article 157**

*(New, SG No. 52/2007)*

(1) The Commission shall cooperate and exchange information with the competent authorities of the other Member States, particularly in the cases under Article 157c, paragraphs 2 – 4.

(2) The competent authorities of the other Member States shall be the authorities exercising supervision of tender offerings, securities markets and other financial instruments and trade on these markets.

(3) The Commission may require from the competent authorities of the other Member States cooperation for serving particular documents in order to bring into effect acts issued by it in relation to tender offering as well as other actions with a view to ascertaining committed or alleged violations under this Act or the statutory instruments for its application.

(4) At request from a competent authority of a Member State the Commission shall serve particular documents with a view to bringing into effect acts issued by it in relation to tender offering, as well as other actions with a view to ascertaining committed or alleged violations of the law of the respective Member State in relation to the tender offerings.”

## **Article 157e**

*(New, SG No. 61/2002, previous Article 157a, SG No. 52/2007)*

(1) *(Amended, SG No. 67/2003, SG No. 39/2005)* The Commission shall adopt an ordinance on the application of this Section.

(2) *(Supplemented, SG No. 52/2007)* In conformity with the purposes of this Act, the ordinance referred to in Paragraph (1) may prescribe any securities other than shares which are subject of tender offering, exemptions from the requirement to register and/or publish a tender offer, terms and a procedure for making a competitive tender offer, for withdrawal of

a tender offer, as well as additional terms and a procedure for conduct of tender offerings and repurchase of voting shares under Article 157a and 157b.

## **Chapter Twelve**

### **UNFAIR TRADING**

*(Heading amended, SG No. 84/2006)*

### **Article 158**

*(Amended and supplemented, SG No. 61/2002, repealed, SG No. 84/2006)*

### **Article 159**

*(Supplemented, SG No. 39/2005, repealed, SG No. 84/2006)*

### **Article 160**

*(Repealed, SG No. 84/2006)*

### **Article 161**

*(Amended, SG No. 61/2002, repealed, SG No. 84/2006)*

### **Article 161a**

*(New, SG No. 61/2002, amended, SG No. 84/2006, repealed, SG No. 52/2007)*

### **Article 162**

*(Amended, SG No. 61/2002, SG No. 84/2006, repealed, SG No. 52/2007)*

### **Article 163**

*(Amended, SG No. 67/2003, SG No. 39/2005, repealed, SG No. 84/2006)*

## **Title Four**

*(Repeal - SG No. 77/2011)*

**INVESTMENT COMPANIES AND COMMON FUNDS**  
*(Heading supplemented, SG No. 39/2005)*

## **Chapter Thirteen**

**GENERAL DISPOSITIONS**

**Article 164**

*(Repeal - SG No. 77/2011)*

### **Article 164a**

*(Repeal - SG No. 77/2011)*

### **Article 164b**

*(Repeal - SG No. 77/2011)*

### **Article 165**

*(Repeal - SG No. 77/2011)*

### **Article 166**

*(Repeal - SG No. 77/2011)*

### **Article 167**

*(Repeal - SG No. 77/2011)*

### **Article 168**

*(Repeal - SG No. 77/2011)*

### **Article 169**

*(Repeal - SG No. 77/2011)*



## **Article 170**

*(Repeal - SG No. 77/2011)*

## **Article 171**

*(Amended and supplemented, SG No. 39/2005, repealed, SG No. 86/2006)*

## **Article 172**

*(Repeal - SG No. 77/2011)*

## **Article 173**

*(Repeal - SG No. 77/2011)*

## **Article 174**

*(Repeal - SG No. 77/2011)*

## **Article 175**

*(Repeal - SG No. 77/2011)*

## **Article 176**

*(Repeal - SG No. 77/2011)*

## **Article 177**

*(Repeal - SG No. 77/2011)*

## **Article 177a**

*(Repeal - SG No. 77/2011)*

## **Article 178**

*(Repeal - SG No. 77/2011)*

## **Article 179**

*(Repeal - SG No. 77/2011)*

## **Chapter Fourteen**

*(Repeal - SG No. 77/2011)*

### **ISSUING AND REVOCATION OF INVESTMENT COMPANY LICENCE AND OF AUTHORIZATION TO ORGANIZE AND MANAGE A COMMON FUND**

*(Heading amended, SG No. 39/2005, SG No. 52/2007, effective 3.07.2007)*

## **Article 180**

*(Repeal - SG No. 77/2011)*

## **Article 181**

*(Repeal - SG No. 77/2011)*

## **Article 182**

*(Repeal - SG No. 77/2011)*

## **Article 183**

*(Repeal - SG No. 77/2011)*

## **Article 184**

*(Repeal - SG No. 77/2011)*

## **Article 185**

*(Repeal - SG No. 77/2011)*

## **Chapter Fifteen**

*(Repeal - SG No. 77/2011)*

### **PUBLIC OFFERING OF SHARES IN INVESTMENT COMPANY AND UNITS OF COMMON FUND**

*(Heading supplemented, SG No. 39/2005)*

## **Article 186**

*(Repeal - SG No. 77/2011)*

## **Article 187**

*(Repeal - SG No. 77/2011)*

## **Article 187a**

*(Repeal - SG No. 77/2011)*

## **Article 188**

*(Repeal - SG No. 77/2011)*

## **Article 189**

*(Repeal - SG No. 77/2011)*

## **Article 190**

*(Repeal - SG No. 77/2011)*

# **Article 191**

*(Repeal - SG No. 77/2011)*

## **Chapter Sixteen**

*(Repeal - SG No. 77/2011)*

**INVESTMENT COMPANY OF THE OPEN-ENDED TYPE AND COMMON FUND**  
*(Heading supplemented, SG No. 39/2005)*

# **Article 192**

*(Repeal - SG No. 77/2011)*

# **Article 193**

*(Repeal - SG No. 77/2011)*

# **Article 194**

*(Repeal - SG No. 77/2011)*

# **Article 195**

*(Repeal - SG No. 77/2011)*

# **Article 196**

*(Repeal - SG No. 77/2011)*

# **Article 197**

*(Repeal - SG No. 77/2011)*

# **Article 197a**

*(Repeal - SG No. 77/2011)*

# **Article 197b**

*(Repeal - SG No. 77/2011)*

## **Chapter Seventeen**

*(Repeal - SG No. 77/2011)*

**INVESTMENT COMPANY OF THE CLOSED-ENDED TYPE**

**Article 198**

*(Repeal - SG No. 77/2011)*

### **Article 199**

*(Repeal - SG No. 77/2011)*

### **Article 200**

*(Repeal - SG No. 77/2011)*

### **Article 201**

*(Repeal - SG No. 77/2011)*

## **Chapter Eighteen**

*(Repeal - SG No. 77/2011)*

**MANAGEMENT COMPANIES**

**Section I**

**General Dispositions**

### **Article 202**

*(Repeal - SG No. 77/2011)*

### **Article 203**

*(Repeal - SG No. 77/2011)*

### **Section II**

**Issuing and Revocation of Licence**

**Article 204**

*(Repeal - SG No. 77/2011)*

## **Article 205**

*(Repeal - SG No. 77/2011)*

## **Article 206**

*(Repeal - SG No. 77/2011)*

## **Article 207**

*(Repeal - SG No. 77/2011)*

## **Article 208**

*(Repeal - SG No. 77/2011)*

## **Article 209**

*(Repeal - SG No. 77/2011)*

## **Section III**

### **Requirements to the Business of Management Companies**

## **Article 210**

*(Repeal - SG No. 77/2011)*

### **Article 211**

*(Repeal - SG No. 77/2011)*

## **Chapter Eighteen A**

*(Repeal - SG No. 77/2011)*

**CONDUCT OF BUSINESS BY MANAGEMENT COMPANIES IN A MEMBER STATE.  
CONDUCT OF BUSINESS IN THE REPUBLIC OF BULGARIA BY MANAGEMENT  
COMPANIES WITH REGISTERED OFFICE IN A MEMBER STATE. PUBIC OFFERING  
OF UNITS OF COLLECTIVE INVESTMENT SCHEMES IN THE REPUBLIC OF  
BULGARIA**

*(Heading amended, SG No. 86/2006)*

# **Section I**

**Conduct of Business by Management Companies in a Member State**  
*(Heading amended, SG No. 86/2006)*

## **Article 211a**

*(Repeal - SG No. 77/2011)*

## **Article 211b**

*(Repeal - SG No. 77/2011)*

## **Article 211c**

*(Repeal - SG No. 77/2011)*

# **Section II**

**Conduct of Business in the Republic of Bulgaria by Management Companies with  
Registered Office in a Member State**  
*(Heading amended, SG No. 86/2006)*

