

**LAW WHICH PROVIDES FOR THE PROVISION OF INVESTMENT SERVICES, THE
EXERCISE OF INVESTMENT ACTIVITIES, THE OPERATION OF REGULATED
MARKETS AND OTHER RELATED MATTERS**

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legally binding document is in the Greek language.**

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**LAW WHICH PROVIDES FOR THE PROVISION OF INVESTMENT SERVICES, THE
EXERCISE OF INVESTMENT ACTIVITIES, THE OPERATION OF REGULATED MARKETS
AND OTHER RELATED MATTERS**

- Preamble. For the purpose of harmonization with:
- Official Journal of the EE:
L 173,
12.6.2014,
p. 349.
- (a) the act of the European Union titled “Directive 2014/65/EU of the European Parliament and of the Council, of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU(recast)”, as last amended by Directive (EU) 2016/1034 of the European Parliament and of the Council, of 23 June 2016, and
- Official Journal of the EE:
L 176,
27.6.2013,
p. 338.
- (b) Articles 88 and 91 of the act of the European Union titled “Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC”, as last amended by Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015,

The House of Representatives has adopted this Law:

TITLE I – INTRODUCTORY PROVISIONS

- Short title. 1. This Law shall be cited as the Investment Services and Activities and Regulated Markets Law of 2017.

Interpretation. 2.-(1) In this Law unless the context provides otherwise-

“SME growth market” means a MTF that is registered as an SME growth market in accordance with section 33;

“authorised credit institution” has the meaning attributed to the term by section 2(1) of the Business of Credit Institutions Law;

- 66(I) of 1997
- 74(I) of 1999
- 94(I) of 2000
- 119(I) of 2003
- 4(I) of 2004
- 151(I) of 2004
- 231(I) of 2004
- 235(I) of 2004
- 20(I) of 2005
- 80(I) of 2008
- 100(I) of 2009
- 123(I) of 2009
- 27(I) of 2011
- 104(I) of 2011
- 107(I) of 2012
- 14(I) of 2013
- 87(I) of 2013
- 102(I) of 2013
- 141(I) of 2013
- 5(I) of 2015
- 26(I) of 2015
- 35(I) of 2015
- 71(I) of 2015

93(I) of 2015
109(I) of 2015
152(I) of 2015
168(I) of 2015
21(I) of 2016
5(I) of 2017
38(I) of 2017.

Official Gazette,

Appendix (I):

22.8.1997

19.9.2003.

“algorithmic trading” means trading in financial instruments where a computer algorithm automatically determines individual parameters of orders such as whether to initiate the order, the timing, price or quantity of the order or how to manage the order after its submission, with limited or no human intervention, and does not include any system that is only used for the purpose of routing orders to one or more trading venues or for the processing of orders involving no determination of any trading parameters or for the confirmation of orders or the post-trade processing of executed transactions;

“direct electronic access” means an arrangement where a member or participant or client of a trading venue permits a person to use its trading code so the person can electronically transmit orders relating to a financial instrument directly to the trading venue and includes-

- (a) an arrangement which involves the use by a person of the infrastructure of the member or participant or client, or any

connecting system provided by the member or participant or client, to transmit the orders (direct market access), and

- (b) an arrangement where such an infrastructure is not used by a person (sponsored access);

“matched principal trading” means a transaction where the facilitator interposes itself between the buyer and the seller to the transaction in such a way that it is never exposed to market risk throughout the execution of the transaction, with both sides executed simultaneously, and where the transaction is concluded at a price where the facilitator makes no profit or loss, other than a previously disclosed commission, fee or charge for the transaction;

“senior management” means natural persons who exercise executive functions within an IF, a market operator or a data reporting services provider and who are responsible, and accountable to the management body, for the day-to-day management of the entity, including for the implementation of the policies concerning the distribution of services and products to clients by the firm and its personnel;

“depository receipts” means those securities which are negotiable on the capital market and which represent ownership of the securities of a non-domiciled issuer while being able to be admitted to trading on a regulated market and traded independently of the securities of the non-domiciled issuer;

“competent authority” means the authority, designated by each Member State in accordance with Article 67 of Directive 2014/65/EU, unless otherwise specified in this Law;

“exchange-traded fund” means a fund of which at least one unit or share class is traded throughout the day on at least one trading venue and with at least one market maker which takes action to ensure that the price of its units or shares on the trading venue does not vary significantly from its net asset value and, where applicable, from its indicative net asset value;

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

“market operator” means a person or persons who manages and/or operates the business of a regulated market and may be the regulated market itself;

“market operator of the Republic” means a person or persons who manages and/or operates in the Republic the business of a regulated market of the Republic and may be the regulated market of the Republic itself;

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

“board of directors” means the body or bodies of an IF, market operator or data reporting services provider, which are appointed in accordance with national law, which are empowered to set the entity’s strategy, objectives and overall direction, and which oversee and monitor management decision-making and include persons who effectively direct the business of the entity;

“structured finance products” means structured finance products as defined in Article 2(1)(28) of Regulation (EU) No 600/2014;

5(l) of 2016. “structured deposit” means a deposit as defined in section 2(1) of the Deposit Guarantee Scheme and Resolution of Credit and other Institutions Law, which is fully repayable at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as:

- (a) an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as Euribor or Libor;
- (b) a financial instrument or combination of financial instruments;
- (c) a commodity or combination of commodities or other physical or non-physical non-fungible assets; or
- (d) a foreign exchange rate or combination of foreign exchange rates;

“ESMA” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010;

“approved reporting mechanism” or “ARM” means a person authorised under this Law to provide the service of reporting details of transactions to competent authorities or to ESMA on behalf of IFs;

“approved publication arrangement” or “APA” means a person authorised under this Law to provide the service of publishing trade reports on behalf of IFs pursuant to Articles 20 and 21 of Regulation (EU) No 600/2014;

“qualifying holding” means a direct or indirect holding in an IF which-

- (a) represents 10 % or more of the capital or of the voting rights of the IF, as set out in sections 28, 29 και 30 of περί των The Transparency Requirements (Securities Admitted to Trading on a Regulated Market) Law, taking into account the conditions regarding aggregation thereof laid down in sections 34 και 35 of the said Laws, or
- 190(I) of 2007
72(I) of 2009
143(I) of 2012
60(I) of 2013
163(I) of 2014
164(I) of 2014
35(I) of 2016
56(I) of 2017.
- (b) which makes it possible to exercise a significant influence over the management of the IF in which that holding subsists;

“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 that person’s proprietary capital at prices defined by that person;

“sovereign issuer” means any of the following that issues debt instruments:

- (a) the European Union,
- (b) the Republic, including a government department, an agency, or a special purpose vehicle of the Republic,
- (c) another Member State, including a government department, an agency, or a special purpose vehicle of that Member State,
- (d) in the case of a federal Member State, a member of the federation,
- (e) a special purpose vehicle for several Member States,
- (f) an international financial institution established by two or more Member States which has the purpose of mobilising funding and provide financial assistance to the benefit of its members that are experiencing or threatened by severe financing problems,
- (g) the European Investment Bank;

“execution of orders on behalf of clients” means acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients and includes the conclusion of agreements to sell financial instruments issued by an IF or a credit institution at the moment of their issuance;

“auditor” means a person who, for the purpose being appointed auditor of a company, holds the necessary qualifications and license under the provisions of the Companies Law, and the Auditors and Statutory Audits of 9 of 1968 Annual and Consolidated Accounts Law;

Cap. 113.

76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
41(I) of 1994
15(I) of 1995
21(I) of 1997
82(I) of 1999
2(I) of 2000
135(I) of 2000
151(I) of 2000
76(I) of 2001
70(I) of 2003
167(I) of 2003
92(I) of 2004
24(I) of 2005
129(I) of 2005
130(I) of 2005
198(I) of 2006
124(I) of 2006
70(I) of 2007
71(I) of 2007
131(I) of 2007
186(I) of 2007
87(I) of 2008
41(I) of 2009
49(I) of 2009
99(I) of 2009
42(I) of 2010

60(I) of 2010
88(I) of 2010
53(I) of 2011
117(I) of 2011
145(I) of 2011
157(I) of 2011
198(I) of 2011
64(I) of 2012
98(I) of 2012
190(I) of 2012
203(I) of 2012
6(I) of 2013
90(I) of 2013
74(I) of 2014
75(I) of 2014
18(I) of 2015
62(I) of 2015
63(I) of 2015
89(I) of 2015
120(I) of 2015
40(I) of 2016
90(I) of 2016
97(I) of 2016
17(I) of 2017
33(I) of 2017
51(I) of 2017.

Official Gazette,
First Appendix (I):
31.3.2015
5.6.2015.

53(I) of 2017.

“audit” shall have the meaning attributed to the term by Article 4 paragraph 1, point 37) of Regulation (EU) No. 575/2013;

“wholesale energy product” means wholesale energy products as defined in point (4) of Article 2 of Regulation (EU) No 1227/2011;

“professional client” means a client meeting the criteria laid down in the Second Appendix. Second Appendix;

“investment advice” means the provision of personal recommendations to a client, either upon its request or at the initiative of the IF, in respect of one or more transactions relating to financial instruments;

“investment services” or “investment activities” or “investment services and activities” means any of the services and activities, respectively, listed in Part I of the First Appendix, and which relate to any of the instruments listed in Part III of the First Appendix;

“Commission” means the Cyprus Securities and Exchange Commission governed by the to the Cyprus Securities and Exchange Commission Law;
73(I) of 2009
5(I) of 2012
65(I) of 2014
135(I) of 2015
109(I) of 2016.

Official Gazette,
First Appendix (I):

31.7.2009.

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

“third-country firm” means a firm that would be a credit institution providing investment services or performing investment activities, or an IF, if its head office or registered office were located within the Union;

“UCITS management company” means a management company as defined in section 2(1) of the Open-Ended Undertakings for Collective Investment Law; 78(I) of 2012
88(I) of 2015
52(I) of 2016.

“European Commission” means the Commission of the European Union;

“European Systemic Risk Board” or “ESRB” shall mean the European Systemic Risk Board established under Regulation (EU) No 1092/2010;

“subsidiary” means a subsidiary undertaking within the meaning of Articles 2(10) and 22 of Directive 2013/34/EU, including any subsidiary of a subsidiary undertaking of an ultimate parent undertaking;

“retail client” means a client who is not a professional client;

“Regulation (EC) No. 45/2001” means the act of the European Communities titled “Regulation (EC) No. 45/2001 of the European Parliament and of the

Official Journal of the EU: L 8, 12.1.2001, p. 1.

Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data”.

Official Journal of the EU: L 211, 14.8.2009, p. 1.

“Regulation (EU) No. 713/2009” means the act of the European Union titled “Regulation (EU) No. 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators”, as last amended by Regulation (EU) No. 347/2013 of the European Parliament and of the Council of 17 April 2013;

Official Journal of the EU:L 211, 14.8.2009, p. 15.

“Regulation (EC) No. 714/2009” means the act of the European Union titled “Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003”, as last amended by Regulation (EU) No. 543/2013 of the Commission of 14 June 2013;

Official Journal of the EU:L 211, 14.8.2009, p. 36.

“ Regulation (EC) No 715/2009” means the act of the European Union titled “ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005”, as last amended by Decision (EU) 215/715 of the Commission of 30 April 2015;

Official Journal of the EU:L 176, 10.7.2010,

“Regulation (EU) No 583/2010” means the act of the European Union titled “Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing

p. 1. key investor information or the prospectus in a durable medium other than paper or by means of a website”, as amended.

“Regulation (EU) No. 1092/2010” means the act of the European Union Official Journal of titled “Regulation (EU) No 1092/2010 of the European Parliament and the the EU:L 331, Council of 24 November 2010 on European Union macro-prudential 15.12.2010, oversight of the financial system and establishing a European Systemic Risk Board”; p. 1.

“Regulation (EU) No 1093/2010” means the act of the European Union Official Journal of entitled “Regulation (EU) No 1093/2010 of the European Parliament and the the EU: L 331, the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 15.12.2010, 716/2009/EC and repealing Commission Decision 2009/78/EC” as last p. 12. amended by Directive (EU) 2015/2366 of the European Parliament and the Council of 25 November 2015;

“Regulation (EU) No 1095/2010” shall mean the act of the European Union Official Journal of titled “Regulation (EU) No 1095/2010 establishing a European Supervisory the EU:L 331, Authority (European Securities and Markets Authority), amending Decision 15.12.2010, No 716/2009/EC and repealing Commission Decision 2009/77/EC” as last p. 84. amended by Directive 2014/51/EU of the European Parliament and the Council of 16 April 2014;

“Regulation (EU) No 1227/2011” shall mean the act of the European Union Official Journal of titled “Regulation (EU) No 1227/2011 of the European Parliament and of the the EU:L 326, the Council of 25 October 2011 on wholesale energy market integrity and 8.12.2011, transparency”. p. 1.

“Regulation (EU) No 648/2012” means the act of the European Union
 Official Journal of entitled “Regulation (EU) No 648/2012 of the European Parliament and the
 the EU:L 201, Council of 4 July 2012 on OTC derivatives, central counterparties and trade
 27.7.2012, repositories”, as last amended by the Commission Implementing
 p. 1. Regulation (EU) 2016/892 of 7 June 2016;

“Regulation (EU) No. 575/2013” means the act of the European Union
 Official Journal of entitled “Regulation (EU) No 575/2013 of the European Parliament and the
 the EU:L 176, Council of 26 June 2013 on prudential requirements for credit institutions
 27.6.2013, and investment firms and amending Regulation (EU) No 648/2012”, as last
 p. 1. amended, by Regulation (EU) No. 2016/1014 of the European Parliament
 and of the Council of 6 June 2016;

“Regulation (EU) No. 1308/2013” means the act of the European Union
 Official Journal of titled “Regulation (EU) No 1308/2013 of the European Parliament and of
 the EU: L 347, the Council of 17 December 2013 establishing a common organisation of
 20.12.2013, the markets in agricultural products and repealing Council Regulations
 p. 671. (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No
 1234/2007”, as last amended by Regulation (EU) 2016/1226 of the
 Commission by its delegation of 4 May 2016;

“Regulation (EU) No. 596/2014” means the act of the European Union titled
 Official Journal of “Regulation (EU) No. 596/2014 of the European Parliament and of the
 the EU:L 173, Council of 16 April 2014 on market abuse (market abuse regulation) and
 12.6.2014, repealing Directive 2003/6/EC of the European Parliament and of the
 p. 1. Council and Commission Directives 2003/124/EC, 2003/125/EC and
 2004/72/EC”, as last amended by Regulation (EU) 2016/1033 of the
 European Parliament and the Council of 23 June 2016;

“Regulation (EU) No 600/2014 “ means the act of the European Union
 Official Journal of titled “Regulation (EU) No 600/2014 of the European Parliament and the
 the EU:L 173, Council of 15 May 2014 on markets in financial instruments and amending
 12.6.2014, Regulation (EU) No 648/2012”, as last amended by Regulation (EU)
 p. 84. 2016/1033 of the European Parliament and the Council of 23 June 2016;

“Regulation (EU) No. 909/2014” means the act of the European Union titled
 Official Journal of “Regulation (EU) No. 909/2014 of the European Parliament and the
 the EU:L 257, Council of 23 July 2014, on improving securities settlement in the
 28.8.2014, European Union and on central securities depositories and amending
 p. 1. Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012”,
 as last amended by Regulation (EU) 2016/1033 of the European Parliament
 and the Council of 23 June 2016;

“central counterparty” or “CCP” means a CCP as defined in Article 2(1) of
 Regulation (EU) No 648/2012;

"Central Bank" means the Central Bank of Cyprus, governed by the Central
 138(I) of 2002 Bank of Cyprus Law;
 166(I) of 2003
 34(I) of 2007
 86(I) of 2013
 103(I) of 2013
 66(I) of 2014
 139(I) of 2014
 144(I) of 2014
 107(I) of 2016.
 Official Gazette,
 First Appendix(I):
 25.10.2013

20.6.2014.

“Central securities depository” or “CSD” has the meaning attributed to that term by Article 2, paragraph 1, point 1) of Regulation (EU) No. 909/2014;

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

- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
- (b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
- (c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures;

“sovereign debt” means a debt instrument issued by a sovereign issuer;

“Member State” means a member state of the European Union;

“home Member State” means-

- (a) in the case of an IF -

- (i) if the IF is a natural person, the Member State in which its head office is situated;
 - (ii) if the IF is a legal person, the Member State in which its registered office is situated;
 - (iii) if the IF has, under its national law, no registered office, the Member State in which its head office is situated;
- (b) in the case of a regulated market, the Member State in which the regulated market is registered or, if under the law of that Member State it has no registered office, the Member State in which the head office of the regulated market is situated;
- (c) in the case of an APA, a CTP or an ARM:
- (i) if the APA, CTP or ARM is a natural person, the Member State in which its head office is situated;
 - (ii) if the APA, CTP or ARM is a legal person, the Member State in which its registered office is situated;
 - (iii) if the APA, CTP or ARM has, under its national law, no registered office, the Member State in which its head office is situated;

"host Member State" means the Member State, other than the home Member State, in which an IF has a branch or provides investment services and/or activities, or the Member State in which a regulated market provides appropriate arrangements so as to facilitate access to trading on its system by remote members or participants established in that same Member State;

"Cypriot Investment Firm" or "CIF" means the company that is established in the Republic and authorised by the Commission pursuant to this Law to

provide one or more investment services to third parties or/and perform one or more investment activities;

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

“parent undertaking” means a parent undertaking within the meaning of Article 2(9) and 22 of Directive 2013/34/EU of the European Parliament and of the Council;

“organised trading facility” or “OTF” means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II;

“small and medium-sized enterprise” or “SME” for the purposes of this Law, means a company that had an average market capitalisation of less than two hundred million euro (EUR 200 000 000), on the basis of end-year quotes for the previous three calendar years;

Official Journal of
the EU: L 84,
26.3.1997,
p. 22.

“Directive 97/9/EC” means the act of the European Communities titled
“Directive 97/9/EC of the European Parliament and of the Council of 3
March 1997 on investor-compensation schemes”;

Official Journal of
the EU:L 235,

“Directive 2003/41/EC” means the act of the European Union titled
“Directive 2003/41/EC of the European Parliament and of the Council of 3
June 2003 on the activities and supervision of institutions for occupational

23.9.2003. retirement provision” as last amended by Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013;

“Directive 2003/87/EC” means the act of the European Union titled
 Official Journal of “Directive 2003/87/EC of the European Parliament and of the Council of 13
 the EU:L 275, October 2003 establishing a scheme for greenhouse gas emission
 25.10.2003, allowance trading within the Community and amending Council Directive
 p. 32. 96/61/EC” as last amended by Decision (EU) 2015/1814 of the European
 Parliament and of the Council of 6 October 2015;

“Directive 2009/65/EC” means the act of the European Union titled
 Official Journal of “Directive 2009/65/EC of the European Parliament and of the Council of 13
 the EU: L 302, July 2009 on the coordination of laws, regulations and administrative
 17.11.2009, provisions relating to undertakings for collective investment in transferable
 p. 32. securities (UCITS)”, as last amended by Directive 2014/91/EU of the
 European Parliament and of the Council of 23 July 2014;

“Directive 2009/138/EC” means the act of the European Union titled
 Official Journal of “Directive 2009/138/EC of the European Parliament and of the Council of
 the EU: L 335, 25 November 2009 on the taking-up and pursuit of the business of
 17.12.2009, Insurance and Reinsurance (Solvency II) (recast)”, as last amended by
 p. 1. Directive 2014/51/EU of the European Parliament and of the Council of 16
 April 2014;

“Directive 2011/61/EU” means the act of the European Union titled
 Official Journal of “Directive 2011/61/EU of the European Parliament and of the Council of 8
 the EU:L 174, June 2011 on Alternative Investment Fund Managers and amending
 1.7.2011, Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No
 p. 1. 1060/2009 and (EU) No 1095/2010”, as last amended by Directive
 2014/65/EU;

“Directive 2013/34/EU” means the act of the European Union titled
 Official Journal of “Directive 2013/34/EU of the European Parliament and of the Council of 26
 the EU:L 182, June 2013 on the annual financial statements, consolidated financial
 29.6.2013, statements and related reports of certain types of undertakings, amending
 p. 19. Directive 2006/43/EC of the European Parliament and of the Council and
 repealing Council Directives 78/660/EEC and 83/349/EEC”, as last
 amended by Directive 2014/102/EU of the Council of 7 November 2014;

“Directive 2013/36/EU” means the act of the European Union titled
 Official Journal of “Directive 2013/36/EU of the European Parliament and of the Council of 26
 the EU:L 176, June 2013 on access to the activity of credit institutions and prudential
 27.6.2013, supervision of credit institutions and investment firms, amending Directive
 p. 338. 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC”, as last
 amended by Directive (EU) 2015/2366 of the European Parliament and of
 the Council of 25 November 2015;

“Directive 2014/17/EU” means the act of the European Union titled
 Official Journal of “Directive 2014/17/EU of the European Parliament and of the Council of 4
 the EU:L 60, February 2014 on credit agreements for consumers relating to residential
 28.2.2014, immovable property and amending Directives 2008/48/EC and 2013/36/EU
 p. 34. and Regulation (EU) No 1093/2010”, as last amended by Regulation (EU)
 2016/1011 of the European Parliament and of the Council of 8 June 2016;

“Directive 2014/57/EU” means the act of the European Union titled
 Official Journal of “Directive 2014/57/EU of the European Parliament and of the Council of 16
 the EU:L 173, April 2014 on criminal sanctions for market abuse”;
 12.6.2014,
 p. 179.

“Directive 2014/65/EU” means the act of the European Union titled “Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU”, as last amended by Directive (EU) 2016/1034 of the European Parliament and of the Council of 23 June 2016;

Official Journal of the EU:L 173,
12.6.2014,
p. 175.

“group” means a group as defined in Article 2(11) of Directive 2013/34/EU;

“limit order” means an order to buy or sell a financial instrument at its specified price limit or better and for a specified size;

"Undertakings for collective investment in transferable securities" or "UCITS", has the meaning given to the term by the Open-Ended Undertakings for Collective Investment Law;

“derivatives” means derivatives as defined in Article 2(1)(29) of Regulation (EU) No 600/2014;

“agricultural commodity derivatives” means derivative contracts relating to products listed in Article 1 of, and Annex I, Parts I to XX and XXIV/1, to, Regulation (EU) No 1308/2013 of the European Parliament and of the Council;

“commodity derivatives” means commodity derivatives as defined in Article 2(1)(30) of Regulation (EU) No 600/2014;

“consolidated tape provider” or “CTP” means a person authorised under this Directive to provide the service of collecting trade reports for financial instruments listed in Articles 6, 7, 10, 12 and 13, 20 and 21 of Regulation

(EU) No 600/2014 from regulated markets, MTFs, OTFs and APAs and consolidating them into a continuous electronic live data stream providing price and volume data per financial instrument;

“data reporting services provider” means an APA, a CTP or an ARM.

First Appendix. “ancillary services” means any of the services listed in Part II of the First Appendix;

“client” means any natural or legal person to whom an IF provides investment or ancillary services;

“certificates” means certificates as defined in Article 2(1)(27) of Regulation (EU) No 600/2014;

“credit institution” means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013;

“multilateral system” means any system or facility in which multiple third-party buying and selling trading interests in financial instruments are able to interact in the system;

“multilateral trading facility” or “MTF” means a multilateral system, operated by an IF or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with Title II;

“liquid market” means a market for a financial instrument or a class of financial instruments, where there are ready and willing buyers and sellers

on a continuous basis, assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular financial instrument or of the particular class of financial instruments:

- (a) the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of financial instrument;
- (b) the number and type of market participants, including the ratio of market participants to traded instruments in a particular product;
- (c) the average size of spreads, where available;

“regulated market” means a multilateral system, which-

- (a) is operated and/or managed by a market operator, and
- (b) which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and
- (c) which is authorised and functions regularly and in accordance with Title III of Directive 2014/65/EU;

“regulated market of the Republic” means a multilateral system, which-

- (a) is operated and/or managed by a market operator, and
- (a) which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and
- (c) which is authorised and functions regularly and in accordance with Title III;

“durable medium” means any instrument which:

- (a) enables a client to store information addressed personally to that client in a way accessible for future reference and for a period of time adequate for the purposes of the information; and
- (b) allows the unchanged reproduction of the information stored;

“close links” means a situation in which two or more natural or legal persons are linked by:

- (a) participation which means the ownership, direct or by way of control, of at least 20% of the voting rights or capital of an undertaking;
- (b) control which means the relationship between a parent undertaking and a subsidiary, in all the cases referred to in Article 22, paragraph 1 and 2, of Directive 2013/34/EU, or a similar

relationship between any natural or legal person and an undertaking, any subsidiary of a subsidiary undertaking also being considered a subsidiary of the parent undertaking which is at the head of those undertakings;

- (c) a permanent link of both or all of them to the same person by a control relationship;

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“energy derivative contracts of Part III.6” means options, futures, swaps, and any other derivative contracts mentioned in point 6 of Part III of the First Appendix relating to coal or oil that are traded on an OTF and must be physically settled;

“tied agent” means a natural or legal person who, under the full and unconditional responsibility of only one IF on whose behalf it acts, promotes investment and/or ancillary services to clients or prospective clients, receives and transmits instructions or orders from the client in respect of investment services or financial instruments, places financial instruments or provides advice to clients or prospective clients in respect of those financial instruments or services;

“systematic internaliser” means an IF which, on an organised, frequent systematic and substantial basis, deals on own account when executing client orders outside a regulated market, an MTF or an OTF without operating a multilateral system;

The frequent and systematic basis shall be measured by the number of OTC trades in the financial instrument carried out by the IF on own account when executing client orders. The substantial basis shall be measured either by the size of the OTC trading carried out by the IF in relation to the

total trading of the IF in a specific financial instrument or by the size of the OTC trading carried out by the IF in relation to the total trading in the Union in a specific financial instrument. The definition of a systematic internaliser shall apply only where the pre-set limits for a frequent and systematic basis and for a substantial basis are both crossed or where an IF chooses to opt-in under the systematic internaliser regime;

“high-frequency algorithmic trading technique” means an algorithmic trading technique characterised by:

- (a) infrastructure intended to minimise network and other types of latencies, including at least one of the following facilities for algorithmic order entry: co-location, proximity hosting or high-speed direct electronic access;
- (b) system-determination of order initiation, generation, routing or execution without human intervention for individual trades or orders; and
- (c) high message intraday rates which constitute orders, quotes or cancellations;

“trading venue” means a regulated market, an MTF or an OTF;

"third country" means a country that is not a Member State;

“branch” means a place of business other than the head office which is a part of an IF, which has no legal personality and which provides investment services and/or activities and which may also perform ancillary services for which the IF has been authorised; all the places of business set up in the

same Member State by an IF with headquarters in another Member State shall be regarded as a single branch;

“financial institution” has the meaning attributed to that term by Article 4, paragraph 1, point 26) of Regulation (EU) No. 575/2013;

“financial instrument” means those instruments specified in Part III of the First Appendix.

(2)(a) In this Law and in any acts with regulatory content issued pursuant of the present Law, any reference to a Directive, Regulation or Decision or other legislative act of the European Union, shall mean the said act as corrected, amended or replaced from time to time, unless it appears otherwise from the text;

(b) In this Law and in any acts with regulatory content issued pursuant of this Law, any reference to a law or regulatory administrative act of the Republic, shall mean the said law or act as corrected, amended or replaced from time to time, unless it appears otherwise from the text;

Scope of application of this Law.

3.-(1) This Law shall apply to CIFs, market operators, data reporting services providers, and to third-country firms providing investment services or performing investment activities through the establishment of a branch in the Republic.

(2) This Law regulates, among others, the following:

- (a) the authorisation conditions for CIFs and operating conditions for IFs;
- (b) the provision of investment services or the performance of investment activities by third-country firms through the establishment of a branch;
- (c) the authorisation and the operation of regulated markets of the Republic;
- (d) the authorisation and the operation of data reporting services providers
- (e) the supervision, cooperation and enforcement by competent authorities;
- (f) other related matters.

(3) The following provisions shall also apply to credit institutions, when providing one or more investment services and/or performing investment activities, provided that these services and activities are covered by the authorisation granted to them by the Central Bank or the competent authority of another member state:

- (a) sections 4(2), 10(1) and 15, and section 17 to 21.
- (b) Chapter II of Title II.

- (c) Chapter III of Title II, except section 35(2) and (3) and section 36(2) to (6) and (9).
- (d) sections 68 to 76 and sections 81, 86, 87 and 92.

For the purposes of application of this subsection in relation to authorised credit institutions, any references in the above provisions to the Commission shall be deemed to constitute a reference to the Central Bank.

(4) The following provisions shall also apply to authorised credit institutions and CIFs, when those CIFs or credit institutions are selling or advising clients in relation to structured deposits:

- (a) section 10(1), section 15 and section 17(2), (3) and (6).
- (b) sections 24 to 27, and sections 29, 30 and 31.
- (c) sections 68 to 76.