## **Article 211d**

*(Repeal - SG No. 77/2011)*

## **Article 211e**

*(Repeal - SG No. 77/2011)*

## **Article 211f**

*(Repeal - SG No. 77/2011)*

## **Article 211g**

*(Repeal - SG No. 77/2011)*

## **Section III**

### **Public Offering in the Republic of Bulgaria of Units of Non-Resident Collective Investment Schemes with Registered Office in a Member State**

*(Heading amended, SG No. 86/2006)*

### **Article 211h**

*(Repeal - SG No. 77/2011)*

### **Article 211i**

*(Repeal - SG No. 77/2011)*

### **Article 211j**

*(Repeal - SG No. 77/2011)*

## **Section IV**

### **Public Offering in the Republic of Bulgaria of Units of Collective Investment Schemes Originating in Third Countries**

*(Heading amended, SG No. 86/2006)*

### **Article 211k**

*(Repeal - SG No. 77/2011)*

## **Title Five**

### **COERCIVE ADMINISTRATIVE MEASURES AND ADMINISTRATIVE PENALTY LIABILITY**

#### **Chapter Nineteen**

### **COERCIVE ADMINISTRATIVE MEASURES**

### **Article 212**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 62/2017)* Upon ascertaining that regulated entities, their employees, persons who perform managerial functions under contract or who conclude



transactions for the account of any regulated entities, their liquidators or assignees in bankruptcy, as well as bondholders' trustees violate, with act or omission, this Act, the instruments on its implementation, the decisions of the Commission or the Deputy Chairperson as well as the exercising of controlling activities by the Commission or the Deputy Chairperson is impeded or the investors' interests are endangered, the Commission, respectively the Deputy Chairperson may:

1. obligate any such person to take specific action as may be necessary for prevention and rectification of the violations, of the prejudicial consequences of the said violations or of the jeopardy to the interests of investors within a time limit as Commission shall set;
  2. convene a General Meeting and/or schedule a meeting of the management bodies or supervisory bodies of the persons subject to control thereby with an agenda set by the Commission for decision-making on the action which must be taken;
  3. *(Amended, SG No. 61/2002)* inform the public of any activities jeopardizing the interests of investors;
  4. *(Last Amendment - SG No. 62/2017)* suspend, for a period not exceeding ten consecutive working days, sale of, or the effecting of transactions in, specified securities;
  5. refuse to grant approval to a prospectus for a new issue of securities;
  6. *(Amended, SG No. 39/2005)* order in writing a supervised person to remove one or more persons authorized to manage and represent the said person, and divest any such person or persons of the managerial and representative powers held thereby until removal;
  7. appoint conservators in the cases prescribed by this Act;
  8. *(Amended, SG No. 39/2005)* appoint a registered auditor to conduct a financial or other examination or the supervised person according to requirements as established by the Deputy Chairperson; the costs of any such examination shall be for the account of the auditee;
  9. *(New, SG No. 39/2005)* make a decision on suspension of the re-purchase of shares in an investment company of an open-end type or, respectively, of units of common funds.
  10. *(New - SG No. 62/2017)* definitely cease the sale or the conclusion of transactions with particular securities of a company if any of the following conditions is present:
    - a) in the course of more than 6 months, the number of the members of the management or supervisory board is smaller than the minimum provided for by law;
    - b) in the course of more than a year, the company may not be found at the registered office and correspondence addresses announced by it or through other means of communication;
    - c) in the course of one year, the company fails to observe its obligations under art. 100n;
    - d) in the course of one year, the company fails to observe its obligations under art. 115, para. 1;
    - e) the company is undergoing insolvency proceedings which have not finished in the course of more than three years as of the insolvency proceedings entry in the Commercial Registry.
- (2) *(New, SG No. 61/2002, amended, SG No. 39/2005)* The revocation of a licence for conduct of business, as provided for in this Act, shall likewise qualify as a coercive administrative measure save in the cases where the person has expressly relinquished a licence as issued.
- (3) *(Renumbered from Paragraph (2), SG No. 61/2002)* The measures referred to in Item 6 of Paragraph (1) shall not be applied in respect of any public company and any issuer of securities.
- (4) *(Renumbered from Paragraph (3), SG No. 61/2002, amended, SG No. 39/2005, SG No. 52/2007)* Should the Deputy Chairperson establish that any bank carries on the business thereof in violation of this Act or of the instruments for the application thereof, the said Deputy Chairperson may apply the measures under Item 1 of Paragraph (1), recommend that the Commission apply the measures under Item 1 of Paragraph (1), as well as recommend that the Bulgarian National Bank apply the measures under Article 103, (2) of the Credit Institutions Act. The Bulgarian National Bank shall be obligated to notify the said

Deputy Chairperson of the decision thereof within one month after the date of receipt of the said Deputy Chairperson's recommendation.

(5) *(Renumbered from Paragraph (4), SG No. 61/2002, amended, SG No. 39/2005, SG No. 52/2007)* The Deputy Chairperson may recommend that the Bulgarian National Bank revoke the licence of a bank solely if the person concerned systematically violates the provisions of this Act or of the instruments for the application thereof.

(6) *(Renumbered from Paragraph (5), SG No. 61/2002, amended, SG No. 39/2005, repealed, SG No. 52/2007)*

(7) *(Renumbered from Paragraph (6), SG No. 61/2002, amended and supplemented, SG No. 39/2005, amended, SG No. 34/2006)* Upon request of the commission, respectively the deputy chairperson, the Registry Agency shall enter the circumstances, respectively disclose the acts pursuant to Paragraph (1), into the Commercial Register.

(8) *(Repeal – SG No. 103/2012)*

(9) *(Repeal – SG No. 103/2012)*

## **Article 212a**

### *(Last Amendment - SG No. 62/2017)*

(1) In case it is ascertained that an issuer has failed to perform its obligation to publicly disclose the information under art. 100n, 100o, art. 100r, para. 1, art. 100u2 and art. 111a within the statutory time limits, the deputy chairperson is entitled the right to:

1. inform the public that the issuer does not observe its obligations, as well as to
2. order the issuer to take specific measures, within a specified term, which are necessary for prevention and elimination of the violations, their harmful consequences or the danger regarding the investors' interests.

(2) In case it is ascertained that a natural person or a legal entity has failed to perform his or her obligation to disclose participation under art. 145, 146, 148, 148a and 148g within the statutory time limits, the deputy chairperson is entitled the right to:

1. inform the public that the person does not observe his or her obligations;
2. impose temporary prohibition on the right of these persons to exercise their voting rights in the general meeting of the public company;
3. order the person to take specific measures, within a specified term, which are necessary for prevention and elimination of the violations, their harmful consequences or the danger regarding the investors' interests.

(3) Coercive administrative measure under para. 1, pt. 2 may also be applied to the management and supervisory bodies of the legal entity or the person having managerial power in the cases of unincorporated company.

(4) Coercive administrative measures under para. 2, pt. 2 and 3 may also be applied to the management and supervisory bodies of the legal entity.

(5) *(New- SG No. 62/2017)* The coercive administrative measure under para. 1, pt. 2 may be also applied to a person under § 1e of the Additional Provisions who has failed to observe his or her obligations under this Act.

(6) *(Former par. 5 - SG No. 62/2017)* The Commission may disclose the imposed coercive administrative measure unless in the cases in which this could seriously endanger the financial markets stability or lead to excessive damages to the persons to whom the respective information refers.

## **Article 212b**

*(New - SG No. 42/2016)*

Upon implementation of the administrative measures under art. 212a, para. 1, pt. 2 and para. 2, pt. 2 and 3, the deputy chairperson takes into account all significant circumstances including, whenever applicable, the ones specified in art. 222a.

## **Article 213**

*(Last Amendment - SG No. 62/2017)*

(1) *(Last Amendment - SG No. 103/2012)* Proceedings for application of coercive administrative measures shall be initiated by the Deputy Chairperson and, in the cases referred to in Items 5 – 7 and 10 of Article 212 (1), any such proceedings shall be initiated by the Commission.

(2) *(Last Amendment - SG No. 42/2016)* Notifications and communications in the proceedings under para. 1 shall be carried out in accordance with Art. 61, para. 2 of the Administrative Procedure Code.

(3) *(Last Amendment - SG No. 42/2016)* Where the notifications and communications in the proceedings under para. 1 shall not be adopted by the order of para. (2), they shall be deemed to have been carried out by placing them in a specially designated place in the Commission building or by publishing them on the Commission's website. The last two

circumstances shall be certified by a protocol drawn up by officials appointed by an order of the Deputy Chairperson, and in the cases under Art. 212, para. 1, items 5 - 7 and 10, 6 and 7 - by officials appointed by an order of the chairman of the commission.