For the purposes of application of this subsection in relation to authorized credit institutions, any references in the above provisions to the Commission shall be deemed to constitute a reference to the Central Bank.

(5) Section 18(1) to (6) shall also apply to members or participants of regulated markets and MTFs who are not required to be authorised under this Law, pursuant to section 4(1)(a), (e), (i) and (j).

(6) Sections 58 and 59 shall also apply to persons exempt under section 4.

(7)(a) All multilateral systems in financial instruments shall operate, either in accordance with the provisions of Title II concerning MTFs or OTFs, or the provisions of Title III concerning regulated markets.

(b) Any IFs, which, on an organised, frequent, systematic and substantial basis, deal on own account when executing client orders outside a regulated market, an MTF or an OTF shall operate in accordance with Title III of Regulation (EU) No 600/2014.

(c) Without prejudice to Articles 23 and 28 of Regulation (EU) No 600/2014, all transactions in financial instruments as referred to in paragraphs (a) and (b) of this subsection, which are not concluded on multilateral systems or systematic internalisers, shall comply with the relevant provisions of Title III of Regulation (EU) No 600/2014.

Exemptions from
the scope of
application of this
Law.

4.-(1) This Law shall not apply to:

- (a) insurance undertakings or undertakings carrying out the reinsurance and retrocession activities referred to in the Insurance, Reinsurance and Other Related Matters Law,

38(I) of 2016.

- (b) persons providing investment services exclusively to their parent undertakings, to their subsidiaries or to other subsidiaries of their parent undertakings;
- (c) persons providing an investment service where that service is provided in an incidental manner in the course of a professional activity and that activity is regulated by legal or regulatory provisions or a code of ethics governing the profession which do not exclude the provision of that service;
- (d) persons dealing on own account in financial instruments other than commodity derivatives or emission allowances or derivatives thereof and not providing any other investment services or performing any other investment activities in financial instruments other than commodity derivatives or emission allowances or derivatives thereof unless such persons:
 - (i) are market makers; or
 - (ii) are members of or participants in a regulated market or an MTF, on the one hand, or have direct electronic access to a trading venue, on the other hand, excluding non-financial entities that execute transactions on a trading venue, which in an objectively measurable way reduce the risks directly relating to the commercial activities or treasury financing activities of those non-financial entities or their group; or
 - (iii) apply a high-frequency algorithmic trading technique; or
 - (iv) deal on own account when executing client orders;

It is provided that, persons exempt under points (a), (i) or (j) are not required to meet the conditions laid down in this paragraph in order to be exempt.

- 110(I) of 2011
202(I) of 2012
21(I) of 2015.
- (e) operators with compliance obligations under the Establishment of a Greenhouse Gas Emission Trading Scheme Law who, when dealing in emission allowances, do not execute client orders and who do not provide any investment services or perform any investment activities other than dealing on own account, provided that those persons do not apply a high-frequency algorithmic trading technique;
 - (f) persons providing investment services consisting exclusively in the administration of employee-participation schemes;
 - (g) persons providing investment services which only involve both the administration of employee-participation schemes and the provision of investment services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings;
 - (h) the members of the European System of Central Banks ('ESCB') and other national bodies performing similar functions in the European Union, other public bodies charged with or intervening in the management of the public debt in the European Union and international financial institutions established by two or more Member States

which have the purpose of mobilising funding and providing financial assistance to the benefit of their members that are experiencing or threatened by severe financing problems;

(i) collective investment undertakings and pension funds whether coordinated at European Union level or not and the depositaries and managers of such undertakings;

(j) persons:

(i) dealing on own account, including market makers, in commodity derivatives or in emission allowances or in emission allowances derivatives, excluding persons who deal on own account when executing client orders; or

(ii) providing investment services, other than dealing on own account, in commodity derivatives or emission allowances or in emission allowances derivatives, to the customers or suppliers of their main business;

provided that:

(iA) for each of those cases individually and on an aggregate basis this is an ancillary activity to their main business, when considered on a group basis, and the main business is not the provision of investment services within the meaning of this Law or banking activities under Business of Credit Institutions Laws of 1997 to (No.6) 2015, as

amended, nor is it the acting as a market-maker in relation to commodity derivatives; and

(iB) those persons do not apply a high-frequency algorithmic trading technique; and

(iΓ) those persons notify annually the Commission that they make use of this exemption and, upon request, report to the Commission the basis on which they consider that their activity under subparagraphs (i) and (ii) is ancillary to their main business;

(k) persons providing investment advice in the course of providing another professional activity not covered by this Law provided that the provision of such advice is not specifically remunerated;

(l) associations set up by Danish and Finnish pension funds with the sole aim of managing the assets of pension funds that are members of those associations

(m) ‘agenti di cambio’ whose activities and functions are governed by Article 201 of Italian Legislative Decree No 58 of 24 February 1998;

(n) transmission system operators, as defined in section 2 of the Law Regulating the Sale of Electricity, or section 2 of the Law Regulating the Sale of Natural Gas, when carrying out their tasks under those laws, under Regulation (EC) No 714/2009, under Regulation (EC) No 715/2009 or under

122(l) of 2003
239(l) of 2004
143(l) of 2005
173(l) of 2006

92(I) of 2008
 211(I) of 2012
 206(I) of 2015
 18(I) of 2017.

 183(I) of 2004
 103(I) of 2006
 199(I) of 2007
 219(I) of 2012.

network codes or guidelines adopted pursuant to those Regulations, any persons acting as service providers on their behalf to carry out their task under those legislative acts, or under network codes or guidelines adopted pursuant to those Regulations, and any operator or administrator of an energy balancing mechanism, pipeline network or system to keep in balance the supplies and uses of energy when carrying out such tasks.

It is provided that, the exemption of the present paragraph shall apply to persons engaged in the activities set out in this paragraph only where they perform investment activities or provide investment services in relation to commodity derivatives in order to carry out those activities. That exemption shall not apply with regard to the operation of a secondary market, including a platform for secondary trading in financial transmission rights;

(o) CSDs, with the exception provided for in Article 73 of Regulation (EU) No. 909/2014

(2) The rights conferred by this Law shall not extend to the provision of services as counterparty in transactions carried out by public bodies dealing with public debt or by members of the ESCB performing their tasks as provided for by the Treaty for the Functioning of the European Union ('TFEU') and by Protocol No 4 on the Statute of the European System of Central Banks and of the European Central Bank or performing equivalent functions under Member States' legislation.

TITLE II - AUTHORISATION AND OPERATING CONDITIONS FOR INVESTMENT FIRMS

CHAPTER I

Conditions and procedures for authorisation

Requirement for
CIF authorisation

5.-(1) The provision of investment services and/or the performance of investment activities as a regular occupation or business is subject to prior authorisation in accordance with this Chapter. In relation to CIFs, such authorisation is granted by the Commission.

(2) Irrespective of subsection (1), market operators of the Republic may operate an MTF or an OTF, subject to the prior verification by the Commission of their compliance with this Chapter.

(3) The Commission registers all CIFs in a register. The register shall be publicly accessible and shall contain information on the services or activities for which the CIF is authorised. The Commission updates the register and notifies every authorisation to ESMA.

(4) Every CIF's head office must be situated in the Republic.

(5) A CIF is prohibited from conducting any other business, beyond the services or/and activities stated in its authorisation, except if –

(a) their exercise leads to or contributes to the achievement of the provision of all or some of the services or/and the

performance of the activities, permitted by its authorisation;
or

- (b) it has received the Commission's permission, which is granted, at its absolute discretion, in exceptional circumstances.

Scope of CIF
authorisation

6.-(1) The CIF authorisation specifies the investment services or investment activities which the CIF is authorised to provide or perform. The CIF authorisation may cover one or more of the ancillary services set out in Part II of the First Appendix. CIF authorisation shall in no case be granted solely for the provision of ancillary services.

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(2) A CIF wishing to extend its CIF authorisation to include additional investment services or investment activities or ancillary services not foreseen at the time of authorisation may submit to the Commission a request for extension of its authorisation.

(3)(a) The CIF authorisation is valid for the entire European Union and allows a CIF to provide the services or perform the activities for which it has been authorised, throughout the European Union, either through the right of establishment, including through a branch, or through the freedom to provide services.

(b) The authorisation granted to an IF by the competent authority of a home member state other than the Republic is valid in the Republic and allows the said IF to provide the services and perform the activities for which it has been authorised, in the Republic, either through the right of

establishment, including through a branch, or through the freedom to provide services.

Procedures for granting and refusing requests for CIF authorisation

7.-(1) The Commission shall not grant a CIF authorisation unless and until such time as it is fully satisfied that the company that has been established in the Republic and is applying for a CIF authorisation (that in this Chapter from now on will be known as "the applicant"), complies with all the requirements provided for in this Law, the directives issued pursuant to this Law and the acts issued pursuant to Directive 2014/65/EU.

(2) The applicant provides all information, as set out in this Chapter, including a programme of operations setting out, inter alia, the types of business proposed and the organisational structure, all of which is necessary so as to enable the Commission to satisfy itself that the applicant has established, at the time of granting of CIF authorisation, all the necessary arrangements to meet its obligations under this Chapter.

(3) The Commission informs the applicant, within six months of the submission of a complete application, whether or not authorisation has been granted.

Withdrawal of authorisations

8.-(1) The Commission may withdraw the CIF authorisation where a CIF:

- (a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has provided no investment services or has performed no investment activity for the preceding six months; or

- (b) has obtained the authorisation through false statements or any other irregular means;
- (c) no longer meets the conditions under which authorisation was granted, such as, for example, compliance with the conditions set out in Regulation (EU) No 575/2013;
- (d) has seriously and systematically infringed the provisions provided for in this Law, or Regulation (EU) No 600/2014, or which have been adopted pursuant to Directive 2014/65/EU or Regulation (EU) No 600/2014, governing the CIF operating conditions;
- (e) falls within any of the cases where the laws of Cyprus regulating matters outside the scope of this Law, provide for withdrawal of authorisation.

(2) The Commission notifies every withdrawal of CIF authorisation to ESMA.

Management body 9.-(1) The Commission, when granting authorisation in accordance with section 5, ensures that the applicant and its board of directors comply with this section and section 10.

(2) Members of the board of directors of a CIF shall at all times be of good repute and possess sufficient knowledge, skills and experience to perform their duties. The overall composition of the board of directors must reflect an adequately broad range of experiences. Members of the

board of directors shall, in particular, fulfil the requirements set out in subsections (3) to (9).

(3) All members of the board of directors shall commit sufficient time to perform their duties in the CIF.

(4) The number of directorships which may be held by a member of the board of directors at the same time shall take into account individual circumstances and the nature, scale and complexity of the CIF's activities. Unless representing the Republic, members of the board of directors of a CIF that is significant in terms of its size, internal organisation and in terms of the nature, the scope and the complexity of its activities, shall not hold more than one of the following combinations of directorships at the same time:

- (a) one executive directorship with two non-executive directorships;
- (b) four non-executive directorships.

(5) For the purposes of subsection (4) of this section, the following shall count as a single directorship:

- (a) executive or non-executive directorships held within the same group
- (b) executive or non-executive directorships held within:
 - (i) institutions which are members of the same institutional protection scheme, provided that the

conditions set out in Article 113, paragraph (7) of Regulation (EU) No 575/2013 are fulfilled; or

- (ii) undertakings (including non-financial entities) in which the CIF holds a qualifying holding.

(6) Directorships in organisations which do not pursue predominantly commercial objectives shall not count for the purposes of subsection (6).

(7) The Commission, when granting CIF authorisation under section 5, may authorise members of the board of directors to hold one more non-executive directorship, additional to those allowed under subsection (4) of this section. The Commission shall regularly inform ESMA of such authorisations.

(8) The board of directors shall collectively possess adequate knowledge, skills and experience to be able to understand the CIF's activities, including the principal risks.

(9) Each member of the board of directors shall act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of the senior management where necessary and to effectively oversee and monitor the decision-making of the management.

(10) The CIF shall devote adequate human and financial resources to the induction and training of members of the board of directors.

(11) The CIF and the respective nomination committee must, pursuant to section 10(2), ensure that there is a broad set of qualities and competences exists when recruiting members for the board of directors and for that purpose the CIF shall put in place a policy promoting diversity on the board of directors.

(12) The Commission shall collect the information which is disclosed in accordance to Article 453, paragraph 2, point c) of Regulation (EU) No 575/2013 and shall use it to benchmark diversity practices and shall provide ESMA with the said information.

(13) Subsections (2) to (12) shall not prejudice the provisions relating to the representation of employees in the board of directors, as provided by the laws of Cyprus.

(14) The Commission shall refuse CIF authorisation if it is not satisfied that the members of board of directors of the applicant are of sufficiently good repute, possess sufficient knowledge, skills and experience and commit sufficient time to perform their duties in the applicant, or if there are objective and demonstrable grounds for believing that the board of directors of the applicant may pose a threat to its effective, sound and prudent management and to the adequate consideration of the interest of its clients and the integrity of the market.

(15) A CIF must notify the Commission of all members of its board of directors and of any changes to its composition, along with all information

needed to assess whether the CIF complies with the requirements of this section and section 10.

(16) At least two persons meeting the criteria of this section and of section 10, must effectively direct the business of the applicant.

Governance
arrangements.

10.-(1)(a) The board of directors defines, oversees and is responsible for the implementation of the governance arrangements that ensure effective and prudent management of a CIF, including the segregation of duties in the CIF and the prevention of conflicts of interest, and in a manner that promotes the integrity of the market and the interest of clients.

(b) The governance arrangements referred to in paragraph (a), shall comply with the following principles:

- (i) the board of directors must have the overall responsibility for the CIF and approve and oversee the implementation of the CIF's strategic objectives, risk prevention strategy and internal governance,
- (ii) the board of directors must ensure the integrity of the accounting and financial reporting systems, including financial and operational controls and compliance with the legislation and relevant standards,
- (iii) the board of directors must oversee the process of disclosure and announcements,
- (iv) the board of directors must be responsible for providing effective supervision of senior management,

- (v) the chairman of the board of directors of the CIF shall not exercise simultaneously, within the same CIF, the functions of a chief executive officer, unless justified by the CIF and approved by the Commission.

(c) Without prejudice to the requirements established in paragraphs (a) and (b), those arrangements shall also ensure that the management body define, approve and oversee:

- (i) the organisation of the CIF for the provision of investment services and activities and ancillary services, including the skills, knowledge and expertise required by personnel, the resources, the procedures and the arrangements for the provision of services and activities by the CIF, taking into account the nature, scale and complexity of its business and all the requirements the CIF has to comply with; and
- (ii) a policy as to services, activities, products and operations offered or provided, in accordance with the risk tolerance of the CIF and the characteristics and needs of the clients of the CIF to whom they will be offered or provided, including carrying out appropriate stress testing, where appropriate; and
- (iii) a remuneration policy of persons involved in the provision of services to clients aiming to encourage responsible business conduct, fair treatment of clients as well as avoiding conflict of interest in the relationships with clients.

(d) The board of directors shall monitor and periodically assess the adequacy and the implementation of the CIF's strategic objectives in the provision of investment services and activities and ancillary services, the effectiveness of the CIF's governance arrangements and the adequacy of the policies relating to the provision of services to clients and take appropriate steps to address any deficiencies.

(e) Members of the board of directors shall have adequate access to information and documents, which are needed to oversee and monitor management decision-making.

(2)(a) A CIF, which is significant in terms of its size, internal organisation and the nature, scope and complexity of its activities, shall establish a nomination committee composed of members of the board of directors who do not perform any executive function in the CIF.

(b) The nomination committee shall:

- (i) identify and recommend, for the approval of the board of directors or for approval of the general meeting, candidates to fill vacancies in the board of directors, evaluate the balance of knowledge, skills, diversity and experience of the board of directors and prepare a description of the roles and capabilities for a particular appointment, and assess the time commitment expected;
- (ii) decide on a target for the representation of the underrepresented gender in the board of directors and

prepare a policy on how to increase the number of the underrepresented gender in the board of directors in order to meet that target. The target, policy and their implementation shall be made public in accordance with Article 435 paragraph 2, point c) of Regulation (EU) No 575/2013;

- (iii) assess periodically, and at least annually, the structure, size, composition and performance of the board of directors and make recommendations to the board of directors with regard to any changes;
- (iv) assess periodically, and at least annually the knowledge, skills and experience of members of the board of directors individually, and of the board of directors collectively, and report to the board of directors accordingly;
- (v) periodically review the policy of the board of directors for selection and appointment of senior management and make recommendations to the board of directors;
- (vi) in performing its duties, take into consideration, to the extent possible and on an ongoing basis, the need to ensure that the board of directors' decision making is not dominated by any one individual or a small group of individuals in a manner that is detrimental to the interests of the CIF as a whole;

- (vii) be able to use any type of resources that it considers to be appropriate, including external advisors, and shall receive appropriate funding to that effect.

(3) Subsection (2) shall not apply where, under the laws of Cyprus, the board of directors does not have any competence in the process of selection and appointment of any of its members.

Shareholders and
members with
qualifying holdings

11.-(1)(a) The Commission shall not authorise the provision of investment services or the performance of investment activities by an applicant, until it has been informed of the identities of the shareholders or members, whether direct or indirect, irrespective if they are natural or legal persons, that have qualifying holdings, as well as the amounts of those holdings.

(b) The Commission shall refuse to grant CIF authorisation if, taking into account the need to ensure the sound and prudent management of a CIF, it is not satisfied as to the suitability of the shareholders or members that have qualifying holdings.

(c) Where close links exist between the applicant and other natural or legal persons, the Commission shall grant authorisation only if those links do not prevent the effective exercise of its supervisory functions.

(2) The Commission shall refuse to grant CIF authorisation if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the applicant has close links, or the difficulties involved in their enforcement, prevent the effective exercise of its supervisory functions.

(3) If, the influence exercised by the persons referred to in subsection (1)(a) is likely to be prejudicial to the sound and prudent management of a CIF, the Commission may take appropriate measures in order to end such a situation. Such measures may include applications for court orders or the imposition of sanctions against directors and those responsible for the management, or the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members in question.

Notification of
proposed
acquisitions

12.-(1)(a) Any natural or legal person (for the purposes of this section and sections 13 and 14, 'the proposed acquirer') or such persons acting in concert, who have taken a decision either to acquire, directly or indirectly, a qualifying holding in a CIF or to further increase, directly or indirectly, such a qualifying holding in a CIF, as a result of which the proportion of the voting rights or of the share capital held would reach or exceed the minimum limits of twenty per cent (20%), thirty per cent (30%) or fifty per cent (50%) or so that the CIF would become such person's subsidiary (for the purposes of this section and sections 13 and 14, the 'proposed acquisition of holding'), shall first notify the Commission in writing, indicating the size of the intended holding and relevant information, as referred to in section 14(4).

(b) Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in a CIF shall first notify the Commission in writing, indicating the size of the intended holding. Such a person shall likewise notify the Commission if it has taken a decision to reduce its qualifying holding so that the proportion of the voting rights or of the share capital held would fall below 20 %, 30 % or 50 % or so that the CIF would cease to be such person's subsidiary.

(c) In determining compliance with the qualifying holding criteria referred to in section 11 and in this section, the voting rights or shares which IFs or credit institutions may hold as a result of providing the underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis in accordance to point 6 of Part I of the First Appendix, shall not be taken into account, provided these rights are, on the one hand, neither exercised nor otherwise used for the purpose of intervening in the management of the issuer and, on the other, disposed of within one year of acquisition.

(2)(a) The Commission, when carrying out the assessment provided for in section 14(1) (for the purposes of this section and sections 13 and 14, 'the assessment') shall fully consult with other relevant competent authorities, in those cases where the proposed acquirer is one of the following:

- (i) a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, IF, UCITS management company, or managers of alternative investment funds, authorised in another Member State or in a sector other than that in which the acquisition is proposed;
- (ii) the parent undertaking of a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, IF, UCITS management company, or managers of alternative investment funds, authorised in another Member State or in a sector other than that in which the acquisition is proposed; or
- (iii) a natural or legal person controlling a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, IF, UCITS management company or managers of alternative investment funds, authorised in another Member State or in a sector other than that in which the acquisition is proposed.

(b) The Commission, shall, without undue delay, provide other competent authorities with any information which is essential or relevant for the assessment. In that regard, the Commission shall communicate to other competent authorities, upon request, all relevant information and shall communicate on its own initiative all essential information.

(c) Within the framework of consulting with other competent authorities as set out in Article 11(2) of Directive 2014/65/EU, the Commission, as the competent authority that has authorised the CIF in which the acquisition is proposed, shall indicate in its decision any views

or reservations expressed by the competent authority responsible for the proposed acquirer.

(3)(a) If a CIF becomes aware of any acquisitions or disposals of holdings in its share capital that cause holdings to exceed or fall below any of the thresholds referred to in subsection (1), it shall inform the Commission without delay.

(b) At least once a year, CIFs shall also inform the competent authority of the names of shareholders and members possessing qualifying holdings and the sizes of such holdings as these arise, for example, as a result of information received at annual general meetings of shareholders and members, or, as a result of compliance with the regulations applicable to those companies whose transferable securities are admitted to trading on a regulated market.

(4) The Commission shall take measures similar to those referred to in section 11(3) in respect of persons who fail to comply with the obligation to provide prior information in relation to the acquisition or increase of a qualifying holding. If a holding is acquired despite the opposition of the Commission, regardless of any other sanctions to be enforced, the Commission may decide either for the suspension of the exercise of the corresponding voting rights, or for the nullity of the corresponding votes cast.

Assessment
period

13.-(1)(a) The Commission shall, promptly and in any event within two working days following receipt of the notification required under section 12(1), as well as following the possible subsequent receipt of the information referred to in subsection (2), acknowledge receipt thereof in writing to the proposed acquirer.

(b) The Commission shall carry out the assessment within a maximum of sixty working days, as from the date of the written acknowledgement of receipt of the notification and of all the documents the Commission requires to be attached to the notification, on the basis of the list referred to in section 14(4) (which shall, hereinafter be referred to as the 'assessment period').

(c) The Commission shall inform the proposed acquirer of the date of the expiry of the assessment period at the time of acknowledging receipt.

(2)(a) The Commission may, during the assessment period, if necessary, and no later than on the 50th working day of the assessment period, request any further information that is necessary to complete the assessment. Such request shall be made in writing and shall specify the additional information needed.

(b) For the period between the date of request for information by the Commission and the receipt of a response thereto by the proposed acquirer, the assessment period shall be interrupted. The interruption shall not exceed 20 working days. The Commission may make any further requests for completion or clarification of the information provided, but such requests shall not result in an interruption of the assessment period.

(3) The Commission may extend the interruption referred to in the subsection (2)(b) for up to 30 working days, if the proposed acquirer is one of the following:

- (a) a natural or legal person situated or regulated outside the European Union;
- (b) a natural or legal person, not subject to supervision under legislation that is consistent with Directives 2009/65/EC, 2009/138/EC, 2013/36/EU or Directive 2014/65/EU, issued by another Member State.

(4) If the Commission, upon completion of its assessment, decides to oppose the proposed acquisition, it shall, within two working days, and not exceeding the assessment period, inform the proposed acquirer in writing and provide the reasons for that decision. An appropriate statement of the reasons for the decision, may be made accessible to the public, either at the request of the proposed acquirer, or at the Commission's discretion.

(5) If the Commission does not oppose the proposed acquisition within the assessment period in writing, this shall be deemed to be approved.

(6) The Commission may set a maximum period for concluding the proposed acquisition and extend the said period where appropriate.

Assessment

14.-(1) In assessing the notification provided for in section 12(1) and the information referred to in section 13(2), the Commission shall, in order to ensure the sound and prudent management of the CIF in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the CIF, assess the suitability of the proposed acquirer and the financial soundness of the proposed acquisition in relation to all of the following criteria:

- (a) the reputation of the proposed acquirer;

- (b) the reputation and experience of any person who will direct the business of the CIF as a result of the proposed acquisition;
- (c) the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the CIF in which the acquisition is proposed;
- (d) whether the CIF will be able to comply and continue to comply with the prudential requirements based on this Law and, where applicable, the Commission Directive DI144-2007-16 in relation to the supplementary supervision of Investment Firms, UCITS Management Companies or Alternative Investment Fund Managers in a Financial Conglomerate, as last amended by the Commission Directive DI 144-2007-16(A), and the laws of Cyprus transposing Directives of the European Union, particularly Directive 2013/36/EU, particularly in relation to whether the group of which it will become a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities and determine the allocation of responsibilities among the competent authorities;
- (e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of section 2(1) of the Prevention and Suppression of Money Laundering and Terrorist Financing Law, is being or has been committed or

attempted, or that the proposed acquisition could increase the risk thereof.

188(I) of 2007

58(I) of 2010

80(I) of 2012

192(I) of 2012

101(I) of 2013

184(I) of 2014

18(I) of 2016.

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25.4.2016.

(2) The Commission may oppose the proposed acquisition only if there are reasonable grounds for doing so on the basis of the criteria set out in subsection (1) or if the information provided by the proposed acquirer is incomplete.

(3) The Commission shall neither impose any prior conditions in respect of the level of holding that must be acquired, nor examine the proposed acquisition in terms of the economic needs of the market.

(4) The Commission shall make publicly available a list specifying the information that is necessary to carry out the assessment and that must be provided to the Commission at the time of notification referred to in section 12(1). The information required shall be proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition. The Commission shall not require information that is not relevant for a prudential assessment.

(5) Irrespective of the provisions of section 13(1), (2) and (3), where two or more proposals to acquire or increase qualifying holdings in the same CIF have been notified to the Commission, the latter shall treat the proposed acquirers in a non-discriminatory manner.

Membership of an authorised investor compensation scheme 15.-(1) The Commission shall verify that every applicant is in compliance with its obligations under Directive 97/9/EC, at the time of authorisation.

(2) The obligation of subsection (1) shall be met in relation to structured deposits where the structured deposit is issued by a credit institution, which is a member of a deposit guarantee scheme recognised under of the Deposit Guarantee Scheme and Resolution of Credit and Other Institutions Law of 2016, and any other legislation transposing Directive 2014/49/EU.

Initial capital. 16. The Commission does not grant CIF authorisation unless the applicant has sufficient initial capital in accordance with the requirements of Regulation (EU) No 575/2013 having regard to the nature of the investment service or investment activity in question.

Organisational requirements 17.-(1) A CIF must comply with the organisational requirements laid down in subsections (2) to (10) of this section and in section 18.

(2) A CIF must establish adequate policies and procedures sufficient to ensure its compliance, including the compliance of its managers, employees and tied agents with its obligations under this Law as well as appropriate rules governing personal transactions by such persons.

(3)(a) A CIF must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest as defined in section 24 from adversely affecting the interests of its clients.

(b) A CIF which manufactures financial instruments for sale to clients must maintain, operate and review a process for the approval of each financial instrument and the significant adaptations brought about to existing financial instruments before it is marketed or distributed to clients.

(c) The product approval process must specify an identified target market of end clients within the relevant category of clients for each financial instrument and must ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market.

(d) A CIF must also regularly review financial instruments it offers or markets, taking into account any event that could materially affect the potential risk to the identified target market, in order to assess at least whether the financial instrument remains consistent with the needs of the identified target market and whether the intended distribution strategy remains appropriate.

(e) A CIF which manufactures financial instruments must make available to any distributor all appropriate information on the financial instrument and the product approval process, including the identified target market of the financial instrument.

(f) Where a CIF offers or recommends financial instruments which it does not manufacture, the CIF must have in place adequate

arrangements in order to obtain the information referred to in paragraph (e) and to understand the characteristics and identified target market of each financial instrument.

(g) The policies, processes and arrangements referred to in this subsection shall be without prejudice to all other requirements under this Law and Regulation (EU) No 600/2014, including those relating to disclosure, suitability or appropriateness, identification and management of conflicts of interests, and inducements.

(4) A CIF must take all reasonable steps to ensure continuity and regularity in the performance of investment services and activities. To that end, the CIF must employ appropriate and proportionate systems, resources and procedures.

(5)(a) A CIF must ensure, when relying on a third party for the performance of operational functions which are critical for the provision of continuous and satisfactory service to clients and the performance of investment activities on a continuous and satisfactory basis, that it takes reasonable steps to avoid undue additional operational risk. Outsourcing of important operational functions may not be undertaken in such a way as to materially impair the quality of the CIF's internal control, and the ability of the Commission to monitor the CIF's compliance with all its obligations.

(b) A CIF must have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.

(c) Without prejudice to the right of the Commission to require access to communications in accordance with this Law and Regulation (EU) No 600/2014, CIFs must have sound security mechanisms in place to guarantee the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage, in order to maintain the confidentiality of the data at all times.

(6) A CIF must arrange for records to be kept of all services and activities provided, and transactions undertaken by it, which shall be sufficient to enable the Commission to exercise its supervisory functions and to take steps to ensure the CIF's compliance with its obligations under this Law, the Regulation (EU) No 600/2014, the Directive 2014/57/EU and the Regulation (EU) No 596/2014, and in particular to ensure that the CIF has complied with all obligations, including those with respect to clients or potential clients and to the integrity of the market.