(4) *(Last Amendment - SG No. 42/2016)* The coercive administrative measures referred to in Items 1 through 4 incl., 8 and 9 of Article 212 (1) and Article 212a shall be applied by a reasoned decision in writing of the Deputy Chairperson, and the coercive administrative measures referred to in Items 5 – 7 and 10 of Article 212 (1) shall be applied by a reasoned decision in writing of the Deputy Chairperson, which shall be communicated to the party concerned within seven days after the making of the said decision.

## **Article 214**

(1) *(Repealed, SG No. 39/2005).*

(2) *(Supplemented, SG No. 61/2002, amended, SG No. 39/2005)* Any decision on application of a coercive administrative measure shall be subject to immediate execution, regardless of whether appealed against.

## **Article 215**

*(Amended, SG No. 30/2006)*

Save insofar as any special rules are provided for in this Chapter, the provisions of the Administrative Procedure Code shall apply accordingly.

## **Chapter Twenty**

*(Repeal - SG No. 77/2011)*

### **CONSERVATOR**

#### **Article 216**

*(Repeal - SG No. 77/2011)*

## **Article 217**

*(Repeal - SG No. 77/2011)*

## **Article 218**

*(Repeal - SG No. 77/2011)*

## **Article 219**

*(Repeal - SG No. 77/2011)*

## **Article 220**

(Repeal - SG No. 77/2011)

# Chapter Twenty-One

## ADMINISTRATIVE PENALTY LIABILITY AND PECUNIARY PENALTIES

### Article 221

## *(Last Amendment - SG No. 62/2017)*

(1) *(Amended, SG No. 61/2002, SG No. 8/2003, SG No. 39/2005)* Any [natural] person, who shall commit or who shall suffer another to commit a violation of:

1. *(Last Amendment - SG No. 109/2013, in force as of 20.12.2013)* Article 100x, (1) and (2), Article 119, (3) herein or of the statutory instruments for application of this Act, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,000;

2. *(Last Amendment - SG No. 62/2017)* Art. 77b (5), Art. 77f (7), Art. 81, (1), Art. 84, (2), (3) and (4), Art. 85, (5), Art. 86, (2) and (3), Art. 89, (3), Art. 92a, (2), (5), (6) and (7), first sentence, Art. 92d, (1), (3) and (4), Art. 100a, (2) and (3), Art. 100b (3), (5), (7) and (8), Art. 100f, Art. 100g, (4), Art. 100i, Art. 100j, (3), Art. 100o, (2) and (3), 100r, 100t, Art. 100u, (3) and (5), Art. 100v, (1), (2), (3), (5), (6) and (7), Art. 100w, (2) and (3), Art. 110, (6), second sentence, and (9), Art. 110c, Art. 111, (6), first and second sentence, Art. 112b (12), Art. 115 (1), (2), (4), (5), (6), (7) and (9), Art. 115b, (2) and (5), Art. 115c, (4) and (5), Art. 115d, (3), (5) and (7), Art. 116, (3), (5) – (7), Art. 116a, Art. 116c, (1), (2), (4), (5) and (6), Art. 117, Art. 118, (3), second sentence, Art. 120a, (1) – (3), Art. 122, (3), Art. 142, Art. 151, (3) – (6), Art. 151a, (4), Art. 154, (1) and (3), Art. 155, (5), Art. 157, Art. 157a, (7), shall be liable to a fine of BGN 1000 to BGN 2000;

3. *(Last Amendment - SG No. 62/2017)* Art. 77a, (3) and 4, Art. 77d, Art. 77m, (1), (2), (4) and (12), Art. 77p, Art. 77w, Art. 80, (1) and (3), Art. 85, (1) and (2), Art. 89, (1), second sentence, and (2) and (4), Art. 92a, (7), second sentence and (8), Art. 92c, (2) and (5), Art. 100a, (1), (5), (7) and (8), Art. 100c (1), Art. 100g, (1) and (2), Art. 100n<sup>1</sup>, Art. 110, (3), Art. 111, (2), (5), (7) - (10), Art. 112b, (3), first sentence, and (8), Art. 112e, Art. 115c, (7), Art. 116b, Art. 116d, (1), (3) and (5), Art. 119, (6), second sentence, (7) and (8), Art. 126, (2), Art. 126f, (4), Art. 126g, (1), Art. 127, (3) and (4), Art. 133, (1), second sentence, and (3), Art. 135, (1), Art. 141, (1) and (2), Art. 148b, Art. 148c, (1), Art. 149, (5), § 7, (2) and § 10, (5), shall be liable to a fine of BGN 3000 to BGN 5000;

4. *(Last Amendment - SG No. 62/2017)* Article 78 (1), (2) and (3), Article 79 (2), Article 100l, (1) and 2, Article 100d, (2) - (3) and (8) – (10), Article 114, (2), (13) and (14), first sentence, Article 114a, (1), (3) and (6), Article 114b, Article 115, (11), Article 126b, (4), Article 128, (4), Article 134, (1) and 2, Article 139, (2) and (4), Article 149, (1), (2), (6) and (8), Article 149a, (2), (3) and (5), Article 149b, a (2), Article 150, (10), Article 157b, (2), and § 8 of the Transitional and Final Provisions herein, shall be liable to a fine of BGN 7,000 or exceeding this amount but not exceeding BGN 10,000.

5. *(New, SG No. 43/2010)* Regulation 1060/2009 shall be liable to a fine of BGN 10,000 or exceeding this amount but not exceeding BGN 20,000.

(2) *(New, SG No. 61/2002)* In the event of a repeated violation covered under Paragraph (1), the offender will be liable to a fine in an amount as follows:

1. *(Last Amendment – SG No. 103/2012)* for any violations covered under Item 1 of Paragraph (1): BGN 1000 or exceeding this amount but not exceeding BGN 2,000;

2. for any violations covered under Item 2 of Paragraph (1): BGN 2,000 or exceeding this amount but not exceeding BGN 5,000;

3. for any violations covered under Item 3 of Paragraph (1): BGN 5,000 or exceeding this amount but not exceeding BGN 10,000;
4. for any violations covered under Item 4 of Paragraph (1): BGN 10,000 or exceeding this amount but not exceeding BGN 20,000.
5. *(New, SG No. 43/2010)* for any violations covered under Item 5 of Paragraph (1) - BGN 20,000 or exceeding this amount but not exceeding BGN 30,000.
- (3) *(Repeal - SG No. 103/2012)*
- (4) *(Last Amendment - SG No. 103/2012)* Any [natural] person, who shall solicit or who shall suffer another to solicit cash resources and/or other property rights, save under terms and according to a procedure established by another statute, by means of notices (advertising actions) to more than 150 persons or to an unrestricted circle of persons, made *inter alia* through the mass communication media, without complying with the requirements of this Act and of the instruments issued for the application thereof, will be liable to a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 50,000, unless the act shall constitute a criminal offence, and in case of repeated violation – a fine of BGN 50 000 to BGN 100 000.
- (5) *(Last Amendment - SG No. 62/2017)* Any [natural] person, who commits or who suffers another to commit a violation of Article 77o (2) and (3), Article 114 (1), (3), (4), (8) and (9), Article 114a (4) and (5), Article 126c, Article 133 (2) and (4) herein, shall be liable to a fine of BGN 20,000 or exceeding this amount but not exceeding BGN 50,000, unless the act shall constitute a criminal offence, and in case of repeated violation – a fine of BGN 50 000 to BGN 100 000.
- (6) *(Last Amendment - SG No. 42/2016)* In the event of non-compliance with a coercive administrative measure applied under Item 1, 2, 4, 6 and 8 of Article 212 (1) and Article 212a (1), item 2, and Article 212a (2) items 2 and 3, the offenders and the sufferers will be liable to a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 20,000, and in case of repeated violation – a fine of BGN 10 000 to BGN 50 000.
- (7) *(Last Amendment - SG No. 103/2012)* The abettors, aiders and harbourers shall likewise be penalized in the cases referred to in Paragraphs (4) and (5), with due consideration for the nature and degree of the participation thereof.
- (8) *(New, SG No. 61/2002)* For any violation covered under Paragraphs (1) through (6) incl., any legal person or sole trader shall be liable to a pecuniary penalty in amounts as follows:
  1. *(Last Amendment - SG No. 103/2012)* for any violations covered under Item 1 of Paragraph (1): BGN 500 or exceeding this amount but not exceeding BGN 2,000 and, for a repeated violation, BGN 2,000 or exceeding this amount but not exceeding BGN 5,000;
  2. for any violations covered under Item 2 of Paragraph (1): BGN 2,000 or exceeding this amount but not exceeding BGN 5,000 and, for a repeated violation, BGN 5,000 or exceeding this amount but not exceeding BGN 10,000;
  3. for any violations covered under Item 3 of Paragraph (1): BGN 5,000 or exceeding this amount but not exceeding BGN 10,000 and, for a repeated violation, BGN 10,000 or exceeding this amount but not exceeding BGN 20,000;
  4. for any violations covered under Item 4 of Paragraph (1): BGN 10,000 or exceeding this amount but not exceeding BGN 20,000 and, for a repeated violation, BGN 20,000 or exceeding this amount but not exceeding BGN 50,000;
  5. *(New – SG No. 43/2010)* for any violations covered under Item 5 of Paragraph (1) - BGN 20,000 or exceeding this amount but not exceeding BGN 30,000, and in the case of recurring violation - BGN 30,000 or exceeding this amount but not exceeding BGN 40,000 .
  6. *(Last Amendment - SG No. 103/2012)* for any violations covered under Paragraphs (4) and (5): BGN 50,000 or exceeding this amount but not exceeding BGN 100,000 and, for a repeated violation, BGN 100,000 or exceeding this amount but not exceeding BGN 200,000;
  7. *(Last Amendment - SG No. 103/2012)* for any violations covered under Paragraph (6): BGN 10,000 or exceeding this amount but not exceeding BGN 50 000, and in case of repeated violation – a fine of BGN 20 000 to BGN 100 000.