(7)(a) The records provided for in subsection (6) shall include the recording of telephone conversations or electronic communications relating to, at least, transactions concluded when dealing on own account and the provision of client order services that relate to the reception, transmission and execution of client orders.

(b) The telephone conversations and electronic communications provided for in paragraph (a) shall also include those that are intended to result in transactions concluded when dealing on own account or in the provision of client order services, that relate to the reception, transmission and execution of client orders, even if those conversations or communications do not result in the conclusion of such transactions or in the provision of client order services.

(c) For those purposes of paragraphs (a) and (b) a CIF must take all reasonable steps to record relevant telephone conversations and electronic communications, made with, sent from or received by equipment provided by the CIF to an employee or contractor or the use of which by an employee or contractor has been accepted or permitted by the CIF.

(d) A CIF must notify new and existing clients that telephone communications or conversations between the CIF and its clients that result or may result in transactions, will be recorded. Such a notification may be made once, before the provision of investment services to new and existing clients.

(e) A CIF shall not provide, by telephone, investment services and activities to clients who have not been notified, in advance, about the recording of their telephone communications or conversations, where such investment services and activities relate to the reception, transmission and execution of client orders.

(f) Orders may be placed by clients through other channels; however, such communications must be made in a durable medium such as by mail, faxes, emails or documentation of client orders made face-to-face at meetings. In particular, the content of relevant personal conversations with a client may be recorded by using written minutes or notes. Such orders shall be considered equivalent to orders received by telephone.

(g) A CIF must take all reasonable steps to prevent an employee or contractor from making, sending or receiving relevant telephone

conversations and electronic communications on privately-owned equipment which the CIF is unable to record or copy.

(h) The records kept in accordance with this subsection shall be provided to the client involved upon request and shall be kept for a period of five years and, where requested by the Commission, for a period of up to seven years.

(8) A CIF must, when holding financial instruments belonging to clients, make adequate arrangements so as to safeguard the ownership rights of clients, especially in the event of the CIF's insolvency, and to prevent the use of a client's financial instruments on own account except with the client's express consent.

(9) A CIF must, when holding funds belonging to clients, make adequate arrangements to safeguard the rights of clients and, except in the case of credit institutions, to prevent the use of client funds for its own account.

(10) A CIF shall not conclude title transfer financial collateral arrangements with retail clients for the purpose of securing or covering present or future, actual or contingent or prospective obligations of clients.

(11)(a) Subsections (6) and (7) are proportionally applied to branches of IFs, which are established in the Republic, in which case the Commission ensures the branch is in compliance with the said subsections, without prejudice to the possibility of the competent authority of the home Member State of the IF to have direct access to those records.

(b) The Commission may, in exceptional circumstances, by way of directives, impose requirements on CIFs concerning the safeguarding of client assets, additional to the provisions set out in subsections (8), (9) and (10) of this section and the respective delegated acts as referred to in paragraph 12 of Directive 2014/65/EU. Such additional requirements must be objectively justified and proportionate so as to address, where CIFs safeguard client assets and client funds, specific risks to investor protection or to market integrity which are of particular importance in the circumstances created by the market structure of the Republic.

(c) The Commission notifies, without undue delay, the European Commission, of any requirement which it intends to impose in accordance with paragraph (b) and at least two months before the date appointed for that requirement to come into force. The notification shall include a justification for that requirement. Any such additional requirements shall not restrict or otherwise affect the rights of CIFs under Articles 34 and 35 of Directive 2014/65/EU.

Algorithmic trading 18.-(1) A CIF that engages in algorithmic trading shall have in place effective systems and risk controls suitable to the business it operates to ensure that, its trading systems are resilient and have sufficient capacity, are subject to appropriate trading thresholds and trading limits and prevent the sending of erroneous orders or the systems otherwise functioning in a way that may create or contribute to a disorderly market. Such a CIF shall also have in place effective systems and risk controls to ensure the trading systems cannot be used for any purpose that is contrary to Regulation (EU) No 596/2014 or to the rules of a trading venue to which it is connected. The CIF shall have in place effective business continuity mechanisms to deal with any failure of its trading systems and

shall ensure its systems are fully tested and properly monitored to ensure that they meet the requirements laid down in this subsection.

(2)(a)(i) A CIF that engages in algorithmic trading must notify this to the Commission and to the competent authorities of the trading venue at which the CIF, as a member or participant of the trading venue, engages in algorithmic trading.

(ii) An IF that engages in algorithmic trading, as a member or participant of the trading venue of the Republic, must notify this to its home Member State and to the Commission.

(b) The Commission may require the CIF to provide, on a regular or ad-hoc basis, a description of the nature of its algorithmic trading strategies, details of the trading parameters or trading limits to which the system is subject, the key compliance and risk controls that it has in place to ensure that the conditions laid down in subsection (1) are satisfied, and details of the testing of its systems. The Commission may, at any time, request further information from the CIF about its algorithmic trading and the systems used for that trading.

(c)(i) The Commission communicates, on the request of a competent authority of a trading venue at which the CIF, as a member or participant of the trading venue, is engaged in algorithmic trading, and without undue delay, the information referred to in paragraph (b), that the Commission receives from a CIF that engages in algorithmic trading.

(ii) Where an IF, as a member or participant of a trading venue of the Republic, engages in algorithmic trading, the Commission may request, from the competent authority of the IF's home member state, the

communication to the Commission of the information set out in Article 17, paragraph 2, second subparagraph, of Directive 2014/65/EU, and which the said competent authority receives from the IF.

(d) The CIF must arrange for records to be kept in relation to the matters referred to in this subsection and shall ensure that those records be sufficient to enable The Commission to monitor its compliance with the requirements of this Law.

(e) A CIF that engages in a high-frequency algorithmic trading technique shall store in an approved form accurate and time sequenced records of all its placed orders, including cancelled orders, executed orders and quotations on trading venues and shall make them available to the Commission upon request.

(3) A CIF that engages in algorithmic trading to pursue a market making strategy shall, taking into account the liquidity, scale and nature of the specific market and the characteristics of the instrument traded:

- (a) pursue this market making continuously during a specified proportion of the trading venue's trading hours, except under exceptional circumstances, with the result of providing liquidity on a regular and predictable basis to the trading venue;
- (b) enter into a binding written agreement with the trading venue which shall at least specify the obligations of the CIF in accordance with paragraph (a); and

- (c) have in place effective systems and controls to ensure that it fulfils its obligations under the agreement referred to in paragraph (b) at all times.

(4) For the purposes of this section and of section 49, an CIF that engages in algorithmic trading shall be considered to be pursuing a market making strategy when, as a member or participant of one or more trading venues, its strategy, when dealing on own account, involves posting firm, simultaneous two-way quotes of comparable size and at competitive prices relating to one or more financial instruments on a single trading venue or across different trading venues, with the result of providing liquidity on a regular and frequent basis to the overall market.

(5)(a) A CIF that provides direct electronic access to a trading venue, must have in place effective systems and controls which ensure, a proper assessment and review of the suitability of clients using the service, that clients using the service are prevented from exceeding appropriate pre-set trading and credit thresholds, that trading by clients using the service is properly monitored and that appropriate risk controls prevent trading that may create risks to the CIF itself, or that could create or contribute to a disorderly market or could be contrary to Regulation (EU) No 596/2014 or the rules of the trading venue. Direct electronic access without such controls is hereby prohibited.

(b) A CIF that provides direct electronic access shall be responsible for ensuring that clients using that service comply with the requirements of this Law and the rules of the trading venue. The CIF shall monitor the transactions in order to identify infringements of those rules, disorderly trading conditions or conduct that may involve market abuse and that must be reported to the Commission by the CIF. The CIF must ensure

that there is a binding written agreement between the CIF and the client regarding the essential rights and obligations arising from the provision of the service and that under the agreement the CIF retains responsibility under this Law.

(c)(i) A CIF that provides direct electronic access to a trading venue shall notify the Commission and the competent authorities of the trading venue at which the CIF provides direct electronic access accordingly.

(ii) An IF, that provides direct electronic access to a trading venue established in the Republic, shall notify the competent authority of its home Member State and the Commission.

(d) The Commission may require the CIF to provide, on a regular or ad-hoc basis, a description of the systems and controls referred to in paragraph (a) and evidence that those have been applied.

(e)(i) The Commission communicates without undue delay, on the request of a competent authority of a trading venue in relation to which the CIF provides direct electronic access, the information referred to in the fourth paragraph (d) that it receives from the CIF.

(ii) Where an IF provides direct electronic access to a trading venue established in the Republic, the Commission may request that the competent authority of the IF's home Member State communicates the information set out in Article 17, paragraph 5, fourth subparagraph of Directive 2014/65/EU, , and which the said competent authority receives from the IF.

(f) The CIF must arrange for records to be kept in relation to the matters referred to in this subsection and must ensure that those records be sufficient to enable the Commission to monitor compliance with the requirements of this Law.

(6) A CIF that acts as a general clearing member for other persons, must have in place effective systems and controls to ensure that clearing services are only applied to persons who are suitable and meet clear criteria, and that appropriate requirements are imposed on those persons, to reduce risks to the CIF and to the market. The CIF must ensure that there is a binding written agreement between the CIF and the person, regarding the essential rights and obligations arising from the provision of that service.

Trading process
and finalisation of
transactions in an
MTF and an OTF.

19.-(1) CIFs and market operators of the Republic, operating an MTF or an OTF, in addition to meeting the organisational requirements laid down in section 17, must:

- (a) establish transparent rules and procedures for fair and orderly trading and establish objective criteria for the efficient execution of orders; and
- (b) have arrangements in place, for the sound management of the technical operations of the facility, including the establishment of effective contingency arrangements to cope with risks of systems disruption.

(2)(a) CIFs and market operators of the Republic operating an MTF or an OTF, establish transparent rules regarding the criteria for determining the financial instruments that can be traded under their systems.

(b) Where applicable, CIFs and market operators of the Republic operating an MTF or an OTF, taking into account both the nature of the users and the types of instruments traded, provide, or are satisfied that there is access to, sufficient publicly available information to enable their users of MTFs or OTFs to form an investment judgement.

(3) CIFs and market operators operating an MTF of the Republic or an OTF, establish, publish, maintain and implement, transparent and non-discriminatory rules, based on objective criteria, governing access to their facility.

(4) CIFs and market operators of the Republic operating an MTF or an OTF have arrangements to clearly identify and manage, the potential adverse consequences for the operation of the MTF or OTF, or for their members or participants and users, of any conflict of interest between, on the one hand the interests of the MTF, the OTF, their owners or the CIF or market operator of the Republic operating the MTF or OTF, and, on the other hand, the sound functioning of the MTF or OTF.

(5) CIFs and market operators of the Republic operating an MTF or an OTF comply with sections 49 and 50 and have in place all the necessary effective systems, procedures and mechanisms to do so.

(6) CIFs and market operators of the Republic operating an MTF or OTF, must:

- (a) clearly inform their members or participants of their respective responsibilities for the settlement of the transactions executed in that facility; and
- (b) put in place the necessary arrangements to facilitate the efficient settlement of the transactions concluded under the systems of that MTF or OTF.

(7) MTFs and OTFs have at least three materially active members or users, each having the opportunity to interact with all the others in respect to price formation.

(8) Where a transferable security that has been admitted to trading on a regulated market is also traded on an MTF or an OTF without the consent of the issuer, the issuer shall not be subject to any obligation relating to initial, ongoing or ad hoc financial disclosure with regard to that MTF or an OTF.

(9) CIFs and market operators of the Republic operating an MTF or an OTF comply immediately with any instruction from the Commission pursuant to section 70(2) to suspend or remove a financial instrument from trading.

(10) CIFs and market operators of the Republic operating an MTF or an OTF provide the Commission with a detailed description of the functioning of the MTF or OTF, including, without prejudice to section 21(1), (4) and (5), any links to, or participation by, a regulated market, an MTF, an OTF or a systematic internaliser owned by the same CIF or market operator, and a list of their members, participants and/or users. The Commission shall make that information available to ESMA on

request. Every authorisation to a CIF or market operator as an MTF and an OTF shall be notified to ESMA.

Specific requirements for MTFs.

20.-(1) CIFs and market operators of the Republic operating an MTF, in addition to meeting the requirements laid down in sections 17 and 19, shall establish and implement non-discretionary rules for the execution of orders in the system.

(2) CIFs and market operators of the Republic operating an MTF ensure that the rules referred to in section 19(3) governing access to an MTF comply with the conditions established in section 54(3).

(3) CIFs and market operators of the Republic operating an MTF must have arrangements:

- (a) to be adequately equipped to manage the risks to which they are exposed, to implement appropriate arrangements and systems to identify all significant risks to their operation, and to put in place effective measures to mitigate those risks; and
- (b) to have effective arrangements to facilitate the efficient and timely finalisation of the transactions executed under their systems; and
- (c) to have available, at the time of authorisation and on an ongoing basis, sufficient financial resources to facilitate their orderly functioning, having regard to the nature and extent

of the transactions concluded on the market and the range and degree of the risks to which they are exposed.

(4) Sections 25, 26, 28(1), (2) and (4) to (10) and section 29 are not applicable to the transactions concluded under the rules governing an MTF between its members or participants or between the MTF and its members or participants in relation to the use of the MTF. However, the members of or participants in the MTF shall comply with the obligations provided for in Articles 25, 26, 28 and 29 with respect to their clients when, acting on behalf of their clients, they execute their orders through the systems of an MTF.

(5) The execution of client orders against proprietary capital, or the engaging in matched principal trading by CIFs or market operators of the Republic operating an MTF, is hereby forbidden.

Specific requirements for OTFs.

21.-(1) CIFs and market operators of the Republic operating an OTF, must establish arrangements preventing the execution of client orders in an OTF against the proprietary capital of the CIF or market operator of the Republic operating the OTF or from any entity that is part of the same group or legal person as the CIF or market operator.

(2)(a) CIFs or market operators of the Republic operating an OTF may engage in matched principal trading in bonds, structured finance products, emission allowances and certain derivatives only where the client has consented to the process.

(b) CIFs or market operators of the Republic operating an OTF shall not use matched principal trading to execute client orders in an OTF in derivatives pertaining to a class of derivatives, that has been declared

subject to the clearing obligation in accordance with Article 5 of Regulation (EU) No 648/2012.

(c) CIFs or market operators of the Republic operating an OTF must establish arrangements ensuring compliance with the definition of “matched principal trading” of section 2.

(3) CIFs or market operators of the Republic operating an OTF may engage in dealing on own account other than matched principal trading, only with regard to sovereign debt instruments for which there is not a liquid market.

(4) The operation of an OTF and of a systematic internaliser within the same legal entity is hereby forbidden. It is hereby forbidden for an OTF to connect with a systematic internaliser in a way which enables orders in an OTF and orders or quotes in a systematic internaliser to interact. It is hereby forbidden for an OTF to connect with another OTF in a way which enables orders in different OTFs to interact.

(5)(a) CIFs and market operators of the Republic operating an OTF may engage another IF to carry out market making on that OTF on an independent basis.

(b) For the purposes of this section, an IF shall not be deemed to be carrying out market making on an OTF on an independent basis if it has close links with the CIF or market operator of the Republic operating the OTF.

(6)(a) The execution of orders on an OTF is carried out on a discretionary basis.

(b) A CIF or a market operator of the Republic operating an OTF shall exercise discretion only in either or both of the following circumstances:

- (i) when deciding to place or retract an order on the OTF they operate;
- (ii) when deciding not to match a specific client order with other orders available in the systems at a given time, provided it is in compliance with specific instructions received from a client and with its obligations in accordance with section 28.

(c) For the system that crosses client orders the CIF or market operator of the Republic operating an OTF may decide if, when and how much of two or more orders it wants to match within the system. In accordance with subsections (1), (2), (4) and (5) and without prejudice to subsection (3), with regard to a system that arranges transactions in non-equities, the CIFs or market operator of the Republic operating the OTF may facilitate negotiation between clients so as to bring together two or more potentially compatible trading interests in a transaction.

(d) The obligation of paragraph (a) shall be without prejudice to sections 19 and 28.

(7) The Commission may require, either when a CIF or market operator of the Republic requests to be authorised for the operation of an OTF, or on ad-hoc basis, a detailed explanation why the system does not correspond to and cannot operate as a regulated market, MTF, or systematic internaliser, as well as a detailed description as to the way in

which discretion will be exercised, and in particular, when an order to the OTF may be retracted and when and how two or more client orders will be matched within the OTF. In addition, the CIF or market operator of the Republic operating an OTF, shall provide the Commission with information explaining its use of matched principal trading. The Commission shall monitor a CIF's or market operator of the Republic's engagement in matched principal trading to ensure that it continues to fall within the definition of "matched principal trading" of section 2(1), and that its engagement in matched principal trading does not give rise to conflicts of interest between the CIF or market operator of the Republic and its clients.

(8) Sections 25, 26, 28 and 29 are applied to the transactions concluded on an OTF.

CHAPTER II

Operating conditions for investment firms

PART 1

General provisions

CHAPTER II

Regular review
of conditions for
CIF
authorisation.

22.-(1) A CIF must comply at all times with the conditions for CIF authorisation established in Chapter I.

(2) The Commission shall establish the appropriate methods to monitor that CIFs comply with their obligation under subsection (1). CIFs

must notify to the Commission, any material changes to the conditions for CIF authorisation.

General obligation
in respect of on-
going supervision

23. The Commission monitors the activities of CIFs in a way that allows for the assessment of compliance with the operating conditions provided for in this Law. The Commission may obtain any information needed to assess the compliance of CIFs with the operating conditions provided for in this Law.

Conflicts of
interest

24.-(1) A CIF must take all reasonable steps to identify and to prevent or manage conflicts of interest between itself, including its managers, employees and tied agents, or any person directly or indirectly linked to it by control, and its clients or between one client and another, that arise in the course of providing any investment and ancillary services, or combinations thereof, including those caused by the receipt of inducements from third parties or by the CIF's own remuneration and other incentive structures.

(2) Where organisational or administrative arrangements made by the CIF in accordance with section 17(3) to prevent conflicts of interest from adversely affecting the interest of its client, are not sufficient to ensure, with reasonable confidence, that risks of damage to client interests will be prevented, the CIF shall clearly disclose to the client the general nature or/and sources of conflicts of interest and the steps taken to mitigate those risks, before undertaking business on its behalf.

(3) The disclosure referred to in subsection (2) shall:

(a) be made via a durable medium; and

- (b) include sufficient detail, taking into account the nature of the client, to enable that client to take an informed decision with respect to the service in the context of which the conflict of interest arises.

PART 2

Provisions to ensure investor protection

General principles and information to clients

25.-(1) A CIF must, act honestly, fairly and professionally when providing investment services, or, where appropriate, ancillary services, to clients, in accordance with the best interests of its clients, and comply, in particular, with the principles set out in section 26.

(2)(a) CIFs which manufacture financial instruments for sale to clients:

- (i) shall ensure that those financial instruments are designed to meet the needs of an identified target market of end clients within the relevant category or clients, and
- (ii) shall ensure that the strategy for distribution of the financial instruments is compatible with the identified target market, and
- (iii) take reasonable steps to ensure that the financial instrument is distributed to the identified target market.

(b) A CIF must understand the financial instruments it offers or recommends, assess the compatibility of the financial instruments with the needs of the clients to whom it provides investment services, by also

taking into account the identified target market of end clients as referred to in section 17(3), and ensure that financial instruments are offered or recommended only when this is in the interest of the client.

(3) CIFs must ensure that:

- (a) all information, including marketing communications, addressed to clients or potential clients are fair, clear and not misleading, and
- (b) marketing communications are clearly identifiable as such.

(4)(a) A CIF ensures that appropriate information is provided in good time to clients or potential clients with regard to the CIF and its services, the financial instruments and proposed investment strategies, execution venues and all costs and related charges, and that, such information includes the following:

- (i) when investment advice is provided, the CIF must, in good time before it provides investment advice, inform the client:
 - (A) whether or not the advice is provided on an independent basis; and
 - (B) whether the advice is based on a broad or on a more restricted analysis of different types of financial instruments and, in particular, whether the range is limited to financial instruments issued or provided by entities having close links with the CIF or any other legal or economic relationships, such

as contractual relationships, so close as to pose a risk of impairing the independent basis of the advice provided;

- (C) whether the CIF will provide the client with a periodic assessment of the suitability of the financial instruments recommended to that client;
- (ii) the information on financial instruments and proposed investment strategies must include appropriate guidance on and warnings of the risks associated with investments in those instruments or in respect of particular investment strategies and must state whether the financial instrument is intended for retail or professional clients, taking account of the identified target market in accordance with subsection (2);
- (iii) the information on all costs and associated charges must include information relating to both investment services and ancillary services, including the cost of advice, where relevant, the cost of the financial instrument recommended or marketed to the client and how the client may pay for it, also encompassing any third-party payments.

(b) The CIF ensures that the information about all costs and charges, including costs and charges in connection with the investment service and the financial instrument, which are not caused by the occurrence of underlying market risk, shall be aggregated to allow the client to understand the overall cost as well as the cumulative effect on return of the investment, and if the client so requests, an itemised

breakdown of the costs shall be provided. Where applicable, such information shall be provided to the client on a regular basis, at least annually, during the life of the investment.

(5) The CIF ensures that the information referred to in subsections (4) and (9) are provided in a comprehensible form in such a manner that clients or potential clients are reasonably able to understand the nature and risks of the investment service and of the specific type of financial instrument that is being offered and, consequently, to take investment decisions on an informed basis. Such information may be provided in a standardised format.

(6) Where an investment service is offered as part of a financial product which is already subject to other provisions of European Union law relating to credit institutions and consumer credits with respect to information requirements, that service shall not be additionally subject to the obligations set out in subsections (3), (4) and (5).

(7) Where a CIF informs the client that investment advice is provided on an independent basis, that CIF must

(a) assess a sufficient range of financial instruments available on the market which must be sufficiently diverse with regard to their type and issuers or product providers to ensure that the client's investment objectives can be suitably met and must not be limited to financial instruments issued or provided by:

- (i) the CIF itself or by entities having close links with the CIF;
or
 - (ii) other entities with which the CIF has such close legal or economic relationships, such as contractual relationships, as to pose a risk of impairing the independent basis of the advice provided;
- (b) not accept and retain fees, commissions or any monetary or non-monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the provision of the service to clients. Minor non-monetary benefits that are capable of enhancing the quality of service provided to a client and are of a scale and nature such that they could not be judged to impair compliance with the CIF's duty to act in the best interest of the client must be clearly disclosed and are excluded from this paragraph.

(8) When providing portfolio management the CIF must not accept and retain fees, commissions or any monetary or non-monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the provision of the service to clients. Minor non-monetary benefits that are capable of enhancing the quality of service provided to a client and are of a scale and nature such that they could not be judged to impair compliance with the CIF's duty to act in the best interest of the client must be clearly disclosed and are excluded from this subsection.

(9)(a) CIFs are regarded as not fulfilling their obligations under section 24, or under subsection(1) of this section, where they pay or are paid any fee or commission, or provide or are provided with any non-monetary

benefit in connection with the provision of an investment service or an ancillary service, to or by any party except the client or a person on behalf of the client, other than where the payment or benefit:

(i) is designed to enhance the quality of the relevant service to the client; and

(ii) does not impair compliance with the CIF's duty to act honestly, fairly and professionally in accordance with the best interest of its clients.

(b) The existence, nature and amount of the payment or benefit referred to in the paragraph (a), or, where the amount cannot be ascertained, the method of calculating that amount, must be clearly disclosed to the client, in a manner that is comprehensive, accurate and understandable, prior to the provision of the relevant investment service or ancillary service. Where applicable, the CIF shall also inform the client on mechanisms for transferring to the client the fee, commission, monetary or non-monetary benefit received in relation to the provision of the investment service or ancillary service.

(c) The payment or benefit which enables or is necessary for the provision of investment services, such as custody costs, settlement and exchange fees, regulatory levies or legal fees, and, where the said payment or benefit, by its nature cannot give rise to conflicts with the CIF's duties to act honestly, fairly and professionally in accordance with the best interests of its clients, is not subject to the requirements set out in paragraph (a)

(10) A CIF which provides investment services to clients shall ensure that it does not remunerate or assess the performance of its staff in a way that conflicts with its duty to act in the best interests of its clients. In particular, such CIF shall not make any arrangement by way of remuneration, sales targets or otherwise that could provide an incentive to its staff to recommend a particular financial instrument to a retail client when the CIF could offer a different financial instrument which would better meet that client's needs.

(11)(a) When an investment service is offered together with another service or product as part of a package or as a condition for the same agreement or package, the CIF shall inform the client whether it is possible to buy the different components separately and shall provide for separate evidence of the costs and charges of each component.

(b) Where the risks resulting from such an agreement or package offered to a retail client, as mentioned in paragraph (a), are likely to be different from the risks associated with the components taken separately, the CIF shall provide an adequate description of the different components of the agreement or package and the way in which their interaction modifies the risks.

(12)(a) The Commission may, in exceptional cases, by way of directives, impose additional requirements on CIFs, in respect of the matters covered by this section. Such requirements must be objectively justified and proportionate so as to address specific risks to investor protection or to market integrity which are of particular importance in the circumstances of the market structure of the Republic.

(b) The Commission shall notify the European Commission of any requirement which they intend to impose in accordance with this subsection, without undue delay and at least two months before the date appointed for that requirement to come into force. The notification shall include a justification for that requirement. Any such additional requirements shall not restrict or otherwise affect the rights of CIFs under Articles 34 and 35 of Directive 2014/65/EU.

Assessment of suitability and appropriateness and reporting to clients.

26.-(1) CIFs must ensure and demonstrate to the Commission, upon its request, that natural persons giving investment advice or information about financial instruments, investment services or ancillary services to clients on behalf of the CIF, possess the necessary knowledge and competence to fulfil their obligations under section 25 and this section. The Commission, shall publish, by way of directives, the criteria to be used for assessing such knowledge and competence.

(2)(a) When providing investment advice or portfolio management the CIF must obtain the necessary information regarding the client's or potential client's knowledge and experience in the investment field relevant to the specific type of product or service, that person's financial situation including his ability to bear losses, and his investment objectives including his risk tolerance so as to enable the CIF to recommend to the client or potential client the investment services and financial instruments that are suitable for him and, in particular, that are in accordance with his risk tolerance and ability to bear losses.

(b) Where a CIF provides investment advice recommending a package of services or products bundled pursuant to Article 25(11), the CIF must ensure that the overall bundled package is suitable.

(3)(a) When providing investment services other than those referred to in subsection (2), CIFs must ask the client or potential client to provide information regarding that person's knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded, so as to enable the CIF to assess whether the investment service or product envisaged is appropriate for the client. Where a bundle of services or products is envisaged pursuant to Article 25(11), CIFs must ensure that they consider whether the overall bundled package is appropriate in their assessment.

(b) Where the CIF considers, on the basis of the information received under paragraph (a), that the product or service is not appropriate to the client or potential client, the CIF must warn the client or potential client. This warning may be provided in a standardised format.

(c) Where clients or potential clients do not provide the information referred to under paragraph (a), or where they provide insufficient information regarding their knowledge and experience, the CIF must warn them that it is not in a position to determine whether the service or product envisaged is appropriate for them. This warning may be provided in a standardised format.

(4) When a CIF provides investment services that only consist of execution or reception and transmission of client orders with or without ancillary services, excluding the granting of credits or loans as specified in point 2 of Part II of the First Appendix, which credits or loans do not comprise of existing credit limits of loans, current accounts and overdraft facilities of clients, it may provide those investment services to its clients without the need to obtain the information or make the determination provided for in subsection (3) if all the following conditions are met:

First Appendix.

- (a) the services relate to any of the following financial instruments:
- (i) shares admitted to trading on a regulated market or on an equivalent third-country market or on a MTF, where those are shares in companies, and excluding shares in non-UCITS collective investment undertakings and shares that embed a derivative;
 - (ii) bonds or other forms of securitised debt admitted to trading on a regulated market or on an equivalent third country market or on a MTF, excluding those that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
 - (iii) money-market instruments, excluding those that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved;
 - (iv) shares or units in UCITS, excluding structured UCITS as referred to in Article 36, paragraph 1, second subsection of Regulation (EU) No 583/2010;
 - (v) structured deposits, excluding those that incorporate a structure which makes it difficult for the client to understand the risk of return or the cost of exiting the product before term;
 - (vi) other non-complex financial instruments for the purpose of this subsection.

For the purpose of this paragraph, a third-country market shall be considered to be equivalent to a regulated market if the requirements and the procedure of Article 4, paragraph 4 of Directive 2014/65/EU are fulfilled.

- (b) the service is provided at the initiative of the client or potential client;
- (c) the client or potential client has been clearly informed that, in the provision of that service, the CIF is not required to assess the appropriateness of the financial instrument or service provided or offered and that, therefore, he does not benefit from the corresponding protection of the relevant conduct of business rules. Such a warning may be provided in a standardised format;
- (d) the CIF complies with its obligations under section 24.