(9) *(New, SG No. 61/2002)*The provisions of Paragraphs (1) through (8) incl. shall furthermore apply to any transactions and acts covered under § 1A herein, effected and performed in violation of Chapters Three, Five and Nine herein.

(10) *(Renumbered from Paragraph (6) and supplemented, SG No. 61/2002)*The proceeds from any wrongfully performed activities shall be confiscated to the extent to which the said proceeds cannot be restituted to the person aggrieved.

#### **Article 221a**

### ***(New - SG No. 42/2016)***

(1) Any issuer- natural person or member of a management or supervisory body of an issuer- legal entity, or the person with managerial power in the cases of an issuer- unincorporated company, who fails to perform his or her obligation under art. 100n, 100o, art. 100r, para. 1, art. 100u2 and art. 111a, as well as any natural person or member of a management or supervisory body of a legal entity or a person with managerial power, in the cases of unincorporated company or a trust, who fails to meet his or her obligation under art. 145, 146, 148, 148a and 148g is imposed a sanction in an amount from BGN 3 000 to BGN 30 000 or up to the double amount of the realized profit or the avoided loss as a result of the violation, when their amount can be calculated, by applying the bigger value.

(2) With reference to violations under para. 1, any legal entity is imposed a proprietary sanction in an amount:

1. from BGN 5 000 to BGN 50 000 or up to 5 per cent of the total annual turnover in compliance with the last annual financial statement adopted by the management body, or

2. up to the double amount of the realized profit or the avoided loss as a result of the violation, when their amount can be calculated, by applying the bigger value.

(3) In the cases under para. 2, pt. 1, when the legal entity is a parent company or a subsidiary of a parent company which has to prepare a consolidated financial statement in accordance with the applicable accounting standards, the total annual turnover or the corresponding type of income under the respective accounting directives in accordance with the last consolidated annual financial statement adopted by the management body of the original parent company is considered as respective total turnover.

(4) The Commission is entitled the right to disclose the penalty imposed unless in the cases in which this could seriously endanger the financial markets stability or lead to excessive damages to the persons to whom the respective information refers.

## **Article 222**

### ***(Last Amendment - - SG No. 42/2016)***

(1) *(Last Amendment - SG No. 42/2016)* The written statements on any violations covered under Article 221 and Article 221a herein as ascertained shall be drawn up by officers

authorized by the Deputy Chairperson, and the penalty decrees shall be issued by the said Deputy Chairperson.

(2) The ascertainment of violations, the issue, appeal against and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

#### **Article 222a**

*(New - SG No. 42/2016)*

(1) Upon determination of the type and the size of the administrative sanction under art. 221a, the deputy chairperson takes into account all significant circumstances including, whenever applicable:

1. severity and duration of the violation;
2. the responsibility degree of the natural person or the legal entity, or of the unincorporated company;
3. the financial status of the natural person or the legal entity, determined in accordance with the total financial turnover of the legal entity or the annual income of the natural person;
4. the amount of the realized profit or the avoided loss by the natural person or the legal entity, or by the unincorporated company, insofar it can be ascertained;
5. the amount of the losses suffered by third parties as a result of the violation, insofar it can be ascertained;
6. the degree of cooperation which the natural person or the legal entity, or the unincorporated company provides to the deputy chairperson or the Commission;
7. previous violations of the natural person or the legal entity, or of the unincorporated company.

(2) For the purposes of para. 1, the deputy chairperson is entitled the right to access to tax and insurance information.

#### **Article 222b**

*(New - SG No. 42/2016)*

Any person who, within one month after a penal ruling entry into effect, fails to pay the proprietary sanction imposed on him or her, owes interest in the amount of the statutory interest for the period comprising the date following the date of



the one-month period expiry to the date of the payment.

## SUPPLEMENTARY PROVISIONS

*(Heading amended, SG No. 61/2002)*

**§ 1.** *(Last Amendment - SG No. 62/2017)* Within the meaning given by this Act:

1. "Investor" shall be:

(a) a person who puts cash resources or other property rights at risk for his or her own account by means of acquisition, holding and transfer of securities, without possessing the requisite qualifications and experience (non-professional investor);

(b) *( Repealed, SG No. 52/2007)*

(c) *(Last Amendment - SG No. 42/2016)* a bank, a collective investment schemes and a national investment fund, an insurance company, a pension fund or another corporation whereof the objects require the acquisition, holding and transfer of securities (institutional investor).

2. *(Supplemented, SG No. 61/2002, amended, SG No. 86/2006, SG No. 52/2007)* "Financial instruments" shall mean the financial instruments within the meaning of Article 3 of the Markets in Financial Instruments Act.

3. "Rights" shall be securities entitling the holder to subscribe for a specified number of shares in connection with a passed resolution on an increase of capital of a public company.

4. "Warrant" shall be a security expressing the holder's right to subscribe for a specified number of securities at a fixed or determinable issue price for a stated time period in the future.

5. *(New – SG No. 103/2012)* "Share allotment rights" are securities which are issued on the basis of rights allotted upon exercising shares upon increase in the capital of a public company.

6. *(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*

7. *(Amended, SG No. 86/2006, repealed, SG No. 52/2007)*

8. *(Last Amendment - SG No. 42/2016)* "Substantial transaction" means any transaction which:

a) leads or it can be reasonably assumed that it will lead to favourable or unfavourable change in an amount of 5 or more per cent of the income or the profit of the issuer, by another financial index as well as by the market price of the securities issued by the issuer, and/ or:

b) it is likely to influence the investors upon their making an investment decision or upon exercising the voting rights of the securities.

9. *(Last Amendment - SG No. 42/2016)* "Issuer" means the person, the unincorporated company or the trust, obliged with reference to the securities:

a) which it issues or has issued through initial public offering, including upon formation of the company, and/ or

b) which are admitted to trade on a securities regulated market.

In the cases of depositary receipts admitted to trade on a regulated market, "issuer" means the person who has issued the underlying securities regardless of the fact whether these securities have been admitted to trade on a regulated market or not.

10. (*New - SG No. 103/2012*) " Daughter company of a public company" is a company in which the public company exercises control within the meaning of pt. 14.

11. (*Former Pt. 10 – SG No. 103/2012*) "Subscription" shall be an unconditional and irrevocable expression of will to acquire securities in a process of issuing and to pay the issue price thereof.

12. (*Former Pt. 11 – SG No. 103/2012*) "Underwriting" shall be in effect where, according to a contract with the issuer, an investment intermediary subscribes or undertakes to subscribe for its own account for part or all securities of a single issue in a process of issuing and to offer the said issue for primary distribution to the public.

13. (*Former Pt. 10 – SG No. 103/2012*) "Related parties" shall comprehend:

(a) (*Amended, SG No. 39/2005*) any two persons, of whom one controls the other person or a subsidiary thereof;

(b) any number of persons whereof the activity is controlled by a third party;

(c) any number of persons who jointly control a third party;

(d) (*Amended, SG No. 39/2005*) spouses, lineal relatives up to any degree and collateral relatives up to the fourth degree of consanguinity, and relatives by marriage up to the fourth degree of affinity inclusive.

14. (*Former Pt. 13 – SG No. 103/2012*) "Control" shall be in effect where a person:

(a) holds, *inter alia* through a subsidiary or by virtue of an agreement entered into with another person, more than 50 per cent of the number of votes in the General Meeting of a company or another legal person; or

(b) (*Supplemented, SG No. 39/2005*) may designate, whether directly or indirectly, more than one-half of the members of the management body or the supervisory body of a legal person; or

(c) may in any other way exert decisive influence on decision making in connection with the business of a legal person.

15. (*Former Pt. 14 – SG No. 103/2012*) "Clearing" shall be the mutual offsetting of counterclaims between parties to transactions in securities.

16. (*Former Pt. 15 – SG No. 103/2012*) "Settlement" shall be the discharge of obligations arising from a transaction in securities to register the said securities on a securities account held by the transferee with the Central Depository and to pay for the said securities.

17. (*Former Pt. 16 – SG No. 103/2012*)

18. (*Former Pt. 17 – SG No. 103/2012*) "Systematic violation" shall be in effect where three or more administrative violations of the Act or of the instruments for the application thereof have been committed within a single year.

19. (*Renumbered from Item 18, SG No. 61/2002, repealed, SG No. 52/2007, effective 3.07.2007*)

20. (*Renumbered from Item 19, SG No. 61/2002*) "Balance-sheet value per share" shall be the quotient of the value of equity capital as shown in the balance sheet and the number of shares issued.

21. (*Renumbered from Item 20, SG No. 61/2002*) "Administration of securities" shall be the performance of acts, by contract with a public company or an issuer of debt securities for the account of the said parties, connected to exercise of the rights attaching to securities, such as distribution of dividend, interest, principal, rights, scrip issues, effecting or verifying payments in connection with securities, circulation of reports and notices of general meeting and other acts connected to the acts hereinabove listed.

22. (*Repeal - SG No. 77/2011*).

23. (*New, SG No. 61/2002*) "National daily newspaper" shall be a newspaper which is published every business day and is distributed throughout the territory of Bulgaria.

24. *(New, SG No. 61/2002)*"Repeated violation" shall be any violation which shall be committed within one year after the entry into force of a penalty decree whereby the offender was penalized for a violation of the same kind.
25. *(New, SG No. 61/2002)*"Market price" shall be the amount of money for which a particular asset should sell at the point of appraisal in a direct transaction between informed, unrelated and willing seller and buyer.
26. *(Repeal - SG No. 77/2011).*
27. *(New, SG No. 86/2006)*"Money market instruments" shall be instruments normally dealt in on the money market, such as short-term government securities (Treasury bills), certificates of deposit and commercial paper, excluding instruments of payment.
28. *(New, SG No. 86/2006)*"Certificate of deposit" shall be commercial paper issued by a bank against a time deposit of money.
29. *(Last Amendment - SG No. 42/2016)* "Depository receipts" shall be securities which are issued on the basis of basic securities and which confer on the holders thereof a right to exercise the rights attaching to the underlying securities.
30. *(New, SG No. 86/2006)*"Depository receipts in respect of shares" shall be securities which represent the right of the holder thereof to receive income from the issuer to an amount depending on the income accruing to the issuer from the shares of another issuer, and the right to exchange the receipts for shares.
31. *(Repeal - SG No. 77/2011).*
32. *(New, SG No. 86/2006)*"Offeror" shall be a person who or which offers securities issued thereby to the public
33. *(New, SG No. 86/2006)*"Person asking for admission of securities to trading on a regulated market" shall be a person which, operating for its own account, makes a request for admission of securities to trading on a regulated market.
34. *(New, SG No. 86/2006)*"Offsetting transaction" shall be a transaction whereby a transaction reverse to an existing transaction is effected in order to liquidate the position.
35. *(New, SG No. 86/2006)*"Member State" shall be a State which is a Member of the European Union, or another State which belongs to the European Economic Area.
36. *(New, SG No. 86/2006)*"Third country" shall be a State which is not a Member State within the meaning given by Item 35.
37. *(Repeal - SG No. 77/2011).*
38. *(Repeal - SG No. 77/2011).*
39. *(Repeal - SG No. 77/2011).*
40. *(Repeal - SG No. 42/2016).*
41. *(Last Amendment - SG No. 76/30.09.2016; in force as of 30.09.2016)* "Regulated information" shall be 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 Chapter Six "a", Section II, Section IIa Chapter Eleven, Section I of this Act and under Chapter 3 of Regulation (EU) No 596/2014 of the European parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EU of the European Parliament and of the Council and Commission Directives 2003/124/EU, 2003/125/EU and 2004/72/EU (OJ, L 173/1 of 12 June 2014) and the statutory instruments for their application.
42. *(New, SG No. 52/2007)*"Electronic means"are means of electronic equipment for the processing, including digital compression, storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.
43. *(New, SG No. 52/2007)*"Shareholder" within the meaning of Chapter Eight and Chapter Eleven, Section I, shall be a person holding, directly or indirectly:
  - a) shares of the issuer on his own behalf and on his account;
  - b) shares of the issuer on his own behalf but on account of another person;

c) depository receipts and in this case the holders of depository receipts shall be considered shareholders of underlying shares in respect of which the depository receipts are issued.

44. (New, SG No. 52/2007) "Controlled company" within the meaning of this Chapter Six "a" and Chapter Eleven, Section I, shall be a company in which a person:

- a) holds, including through a subsidiary, more than half of the votes in the general meeting;
- b) has the right to determine more than half of the members of the management or supervisory body and is a shareholder or partner in the said company; in the case of sentence one added to the votes of the controlled company shall be the votes over which it exercises control, as well as the votes of the persons who act on their own behalf but on its account or on account of a person controlled by it;
- c) is a shareholder or partner and controls independently by virtue of an agreement with other shareholders or partners in such company more than half of the votes in the general meeting;
- d) has the right to exercise or actually exercises a decisive influence over the company.

45. (New, SG No. 52/2007) "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.

46. (New, SG No. 52/2007) "Tender offer" means a public offer made by the offeror at his discretion or by virtue of law for purchase and/or exchange of all or part of the voting shares in the general meeting of the public company, which follows or has as its objective the acquisition of voting shares in the general meeting of the offeree company above the thresholds set out in law for making a tender offer.

47. (New, SG No. 52/2007) "Offeree company" means a company the securities of which are the subject of a tender offer.

48. (New, SG No. 52/2007) "Tender offeror" means a natural or legal person who makes a tender offer.

49. (New - SG No. 62/2017) "Legal entity identifier" means a 20- digit alpha-numeric code, allowing the unique identification of the legal entities participating on the international financial markets.

**§ 1a.** (Last Amendment - SG No. 61/11.08.2015) Chapters Three, Five and Nine herein shall apply, *mutatis mutandis*, to any transactions and acts involving compensation notes and home-purchase savings compensation notes under the Indemnification of Nationalized Property Owners Act, as well as involving registered compensation vouchers under the Agricultural Land Ownership and Use Act and the Act Restoring Ownership in Forests and Woodland Stock Plots.

**§ 1b.** (New, SG No. 86/2006, amended, SG No. 52/2007) The provisions of Title Three, Chapter Nine shall apply to financial instruments *mutatis mutandis*.

**§ 1c.** (New - SG No. 42/2016) Upon implementation of art. 145, 146 and 148a, the persons are obliged to observe technical standards adopted by the European Commission determining:

1. the method of calculating the 5 per cent threshold indicated in art. 145, para. 5 and 6, including with reference to a group of companies;
2. the method of calculating the number of the voting rights under art. 148a, para. 1 regarding the financial instruments based on index or a basket of shares;
3. the methods of determining the "delta" coefficient under art. 148a, para. 3 for the purpose of calculating the voting rights related to financial instruments granting right to only a monetary settlement.

**§ 1d.** (Former § 1c - SG No. 42/2016) This Act transposes the provisions of:

1. (Repeal - SG No. 77/2011);
2. (Repealed, SG No. 52/2007)
3. Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes;

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

5. *(Repealed, SG No. 52/2007)*

6. *(Last Amendment - SG No. 42/2016)* Directive 2004/109/EEC of the European Parliament and of the Council of 15.12.2004 on the harmonization of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and for amending Directive 2001/34/EC.

7. *(Last Amendment - SG No. 42/2016)* Directive 2004/25/EC of the European Parliament and of the Council of 21.04.2004 on takeover bids.

8. (New, SG, No.23/2009, in force as of 27.03.2009) Directive 2007/36/EC adopted by the European parliament and the Council at 11.07.2007 related to the exercising of some rights of the shareholders of companies that are allowed to trade in a regulated market (Official Journal 184/17 of 14.07.2007)

9. *(New - SG No. 21/2012)* Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ, L 331/120 , 15 December 2010).

10. *(New - SG No. 103/2012)* Directive 2010/37/EU of the European Union and of the Council of 24 November 2010 amending Directive 2003/71/EU on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2004/109/EC on the harmonization of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (Official Journal, L327/1 of 11 December 2010).

11. *(New - SG No. 42/2016)* Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013 amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC (OJ, L 294/13 of 6 November 2013);

12. *(New - SG No. 42/2016)* Article 20 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ, L 182/ 19 of 29 June 2013).