(5) The CIF must establish a record that includes the document or documents agreed between the CIF and the client that sets out the rights and obligations of the parties, and the other terms on which the CIF will provide services to the client. The rights and duties of the parties to the contract may be incorporated by reference to other documents or legal texts.

(6)(a) The CIF must provide the client with adequate reports on the service provided in a durable medium. Those reports shall include periodic communications to clients, taking into account the type and the complexity of financial instruments involved and the nature of the service

provided to the client and shall include, where applicable, the costs associated with the transactions and services undertaken on behalf of the client.

(b) When providing investment advice, the CIF shall, before the transaction is made, provide the client with a statement on suitability in a durable medium specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the retail client.

(c) Where the agreement to buy or sell a financial instrument is concluded using a means of distance communication, which prevents the prior delivery of the suitability statement, the CIF may provide the written statement on suitability in a durable medium immediately after the client is bound by any agreement, provided both the following conditions are met:

- (i) the client has consented to receiving the suitability statement, without undue delay, after the conclusion of the transaction; and
- (ii) the CIF has given the client the option of delaying the transaction in order to receive the statement on suitability in advance.

(d) Where a CIF provides portfolio management or has informed the client that it will carry out a periodic assessment of suitability, the periodic report shall contain an updated statement of how the investment meets the client's preferences, objectives and other characteristics of the retail client.

(7) If a credit agreement relating to residential immovable property, which is subject to the provisions concerning creditworthiness assessment of consumers laid down in Directive 2014/17/EU of the European Parliament and the Council, has as a prerequisite the provision to that same consumer of an investment service in relation to mortgage bonds specifically issued to secure the financing of and having identical terms as the credit agreement relating to residential immovable property, in order for the loan to be payable, refinanced or redeemed, that service shall not be subject to the obligations set out in this section.

Provision of services through the medium of another IF

27.-(1)(a) A CIF receiving an instruction to provide investment services or ancillary services on behalf of a client through the medium of another IF, may rely on client information transmitted by the latter IF.

(b) The CIF through which instructions are transmitted to another IF for the provision of investment services or ancillary services, will remain responsible for the completeness and accuracy of the information transmitted.

(2)(a) The CIF which receives an instruction to undertake services on behalf of a client in accordance to paragraph (a) of subsection (1), may also rely on any recommendations in respect of the service or transaction that have been provided to the client by another IF.

(b) The CIF through which instructions are transmitted to another IF for the provision services for the client in accordance to paragraph (b) of subsection (1), will remain responsible, for the client, for the suitability of the recommendations or advice provided.

(3) The CIF which receives client instructions or orders through the medium of another IF shall remain responsible for concluding the service or transaction, based on any such information or recommendations, in accordance with the relevant provisions of this Title.

Obligation to execute orders on terms most favourable to the client

28.-(1)(a) The CIF must take all sufficient steps to obtain, when executing orders, the best possible result for its clients taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order. Nevertheless, where there is a specific instruction from the client the CIF shall execute the order following the specific instruction.

(b) Where an CIF executes an order on behalf of a retail client, the best possible result shall be determined in terms of the total consideration, representing the price of the financial instrument and the costs relating to execution, which shall include all expenses incurred by the client which are directly relating to the execution of the order, including execution venue fees, clearing and settlement fees and any other fees paid to third parties involved in the execution of the order.

(c) For the purposes of delivering best possible result in accordance with paragraph (a), where there is more than one competing venue to execute an order for a financial instrument, in order to assess and compare the results, for the client, that would be achieved by executing the order on each of the execution venues listed in the CIF's order execution policy which are capable of executing that order, the CIF's own commissions and the costs for executing the order on each of the eligible execution venues, shall be taken into account in that assessment.

(2) A CIF shall not receive any remuneration, discount or non-monetary benefit for routing client orders to a particular trading venue or execution venue which would infringe the requirements on conflicts of interest or inducements set out in subsection (1) of this section, section 17(3) and sections 24 and 25.

(3) Each trading venue and systematic internaliser, for financial instruments subject to the trading obligation in Articles 23 and 28 Regulation (EU) No 600/2014, and each execution venue for other financial instruments, must make available to the public, without any charges, on at least an annual basis, data relating to the quality of execution of transactions on that venue. The said periodic reports shall include details about price, costs, speed and likelihood of execution for individual financial instruments. The CIF, following execution of a transaction on behalf of a client, must inform the client where the order was executed.

(4) The CIF must establish and implement effective arrangements for complying with subsection (1). In particular, the CIF must establish and implement an order execution policy to allow it to obtain, for its client orders, the best possible result in accordance with subsection (1).

(5)(a) The order execution policy must include, in respect of each class of financial instruments, information on the different venues where the CIF executes its client orders and the factors affecting the choice of execution venue and must at least include those venues that enable the CIF to obtain on a consistent basis the best possible result for the execution of client orders.

(b) The CIF must provide appropriate information to its clients on its order execution policy and must obtain the prior consent of its clients, as to the order execution policy. That information shall explain clearly, in sufficient detail and in a way that can be easily understood by clients, how orders will be executed by the CIF for the client.

(c) Where the order execution policy provides for the possibility that client orders may be executed outside a trading venue, the CIF must, in particular, inform its clients about that possibility and must obtain the prior express consent of its clients before proceeding to execute their orders outside a trading venue. The CIF may obtain such consent either in the form of a general agreement or in respect of individual transactions.

(6) The CIF that executes client orders must summarise and make public on an annual basis, for each class of financial instruments, the top five execution venues in terms of trading volumes where it executed client orders in the preceding year and information on the quality of execution obtained.

(7) The CIF that executes client orders must monitor the effectiveness of its order execution arrangements and execution policy in order to identify and, where appropriate, correct any deficiencies. In particular, the CIF must assess, on a regular basis, whether the execution venues included in its policy for order execution, provide for the best possible result for the client or whether the CIF needs to make changes to its execution arrangements, taking account of, inter alia, the information published under subsections (3) and (6). The CIF must notify clients with whom it has an ongoing client relationship of any material changes to its order execution arrangements or execution policy.

(8) The CIF must be able to demonstrate to its clients, at their request, that it has executed their orders in accordance with the CIF's execution policy and to demonstrate to the Commission, at its request, the CIF's compliance with this section.

Client order
handling rules.

29.-(1) The CIF authorised to execute orders on behalf of clients must implement procedures and arrangements which provide for the prompt, fair and expeditious execution of client orders, relative to its other client orders or the trading interests of the CIF itself. Those procedures or arrangements shall allow for the execution of otherwise comparable client orders in accordance with the time of their reception by the CIF.

(2) In the case of a client limit order in respect of shares admitted to trading on a regulated market or traded on a trading venue which are not immediately executed under prevailing market conditions, the CIF must, unless the client expressly instructs otherwise, take measures to facilitate the earliest possible execution of that order by making public immediately that client limit order in a manner which is easily accessible to other market participants. The CIF is deemed to comply with this obligation if it transmits the client limit order to a trading venue. The Commission may waive the obligation to make public a limit order that is large in scale compared with normal market size as determined under Article 4 of Regulation (EU) No 600/2014.

Obligations of
investment firms
when appointing
tied agents.

30.-(1) Without prejudice to subsection (5) the CIF may appoint tied agents for the purposes of promoting its services, soliciting business or receiving orders from clients or potential clients and transmitting them, placing financial instruments and providing advice in respect of such financial instruments and services offered by that CIF.

(2)(a) Where a CIF decides to appoint a tied agent, it remains fully and unconditionally responsible for any action or omission on the part of the tied agent when acting on behalf of the CIF. The CIF must ensure that the tied agent discloses the capacity in which he is acting and the CIF which he is representing, when contacting or before dealing with any client or potential client.

(b) The CIF must monitor the activities of its tied agents so as to ensure that the CIF continues to comply with this Law, even when acting through tied agents.

(3)(a) Tied agents established in the Republic shall be registered in the public register established by the Commission.

(b) Tied Agents are only admitted to the public register if it has been established that they are of sufficiently good repute and that they possess the appropriate general, commercial and professional knowledge and competence so as to be able to deliver the investment service or ancillary service and to communicate accurately all relevant information regarding the proposed service to the client or potential client.

(c) The register shall be updated on a regular basis and shall be publicly available.

(4) The CIF appointing tied agents must take adequate measures in order to avoid any negative impact that the activities of the tied agent not covered by the scope of this Law could have on the activities carried out by the tied agent on behalf of the CIF.

(5) A CIF may only appoint as tied agents persons who are registered in the public register of subsection (3) or the respective public registers of other member states that have been established pursuant to their corresponding legislation enacted in compliance with Article 29 paragraph (3) of Directive 2014/65/EU.

(6) The Commission may, by way of directives, adopt provisions that are more stringent than those set out in this section, or add further requirements for tied agents registered within the Republic.

Transactions
executed with
eligible
counterparties

31.-(1)(a) A CIF that is authorised to execute orders on behalf of clients or/and to deal on own account or/and to receive and transmit orders, may bring about or enter into transactions with eligible counterparties without being obliged to comply with the obligations under section 25, with the exception of subsections (4) and (5), section 26, with the exception of subsection (6), section 28 and section 29(1), in respect of those transactions or in respect of any ancillary service directly relating to those transactions.

(b) In their relationship with eligible counterparties, CIFs must act honestly, fairly and professionally and communicate in a way which is fair, clear and not misleading, taking into account the nature of the eligible counterparty and of its business.

(2)(a) Eligible counterparties, for the purposes of this section, are CIFs, other IFs, credit institutions, insurance companies, UCITS and UCITS management companies, pension funds and their management companies, other financial institutions authorised by a Member State or regulated under the laws of Cyprus or under European Union law, national

governments and their corresponding offices, including public bodies that deal with public debt at national level, central banks, the Central Bank and supranational organisations.

(b) Classification as an eligible counterparty under paragraph (a) shall be without prejudice to the right of such entities to request, either on a general form or on a trade-by-trade basis, treatment as clients whose business with the CIF is subject to sections 25, 26, 28 and 29.

(3)(a) The Commission also recognises as eligible counterparties, other undertakings meeting pre-determined proportionate requirements, including quantitative thresholds. In the event of a transaction where the prospective counterparties are located in different jurisdictions, the CIF shall defer to the status of the other undertaking as determined by the law or measures of the Member State in which that undertaking is established.

(b) The CIF, when it enters into transactions in accordance with paragraph (a) with such undertakings, obtains the express confirmation from the prospective counterparty that it agrees to be treated as an eligible counterparty. This confirmation is obtained either in the form of a general agreement or in respect of each individual transaction.

(4)(a) The Commission recognises as eligible counterparties, third country entities which are equivalent to those categories of entities referred to in subsection (2).

(b) The Commission recognises as eligible counterparties third country undertakings such as those referred to in subsection (3) on the same conditions and subject to the same requirements as those laid down in subsection (3).

PART 3**Market transparency and integrity**

Monitoring of compliance with the rules of the MTF or the OTF and with other legal obligations

32.-(1) CIFs and market operators of the Republic operating an MTF or OTF must establish and maintain effective arrangements and procedures, relevant to the MTF or OTF, for the regular monitoring of the compliance by its members or participants or users with the rules of the MTF or OTF. CIFs and market operators of the Republic operating an MTF or OTF shall monitor the orders sent, including cancellations and the transactions undertaken by their members or participants or users under their systems, in order to identify infringements of those rules, disorderly trading conditions, conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014 or system disruptions in relation to a financial instrument and shall deploy the resource necessary to ensure that such monitoring is effective.

(2)(a) CIFs and market operators of the Republic operating an MTF or OTF must inform the Commission immediately of significant infringements of its rules or disorderly trading conditions or conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014 or system disruptions in relation to a financial instrument.

(b) The Commission shall communicate to ESMA and to the competent authorities of the other Member States the information referred to in the paragraph (a).

(c) In relation to conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014, the Commission must be

convinced that such behaviour is being or has been carried out before it notifies the competent authorities of the other Member States and ESMA.

(3) CIFs and market operators of the Republic operating an MTF or OTF must also provide full assistance to the Commission in investigating and prosecuting market abuse occurring on or through its systems.

Suspension and removal of financial instruments from trading on an MTF or an OTF

33.-(1) Without prejudice to the right of the competent authority under section 70(2) to demand suspension or removal of a financial instrument from trading, a CIF or a market operator of the Republic operating an MTF or an OTF may suspend or remove from trading a financial instrument which no longer complies with the rules of the MTF or an OTF unless such suspension or removal would be likely to cause significant damage to the investors' interests or the orderly functioning of the market.

First Appendix.

(2)(a) A CIF or a market operator of the Republic operating an MTF or an OTF that suspends or removes from trading a financial instrument, must also suspend or remove derivatives referred to in points 4) to 10) of Part III of the First Appendix that relate or are referenced to that financial instrument, where this is necessary to support the objectives of the suspension or removal of the underlying financial instrument. CIFs or market operators of the Republic operating an MTF or an OTF shall make public their decision on the suspension or removal of the financial instrument and of any related derivative and co

First Appendix.

(b) Where the suspension or removal decision originated in the Republic, the Commission shall require that regulated markets of the Republic, other MTFs, other OTFs and systematic internalisers, which fall under its jurisdiction and trade the same financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix of this Law,

that relate, or are referenced, to that financial instrument, also suspend or remove that financial instrument or derivatives from trading, where the suspension or removal is due to suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument infringing Articles 7 and 17 of Regulation (EU) No 596/2014, except where such suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market.

(c) The Commission shall immediately make public and communicate to ESMA and the competent authorities of the other Member States the decision provided for in paragraph (b).

(d) Where the suspension or removal decision originated in another Member State and the competent authority of that Member State notifies its decision to the Commission, the Commission shall require that regulated markets of the Republic, other MTFs, other OTFs and systematic internalisers, which fall under its jurisdiction and trade the same financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix of this Law that relate, or are referenced, to that financial instrument, also suspend or remove that financial instrument or derivatives from trading, where the suspension or removal is due to suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument infringing Articles 7 and 17 of Regulation (EU) No 596/2014 except where such suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market.

First Appendix.

(e) The Commission, when receiving a notification as provided for in paragraph (d) by a competent authority of another Member State, shall communicate its decision to ESMA and other competent authorities,

including an explanation if the decision was not to suspend or remove from trading the financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix that relate to, or are referenced to, that financial instrument.

(f) This subsection also applies when the suspension from trading is lifted, from a financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix that relate or are referenced to that financial instrument.

(g) The notification procedure referred to in this subsection shall also apply in the case where the decision to suspend or remove from trading a financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix that relate or are referenced to that financial instrument, is taken by the competent authority pursuant to section 70(2)(m) or (n).