**§ 1e.** *(Last Amendment - SG No. 62/2017)* (1) *(Last Amendment - SG No. 62/2017)* The requirement for submission, under the procedure of art. 100s, para. 4, of financial reports to the Commission under art. 100n, para. 1, 2 and para. 4, pt. 1 (only in the cases of compulsory independent financial auditing in accordance with art. 37 of the Accountancy Act), pt. 2, 4 and 5 as well as art. 100o, para. 1, 2,4 and 5 is also applied to the persons performing activities which are regulated under the Energy Act and the Water Supply and Sewerage Service Regulation Act by the Energy and Water Regulatory Commission, and the commercial enterprises with more than 50 per cent municipal participation. The persons under sentence one prepare and submit their financial statements in accordance with the

applicable accounting basis specified under the procedure of Chapter Four of the Accountancy Act.

(2) (*New - SG No. 62/2017*) The requirements under art. 100n, para. 7, pt. 1 are not applied with reference to the persons under para. 1.

(3) (Former par. 2 - SG No. 62/2017) Paragraph 1 is not applied with reference to enterprises meeting two of the following criteria:

1. (*Last Amendment - SG No. 62/2017*) average number of the staff for the reporting period - up to 10 persons;
2. (*Last Amendment - SG No. 62/2017*) carrying amount of the assets as by end of the reporting period - up to BGN 2 000 000;
3. (*Last Amendment - SG No. 62/2017*) sales net revenues during the year- up to BGN 1 000 000.

#### TRANSITIONAL AND FINAL PROVISIONS

**§ 2.** This Act shall supersede the Securities, Stock Exchanges and Investment Companies Act (promulgated in the *State Gazette* No. 63 of 1995; amended in Nos. 68 and 85 of 1996, Nos. 52 and 94 of 1997, Nos. 42, 52 and 127 of 1998, No. 29 of 1999).

**§ 3.** (1) Any statutory instruments adopted by the Council of Ministers for the application of the Securities, Stock Exchanges and Investment Companies Act as hereby superseded shall continue in effect insofar as the said instruments do not conflict this Act.

(2) (*Amended, SG No. 61/2002, repealed, SG No. 59/2006*).

**§ 4.** Upon the entry of this Act into force, the Securities and Stock Exchanges Commission established under Article 5 of the Securities, Stock Exchanges and Investment Companies Act as hereby superseded shall be renamed Bulgarian National Securities Commission. The Chairperson, the Deputy Chairperson and the members of the Securities and Stock Exchanges Commission shall retain the powers thereof until the expiration of the term of office wherefor they have been elected.

**§ 5.** (1) Any authorizations, approvals and endorsements granted according to the procedure established by the Securities, Stock Exchanges and Investment Companies Act as hereby superseded shall continue in effect, and the persons who or which have been granted such authorizations, approvals and endorsements, as well as the banks which have been granted authorization to effect the transactions referred to in Item 4 of Article 1 (2) of the Banking Act, shall be obligated to bring the organization and operation thereof into conformity with the requirements of this Act within three months after the entry of the said Act into force.

(2) Any person, which has been granted authorization to carry on business under Item 2 of Article 129 (1) of the Securities, Stock Exchanges and Investment Companies Act as hereby superseded and under Item 7 of Article 1(2) of the Banking Act since the entry into force of the provision of Article 168 (1) of this Act, shall discontinue the performance of such activities.

(3) Any investment companies, whereinto the privatization funds have reorganized the business thereof, shall be obligated to bring the assets thereof into conformity with the requirements of Articles 195 and 196 or Article 201 herein, as the case may be, within one year after the entry of this Act into force.

(4) Any existing investment companies shall bring the capital thereof into conformity with the minimum amount under Article 166 (1) or (2) herein within one year after the entry of this Act into force.

(5) (Effective 30.12.1999) Any companies, wherein the shares were traded on the official market of the stock exchange without a prospectus in pursuance of § 2a [of the Transitional and Final Provisions] of the Securities, Stock Exchanges and Investment Companies Act as hereby superseded, may be traded without a prospectus under Article 102 (3) herein until the lapse of six months after the entry of this Act into force.

**§ 6.** Any proceedings for the grant of authorizations, approvals and endorsements commenced according to the procedure established by the Securities, Stock Exchanges and Investment Companies Act as hereby superseded shall continue according to the procedure established by this Act. The Deputy Chairperson in charge of the Investment Activity Supervision Department shall give the parties concerned grace to bring the organization and operation thereof into conformity with the provisions of this Act.

**§ 7.** (1) Any company covered under Article 83a (1) of the Securities, Stock Exchanges and Investment Companies Act as hereby superseded shall be a public company until expungement thereof in the register of the Deputy Chairperson in charge of the Investment Activity Supervision Department according to the procedure established by Article 119 of this Act.

(2) Any company covered under Item 2 of Article 83a (1) of the Securities, Stock Exchanges and Investment Companies Act as hereby superseded, which has not registered at the Deputy Chairperson in charge of the Investment Activity Supervision Department upon the entry of this Act into force, shall be obligated to submit an application completed in a standard form as prepared by the said Deputy Chairperson for registration as a public company within fourteen days after the entry of this Act into force. The said registration shall be effected under the terms and according to the procedure established by this Act.

**§ 8.** Until the grant of authorization by the Deputy Chairperson in charge of the Investment Activity Supervision Department under Article 46 herein, any securities which have not been admitted to the official market of a stock exchange shall be traded only on a stock exchange under the terms and according to the procedure established by the Rules and Regulations of the said exchange. In such a case, Article 44 (4) herein shall not apply.

**§ 9.** Any existing non-public company, which has issued dematerialized securities, shall be obligated to register the said securities at the Central Depository or to make a decision on conversion of the said securities into physical securities within three months after the entry of this Act into force.

**§ 10.** (1) The provisions of this Act regarding the public offering of, and trading in, securities shall not apply in respect of:

1. *(Amended, SG No. 28/2002, SG No. 61/2002)* sale of any shares in the cases of privatization, save as where the sale is effected on a stock exchange or under terms of tender offering;

2. sale of any shares indirectly held by the State through the Bank Consolidation Company PLC of Sofia, or through any holding company which is controlled by the State, save where the said sale is effected on a regulated securities market.

(2) *(Amended, SG No. 28/2002, SG No. 61/2002)* In respect of the buyers of shares under privatization transactions and under transactions with the Bank Consolidation Company PLC, an obligation under Article 149 (1) herein shall not attach if they exceed the threshold of 50 per cent of the votes in the General Meeting of any public company, nor shall an obligation attach under Article 149 (6) herein if they exceed the threshold of two-thirds of the votes as a result of any such transaction. The exemption referred to in sentence one shall not apply if the transaction has been concluded on a stock exchange.

(3) Article 113 herein shall not apply in the cases where a contract for privatization predating the entry of this Act into force expressly provides for an increase of capital of the company according to the procedure established by Article 195 of the Commerce Act in favour of the purchaser under the said contract. In such cases, the company shall notify the Deputy Chairperson in charge of the Investment Activity Supervision Department and the regulated securities market whereon shares issued thereby have been admitted for trading of the existence of such a contract within fourteen days after the entry of this Act into force.

(4) *(Repealed, SG No. 28/2002).*

(5) *(Amended, SG No. 28/2002, supplemented, SG No. 61/2002)* Any share issues which are subject to sale in whole or in part by a decision made according to the procedure established

by Article 32 (1) of the Privatization and Post-privatization Control Act, shall be dematerialized and sentence two of Article 185 (2) of the Commerce Act shall not apply thereto, obviating the need to record the alterations in the Articles of Association of the companies. The General Meeting of any company which has ceased to be public may resolve on conversion of the shares in the said company into physical securities and on inclusion of terms for the transfer of the said shares into the Articles of Association.

(6) (New, SG No. 61/2002)The restrictions under Article 111 (4) herein regarding the issuance of preference shares by a public company shall not apply in the cases of privatization of companies of national importance, where the preference shares are held by the State.

**§ 10a.** (New, SG No. 31/2003)(1) In the cases of privatization according to the procedure established by Item 1 of Article 32 (1) of the Privatization and Post-privatization Control Act of a state-owned participating interest not exceeding 50 per cent of the capital, a tender offering can be made according to the procedure established by Article 149a herein, *inter alia*, where the offeror holds less than 90 per cent but not less than two-thirds of the votes in the General Meeting of the company, and the majority required under Item 3 of Article 119 (1) herein shall be three-quarters.

(2) A trade offering under Paragraph (1) may not be made prior to the lapse of twelve months after conclusion of the sale.

**§ 10b.** (New, SG No. 52/2007, effective 3.07.2007)(1) Where at the date of entry into force of Article 157c the voting shares of the offeree company, in accordance with Article 157c, paragraph 4, have been admitted to trading simultaneously on a regulated market in the Republic of Bulgaria and in another Member State, the Commission and the competent authority of that Member State shall determine jointly who will exercise supervision of the tender offering within 4 weeks from its entry into force. If the competent authorities of the Member States fail to specify who of them shall exercise supervision of the tender offering the offeree company shall determine the authority on the first day of trading following the expiry of the time limit under sentence one.

(2) The Commission shall make public the decision under paragraph 1, determining it to exercise supervision of the tender offering.

**§ 11.** (Amended, SG No. 8/2003)Any person who holds an office referred to in Article 133 (2) herein upon the entry of this Act into force shall sign the respective declarations within fourteen days after the entry of this Act into force.

**§ 12.**The Banking Act (promulgated in the *State Gazette* No. 52 of 1997; amended in Nos. 15, 21, 52, 70 and 89 of 1998, Nos. 54 and 103 of 1999) shall be amended as follows:

1. In Paragraph (2) of Article 1:

(a) Item 4 shall be amended to read as follows:

"4. transactions covered under Article 54 (1) of the Public Offering of Securities Act."

(b) Item 7 shall be repealed.

2. In Article 1, Item 6 of Paragraph (5) shall be amended to read as follows:

"6. transactions covered under Article 54 (1) of the Public Offering of Securities Act;"

3. Article 16 shall be amended as follows:

(a) in Paragraph (3) the words "and 7" shall be deleted, and the words "the Securities, Stock Exchanges and Investment Companies Act" shall be replaced by "the Public Offering of Securities Act";

(b) there shall be added the following new paragraph:

"(4) Prior to pronouncing on any application for effecting of transactions covered under Item 4 of Article 1 (2) herein, the Central Bank shall take into consideration the observations in writing of the Bulgarian National Securities Commission, should the said observations be presented within one month after being requested in writing from the Commission by the Central Bank."



**§ 13.**The Commerce Act (promulgated in the *State Gazette* No. 48 of 1991; amended and supplemented in Nos. 25 of 1992, Nos. 61 and 103 of 1993, No. 63 of 1994, No. 63 of 1995, Nos. 42, 59, 83, 86 and 104 of 1996, Nos. 58, 100 and 124 of 1997, Nos. 52 and 70 of 1998, Nos. 33, 42, 64, 81, 90 and 103 of 1999) shall be amended as follows:

1. In Article 119, there shall be added the following new paragraph:

"(3) A requisite authorization shall have to be presented for recording in the Commercial Register of the conduct of business of any investment intermediary, as well as of any other business whereof the conduct is subject to authorization by a state body as required by a separate statute."

2. In Article 174, there shall be added the following new paragraph:

"(3) A requisite authorization shall have to be presented for recording in the Commercial Register of the conduct of banking and insurance business, business of a stock exchange, investment intermediary, management company and any other business whereof the conduct is subject to authorization by a state body as required by a separate statute."

3. In Article 187a, Paragraph (3) shall be repealed.

4. Article 187b shall be amended to read as follows:

"Dematerialized Shares

Article 187b

Any joint-stock company may furthermore issue shares which are not represented by share certificates. The issuing and disposition of dematerialized shares shall be effected according to a procedure established by statute."

5. In Article 192, there shall be added the following new paragraph:

"(7) An approval of a prospectus shall have to be presented for recording of any increase of capital by subscription, save in the cases where no such prospectus is required by the law."

6. In Article 204, Paragraphs (1) and (2) shall be amended to read as follows:

"(1) No joint-stock company may issue bonds earlier than two years after the recording thereof in the Commercial Register and unless two Annual Financial Statements have been approved by the General Meeting.

(2) The requirement under Paragraph (1) shall not apply to any bonds issued or guaranteed by banks or by the State."

**§ 14.**In Paragraph (2) of Article 32 of the Administrative Violations and Sanctions Act (promulgated in the *State Gazette* No. 92 of 1969; amended and supplemented in No. 54 of 1978, No. 28 of 1982, Nos. 28 and 101 of 1983, No. 89 of 1986, No. 24 of 1987, No. 94 of 1990, No. 105 of 1991, No. 59 of 1992, No. 102 of 1995, Nos. 12 and 110 of 1996, Nos. 11, 15, 59, 85 and 89 of 1998, Nos. 51 and 67 of 1999), after the word "legislation" there shall be inserted "or regarding the application of the Public Offering of Securities Act".

**§ 15.**The Privatization Funds Act (promulgated in the *State Gazette* No. 1 of 1996; amended in Nos. 68 and 85 of 1996, Nos. 39 and 52 of 1998) shall be amended as follows:

1. In Paragraph (1) of Article 2, the words "Securities and Stock Exchanges Commission" shall be replaced by "Bulgarian National Securities Commission".

2. Throughout the Act, the words "Securities, Stock Exchanges and Investment Companies Act" shall be replaced by "Public Offering of Securities Act".

**§ 16.** (*Last Amendment - SG No. 42/2016*) (1) (*Amended, SG No. 67/2003*)The Financial Supervision Commission shall adopt ordinances for the application of this Act.

(2) (*Amended, SG No. 67/2003*)The Financial Supervision Commission shall adopt ordinances regarding:

1. the terms and a procedure for sale of securities not held by the transferor;

2. the requirements to securities which are acquired by investors for the first time not under terms of primary public offering and to the transactions in such securities;

3. relaxed requirements to investment, *inter alia* in corporeal immovables, compared to the requirements established in Articles 175, 195, 196 and 201 herein, effective up to five years after the entry of this Act into force;

4. (New, SG No. 61/2002) the terms and a procedure for restitution of wrongfully acquired proceeds to the persons aggrieved according to Article 221 (10) herein;

5. (Repeal - SG No. 42/2016)

(3) (Repealed, SG No. 93/2002).

**§ 17.**(1) (Amended, SG No. 8/2003) This Act shall enter into force one month after the date of promulgation thereof in the *State Gazette* with the exception of the provision under Article 168 (1) herein, which shall enter into force six months after the entry of this Act into force. The provisions under Article 18 (4) and Item 1 of Article 68 (1) herein shall have a retroactive effect as from the 1st day of January 1999. The provisions under Article 113 and § 5 (5) herein shall enter into force on the date of promulgation of this Act in the *State Gazette*.

(2) The regulated securities markets licensed by the Bulgarian National Securities Commission (a stock exchange and an over-the-counter market) shall submit the Rules and Regulations for the operation thereof conforming to the requirements of this Act to the Deputy Chairperson in charge of the Investment Activity Supervision Department for endorsement within three months after the entry of this Act into force.

### **Act to Amend and Supplement the Public Offering of Securities Act**

**Promulgated, SG No. 61/2002**

## **TRANSITIONAL AND FINAL PROVISIONS**

**§ 91.**(1) The provisions of this Act regarding the increase of capital of a public company shall not apply if the resolution on increase of capital was passed prior to the date of entry of this Act into force but not later than one year prior to the said date and the subscription for shares will not commence later than six months after the entry of this Act into force.

(2) The provisions of this Act regarding an expungement of a public company under Article 119 [of the Public Offering of Securities Act] shall not apply if the application on expungement enclosing the requisite documents has been submitted to the Commission prior to the entry of this Act into force.

(3) The obligation to effect tender offering, attaching to any persons who or which have acquired more than two-thirds of the votes in the General Meeting of any public company, shall not attach in respect to any persons who or which acquired the said votes prior to the entry of this Act into force.

(4) In any proceedings regarding tender offers, instituted prior to the entry of this Act into force, the Commission, if necessary, shall give the persons grace to bring the said tender offers in conformity with the provisions of this Act.

**§ 92.** The public companies shall be obligated to bring the articles of association thereof and the complements of the boards thereof in conformity with this Act at the earliest General Meeting convened after the entry of this Act into force.

**§ 93.**(1) The procedure, contents and form of declaration of circumstances under Article 145 (1) and (2) [of the Public Offering of Securities Act] shall be established by a decision of the Commission until adoption of the relevant ordinance referred to in Article 145 (5) [of the Public Offering of Securities Act].

(2) The Commission shall make the decision referred to in Paragraph (1) within fourteen days after the entry of this Act into force and shall make the said decision public by means of providing the said decision to a news agency and via the Internet site of the Commission.

(3) The persons who or which, upon the entry of this Act into force, may exercise, under the terms established by Article 48 [of the Public Offering of Securities Act], 5 per cent and more of the voting power in the General Meeting of a company whereof the shares have been admitted to trading on a regulated market shall be obligated to effect notification under Article 145 (1) and (2) [of the Public Offering of Securities Act] and to declare the relevant circumstances to the Commission within three months after expiration of the time limit referred to in Paragraph (2). For non-fulfilment of this obligation, the persons shall incur liability under Article 221 (5) [of the Public Offering of Securities Act].

**§ 94.** The requirements to the application of valuation methods referred to in Article 122 (9), Article 126C and Article 150 (6) [of the Public Offering of Securities Act] shall be established by a decision of the Commission until adoption of the relevant ordinance.

**§ 95.** Throughout the Act:

1. The words "accounting reports" shall be replaced by "financial statements".
2. The words "certified by a certified public accountant or specialized auditing entity" shall be replaced by "audited by a registered auditor".
3. The words "certified by a certified public accountant" shall be replaced by "audited by a registered auditor".
4. The words "Article 40 (1) of the Accountancy Act" shall be replaced by "Article 26 (1) of the Accountancy Act".

# Financial Supervision Commission Act

*Promulgated, SG No. 81/2003 (effective 1.03.2003)*

## TRANSITIONAL AND FINAL PROVISIONS

**§ 5.** The statutory instruments of secondary legislation adopted on the application of the Public Offering of Securities Act, the Insurance Act, the Compulsory Social Insurance Code, the Supplementary Voluntary Retirement Insurance Act, the Health Insurance Act and the Protection in Unemployment and Employment Promotion Act shall continue in effect insofar as they do not come into conflict with this Act.

**§ 8.** The Public Offering of Securities Act (promulgated in the *State Gazette* No. 114 of 1999; amended in Nos. 63 and 92 of 2000, Nos. 28, 61, 93 and 101 of 2002) shall be amended as follows:

2. Articles 9, 10, 11, 12, 13, 14, 15, 16, 16a, 17, 18 and 19, as well as any references made thereto in the Act, shall be repealed.
3. Throughout the Act, the words "the Commission" shall be replaced by "the Deputy Chairperson in charge of the Investment Activity Supervision Department", with the exception of Chapter Two, Sections II and IV of Chapter Three, Section II of Chapter Five, Section III of Chapter Six, Section I of Chapter Seven, Section II of Chapter Eleven, Chapter Fourteen, Chapter Fifteen and Section II of Chapter Eighteen, where the words "the Commission" shall be replaced by "the Financial Supervision Commission".

**Act to Amend and Supplement the Public Offering of Securities Act**

*(Promulgated, SG No. 39/2005)*

## SUPPLEMENTARY PROVISIONS

**§ 134.**In Article 29, Article 36, Article 40 (3), Article 90, Article 92, Article 93 (1), (6) and (7), Article 112d, Article 140, Item 1 of Article 149 (1), Article 149 (4), Article 149a (2) and (3), Article 149b (1) and (4), Article 151 (1), (2) and (3), Article 157, Article 157a (1), Article 163 and Article 209 [of the Public Offering of Securities Act], the words "the Financial Supervision Commission" shall be replaced by "the Commission".

**§ 135.**In Article 51 (1) and (2), Article 83, Article 100 (3), Article 107 (3), Article 108 (1), sentence two of Article 112a (3), Article 119 (4), (5), (6) and (7), Article 126f (1), Article 135 (1), Article 197 (2), Article 222 (1) and Item 22 of § 1 of the Supplementary Provisions [of the Public Offering of Securities Act], the words "the Deputy Chairperson in charge of the Investment Activity Supervision Department" shall be replaced by "the Deputy Chairperson".

**§ 136.**In Article 44 (2), Article 47, Article 51 (3), Article 52, Article 76, Article 78 (2), Article 79a (2), Article 84 (1), (2) and (3), Article 85 (1) and (2), Article 87, Article 88, Article 95 (1), Article 96, Article 100 (1), Article 100b (3), Article 100f (2), Item 1 of Article 100g (1), Item 1 of Article 100g (2), Article 107 (2), sentence one of Article 112a (3), Article 114b (1), Article 115b (2), Article 116 (10), Item 4 of Article 116d (3), Article 141 (3), Article 142 passim, Article 145 (1), (4) and (6), Article 193 (9) passim, Article 217 (3) passim, Article 218 (1), (5), (6) and (7) and Article 220 (3) [of the Public Offering of Securities Act], the words "the Deputy Chairperson in charge of the Investment Activity Supervision Department" shall be replaced by "the Commission".

**§ 137.**Throughout Sections I and II of Chapter Three, Chapter Four, Sections I and II of Chapter Five, Chapter Fourteen, Sections I and II of Chapter Eighteen [of the Public Offering of Securities Act], the words "authorization" and "the authorization" shall be replaced, respectively, by "licence" and "the licence".

## TRANSITIONAL AND FINAL PROVISIONS

**§ 138.**Not later than the 31st day of January 2006, all investment intermediaries shall be obligated to submit an application for the issuing of a new licence for conduct of business in an investment-intermediary capacity depending on the services and activities covered under Article 54 (2) and (3) [of the Public Offering of Securities Act] which they intend to offer.

**§ 139.**Any existing investment intermediaries, management companies and banks shall be obligated to register the registered shares or interim certificates issued thereby as dematerialized at the Central Depository within six months after the entry of this Act into force.

**§ 140.**(1) All management companies shall bring the capital thereof into conformity with the minimum amount referred to in Article 203 (1) [of the Public Offering of Securities Act] not later than the 1st day of January 2006.

(2) Not later than the 31st day of January 2006, all management companies shall be obligated to submit applications for the issuing of a new licence for conduct of business in a management-company capacity depending on the services referred to in Article 202 (1) and (2) [of the Public Offering of Securities Act] which they intend to provide.

**§ 141.**(1) Any companies, which had more than 10,000 shareholders on the last day of the two last calendar years preceding the entry of this Act into force, shall likewise be public.

(2) The companies referred to in Paragraph (1) shall be obligated to bring the business thereof into conformity with the requirements of the law within six months after the entry of this Act into force.

(3) The company shall be obligated to declare the shares or interim certificates issued thereby for recording in the register of the Commission within the time limit referred to in Paragraph (2), and to request the admission of the said shares or certificates for trading on a regulated market within seven days after the recording in the register.

**§ 142.**(1) The members of the Management Board of the Compensation Fund for Investors in Securities shall be elected within three months after the entry of this Act into force, and the term of office thereof shall begin to run from the entry of this Act into force.

(2) The members of the first complement of the Management Board of the Compensation Fund for Investors in Securities, composed according to this Act, shall be elected for the following term of office:

1. the Chairperson: for five years;
2. the Deputy Chairperson: for four years;
3. the other members: for three years.

**§ 143.**The level of cover provided for under Article 77d (1) [of the Public Offering of Securities Act] is hereby fixed as follows:

1. until the 31st day of December 2006: BGN 12,000;
2. from the 1st day of January to the 31st day of December 2007: BGN 24,000;
3. from the 1st day of January 2008 to the 31st day of December 2009: BGN 30,000;
4. from the 1st day of January 2010: BGN 40,000.

**§ 144.**(1) Any investment intermediaries, which have obtained a licence (authorization) for conduct of business prior to the entry of this Act into force, shall be obligated to make an entrance contribution to the Compensation Fund for Investors in Securities within one month after the election of the members of the first complement of the Management Board of the Fund.

(2) The persons referred to in Paragraph (1) shall be obligated to make the annual contribution to the Compensation Fund for Investors in Securities for 2005 not later than the 31st day of January 2006. The annual contribution for 2005 shall amount to 0.5 per cent of the total amount of the funds and 0.1 per cent of the total amount of the rest of the clients' assets for the last quarter of 2005, determined on an average monthly basis.

**§ 153.**The statutory instruments of secondary legislation, provided for in this Act, shall be issued within six months after the entry of this Act into force.

**§ 154.**The provisions of § 17, 18 and 19 herein, as well as all references to the provisions amended thereby, shall enter into force on the 1st day of January 2006 with the exception of the requirement for payment up of the entire amount of capital within fourteen days after receipt of a notification referred to in Article 63 (2) [of the Public Offering of Securities Act].

**§ 155.**The provision of § 52 herein regarding the requirements for public companies under Article 94 (1) and (2), Article 95 and Article 98a [of the Public Offering of Securities Act] shall enter into force on the 1st day of January 2006.

**§ 156.**(1) The provisions of § 34 and § 126 herein shall enter into force as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.

(2) Until the entry into force of the provisions referred to in Paragraph (1), any non-resident collective investment scheme which has its registered office or whose management company has its registered office in a Member State of the European Union or in another State participating in the European Economic Area may offer the securities thereof to the public in the Republic of Bulgaria in compliance with the provisions of Article 211k (1) and (3) [of the Public Offering of Securities Act].

(3) Any non-resident collective investment schemes, which offer the securities thereof to the public in the Republic of Bulgaria upon the entry of this Act into force, shall be obligated to

bring the business thereof into conformity with Article 211k (1) and (3) [of the Public Offering of Securities Act] within nine months after the entry of this Act into force.

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[1] This amendment requires no change in the English translation.