PART 4

SME growth markets

SME growth markets 34.-(1) The operator of an MTF in the Republic may apply to the Commission to have the MTF registered as an SME growth market.

(2) The Commission may register the MTF as an SME growth market, if the Commission receives the application referred to in subsection (1) and is satisfied that the MTF complies with the requirements of subsection (3).

(3) MTFs are subject to effective rules, systems and procedures which ensure that the following is complied with:

- (a) at least 50 % of the issuers whose financial instruments are admitted to trading on the MTF are SMEs at the time when the MTF is registered as an SME growth market and in any calendar year thereafter;
- (b) appropriate criteria are set for initial and ongoing admission to trading of financial instruments of issuers on the market;
- (c) on initial admission to trading of financial instruments on the market, there is sufficient information published to enable investors to make an informed judgment about whether or not to invest in the financial instruments, via either an appropriate admission document or a prospectus, if the requirements laid down in the Public Offering and Prospectus Law, are applicable in respect of a public offer being made in conjunction with the initial admission to trading of the financial instrument on the MTF;

114(I) of 2005

144(I) of 2012

63(I) of 2013

166(I) of 2014

86(I) of 2015

33(I) of 2016.

- (d) there is appropriate ongoing periodic financial reporting by or on behalf of an issuer on the market, for example audited annual reports;

- (e) issuers on the market as defined in point (21) of Article 3(1) of Regulation (EU) No 596/2014, persons discharging managerial responsibilities as defined in point (25) of Article 3(1) of Regulation (EU) No 596/2014 and persons closely associated with them as defined in point (26) of Article 3(1) of Regulation (EU) No 596/2014, comply with relevant requirements applicable to them under Regulation (EU) No 596/2014;
- (f) regulatory information concerning the issuers on the market is stored and disseminated to the public;
- (g) there are effective systems and controls aiming to prevent and detect market abuse on that market as required under the Regulation (EU) No 596/2014.

(4) The criteria in subsection (3) are without prejudice to compliance by the CIF or market operator of the Republic operating the MTF, with other obligations under this Law relevant to the operation of MTFs. They also do not prevent the CIF or market operator of the Republic operating the MTF from imposing additional requirements to those specified in the said subsection.

(5) The Commission may deregister a MTF as an SME growth market in any of the following cases:

- (a) the CIF or market operator of the Republic operating the market applies for its deregistration;

- (b) the requirements in subsection (3) are no longer complied with in relation to the MTF.

(6) If the Commission registers or deregisters an MTF as an SME growth market under this section, it shall as soon as possible notify ESMA of that registration or deregistration.

(7) Where a financial instrument of an issuer is admitted to trading on one SME growth market, the financial instrument may also be traded on another SME growth market only where the issuer has been informed and has not objected. In such a case, however, the issuer shall not be subject to any obligation relating to corporate governance or initial, ongoing or ad hoc disclosure with regard to the latter SME growth market.

CHAPTER III

Rights of IFs and credit institutions

Freedom to provide investment services and activities

35.-(1) Any IF or credit institution authorised and supervised by a competent authority of a Member State other than the Republic in accordance with Directive 2014/65/EU, or, in respect of credit institutions in accordance with Directive 2013/36/EU, may provide investment services and/or perform investment activities as well as ancillary services freely in the Republic, provided that such services and activities are covered by its authorisation. Ancillary services may only be provided together with an investment service or/and investment activity.

(2)(a) Any CIF wishing to provide investment services or/and perform investment activities within the territory of a Member State other than the Republic for the first time, or which wishes to change the range of services or activities so provided, shall communicate the following information to the Commission:

- (i) the Member State in which it intends to operate;
- (ii) a programme of operations stating in particular the investment services or/and activities as well as ancillary services which it intends to provide/perform in the territory of that Member State and whether it intends to do so through the use of tied agents, established in the Republic; where an CIF intends to use tied agents, it shall communicate to the Commission the identity of those tied agents.

(b) Where a CIF intends to use, in another Member State in which it intends to provide investment services or/and perform investment activities, tied agents established in the Republic, the Commission shall, within one month from receipt of all the information, communicate to the competent authority of the host Member State designated as contact point in accordance with Article 79(1) of Directive 2014/65/EU, the identity of the tied agents that the CIF intends to use to provide investment services and activities in that Member State.

(c) Where an IF intends to offer investment services or/and perform investment activities in the Republic, and intends to use in the Republic, tied agents established in its home Member State, the Commission shall publish the identity of the tied agents, following the communication of the said identity to the Commission by the IF's home Member State.

(3)(a) The Commission shall, within one month of receiving the information provided for in paragraph (a) of subsection (2), forward it to the competent authority of the host Member State designated as contact point in accordance with Article 79(1) of Directive 2014/65/EU.

(b) The IF mentioned in subsection (1) may start providing the investment services or/and investment activities in the Republic, once the competent authority of the home Member State communicates to the Commission the information relevant to the IF set out in Article 34, paragraph 2, of Directive 2014/65/EU.

(4) In the event of a change in any of the particulars communicated in accordance with paragraph (a) of subsection (2), the CIF shall give written notice of that change to the Commission at least one month before implementing the change. The Commission shall inform the competent authority of the host Member State of that change.

(5)(a) Any authorised credit institution wishing to provide, through tied agents, investment services or activities as well as ancillary services in accordance with Article 34, paragraph 1, of Directive 2014/65/EU, must communicate to the Central Bank the identity of those tied agents.

(b) When the authorised credit institution intends to use, in another Member State, tied agents established in the Republic, the Central Bank shall, within one month from the receipt of all the information, communicate to the competent authority of the host Member State designated as contact point in accordance with Article 79(1) of Directive 2014/65/EU, the identity of the tied agents that the credit institution intends to use to provide services in that Member State.

(c) When a credit institution intends to provide services in the Republic and it intends to use, in the Republic, tied agents established in its home Member State, the Central Bank shall publish the identity of the tied agents, following the communication of the said identity to the Central Bank by the credit institution's home Member State.

(6) An IF or a market operator of a Member State other than the Republic, operating MTFs and OTFs, may provide in the Republic appropriate arrangements so as to facilitate access to and trading on those markets by remote users, members or participants established in the Republic.

(7) The CIF or the market operator of the Republic operating an MTF or an OTF, shall communicate to the Commission the other Member State in which it intends to provide such arrangements as provided for in subsection (6). The Commission shall communicate, within one month, that information to the competent authority of the Member State in which the MTF or the OTF intends to provide such arrangements.

Establishment of a branch	36.-(1) An IF or a credit institution may provide investment services or/and investment activities as well as ancillary services in the Republic in accordance with this Law and with the Business of Credit Institutions Laws
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of 1997 to 2016, as amended, through the right of establishment, whether by the establishment of a branch or by the use of a tied agent established in the Republic, provided that those services and activities are covered by the authorisation granted to the IF or the credit institution in their other home Member State. Ancillary services may only be provided together with an investment service or/and investment activity.

(2)(a) Any CIF wishing to establish a branch within the territory of a Member State other than the Republic or to use tied agents established in a Member State other than the Republic, in which it has not established a branch, must first notify the Commission and provide it with the following information:

- (i) the other Member States in which it plans to establish a branch or in which it has not established a branch but plans to use tied agents established there;
- (ii) a programme of operations setting out, inter alia, the investment services or/and investment activities as well as the ancillary services to be offered;
- (iii) in the case of a branch, the organisational structure of the branch and indicating whether the branch intends to use tied agents and the identity of those tied agents;
- (iv) where tied agents are to be used in a Member State in which the CIF has not established a branch, a description of the intended use of the tied agents and an organisational structure, including reporting lines, indicating how the agents fit into the corporate structure of the CIF ;
- (v) the address in the host Member State from which documents may be obtained;

(vi) the names of those responsible for the management of the branch or of the tied agent.

(b) Where an IF uses a tied agent established in the Republic as the host Member State of the IF, such tied agent shall be assimilated to the branch, where one is established, and shall in any event be subject to the provisions of this Law relating to branches.

(3) Unless the Commission has reason to doubt the adequacy of the administrative structure or the financial situation of a CIF, taking into account the activities envisaged, it shall, within three months of their receipt, communicate all that information provided for in subsection (2) to the competent authority of the host Member State designated as contact point in accordance with Article 79(1) and inform the CIF accordingly.

(4) In addition to the information referred to in subsection (2), the Commission shall communicate details of the accredited compensation scheme of which the IF is a member in accordance with Directive 97/9/EC, to the competent authority of the host Member State. In the event of a change in the particulars, the Commission shall inform the competent authority of the host Member State accordingly.

(5) Where the Commission refuses to communicate the information to the competent authority of the host Member State, it shall give reasons for its refusal to the CIF concerned within three months of receiving all the information.

(6) On receipt by the Commission of a communication in accordance to Article 35, paragraph 3 of Directive 2014/65/EU, from the competent

authority of the host Member State, or failing such communication from the latter, at the latest after two months from the date of transmission of the communication to the Commission by the competent authority of the home Member State, the branch may be established and commence business in the Republic.

(7)(a) Any authorised credit institution wishing to use a tied agent established in a Member State other than the Republic to provide investment services or/and investment activities as well as ancillary services in accordance with this Law, shall notify the Central Bank and provide it with the information referred to in subsection (2).

(b) Unless the Central Bank has reason to doubt the adequacy of the administrative structure or the financial situation of the authorised credit institution, it shall, within three months of receiving all the information provided for in subsection (2), communicate that information to the competent authority of the host Member State designated as contact point in accordance with Article 79 paragraph 1 of Directive 2014/65/EU and inform the authorised credit institution concerned accordingly.

(c) Where the Central Bank refuses to communicate the information to the competent authority of the host Member State, it shall give reasons for its refusal to the authorised credit institution concerned within three months of receiving all the information.

(d) On receipt by the Commission of a communication from the competent authority of the host Member State in accordance to Article 35, paragraph 7, of Directive 2014/65/EU, or failing such communication from the latter, at the latest after two months from the date of transmission of

the communication to the Commission by the competent authority of the home Member State, the tied agent can commence business. Such tied agent shall be subject to the provisions of this Law relating to branches.

(8)(a) The Commission or the Central Bank must ensure that the services provided by the branch of an IF or credit institution of another Member State, respectively, in the Republic, comply with the obligations laid down in sections 25, 26, 28 and 29 of this Law and Articles 14 to 26 of Regulation (EU) No 600/2014 and any additional measures adopted by the Commission or the Central Bank by way of directives, in accordance with section 25(12) of this Law.

(b) The Commission or the Central Bank has the right to examine branch arrangements of an IF or credit institution of another Member State, respectively, and to request such changes as are strictly needed to enable the Commission or the Central Bank to enforce the obligations under sections 25, 26, 28 and 29 of this Law and Articles 14 to 26 of Regulation (EU) No 600/2014 and any additional measures adopted pursuant thereto with respect to the services and/or activities provided by the branch in the Republic.

(9) In the case of an IF that has established a branch in the Republic, the competent authority of the home Member State of that IF, may, in the exercise of its responsibilities and after informing the Commission, carry out on-site inspections in the branch of the IF in the Republic.

(10) In the event of a change in any of the information communicated in accordance with subsection (2), a CIF shall give written notice of that change to the Commission, at least one month before implementing the

change. The Commission shall inform the competent authority of the host Member State of that change.

Access to regulated markets of the Republic

37. IFs from Member States other than the Republic which are authorised to execute client orders or to deal on own account may become a member of, or have access to, regulated markets of the Republic by means of any one of the following arrangements:

(a) directly, by setting up a branch in the Republic;

(b) by becoming remote members of the regulated market of the Republic, or by having remote access to the regulated market of the Republic without having the IF having to be established in the Republic, where the trading procedures and systems of the market in question do not require a physical presence for conclusion of transactions on the market.

Access to CCP, clearing and settlement facilities and right to designate settlement system

38.-(1)(a) Without prejudice to Titles III, IV or V of Regulation (EU) No 648/2012, IFs have the right of direct and indirect access to CCP, clearing and settlement systems in the Republic for the purposes of finalising or arranging the finalisation of transactions in financial instruments.

(b) The direct and indirect access of those IFs to such facilities is subject to the same non-discriminatory, transparent and objective criteria as apply to local members or participants. The use of those facilities is not

restricted in any way to the clearing and settlement of transactions in financial instruments undertaken on a trading venue in the Republic.

(2) A regulated market of the Republic must offer all its members or participants the right to designate the system for the settlement of transactions in financial instruments undertaken on that regulated market, subject to the following conditions:

- (a) there are so many links and arrangements between the designated settlement system and any other system or facility as are necessary to ensure the efficient and economic settlement of the transaction in question;
- (b) there is agreement by the Commission that technical conditions for settlement of transactions concluded on the regulated market of the Republic through a settlement system other than that designated by the regulated market of the Republic, are such as to allow the smooth and orderly functioning of financial markets:

It is provided that, the said assessment of the Commission shall be without prejudice to the competencies of the national central banks as overseers of settlement systems or other supervisory authorities with competence in relation to such systems. The Commission shall take into account the oversight/supervision already exercised by those institutions in order to avoid undue duplication of control.

Provisions regarding CCPs, clearing and settlement arrangements in respect of MTFs

39.-(1)(a) CIFs and market operators of the Republic operating an MTF, may enter into appropriate arrangements with a CCP or clearing house and a settlement system of a Member State other than the Republic, with a view to providing for the clearing or/and settlement of some or all trades concluded by the members or participants under their systems.

(b) IFs and market operators of the Republic that have been authorised in another Member State to operate an MTF, may enter into an appropriate arrangement with a CCP or clearing house and a settlement system of the Republic, with a view to providing for the clearing or/and settlement of some or all trades concluded by the members or participants under their systems.

(2)(a) The Commission may not oppose the use of CCP, clearing houses or/and settlement systems in another Member State by CIFs and market operators of the Republic, operating an MTF, except where demonstrably necessary in order to maintain the orderly functioning of that MTF and taking into account the conditions for settlement systems established in section 38(2).

(b) In order to avoid undue duplication of control, the Commission shall take into account the oversight and supervision of the clearing and settlement system already exercised by the central banks as overseers of clearing and settlement systems, or by other supervisory authorities with competence in relation to such systems.

CHAPTER IV

Provision of investment services and activities by third country firms

PART 1

Provision of services or performance of activities through the establishment of a branch

Establishment of a branch
Second Appendix.

40.-(1) A third-country firm intending to provide in the Republic, investment services or perform investment activities with or without any ancillary services to retail clients or to professional clients within the meaning of Part II of the Second Appendix, must establish a branch in the Republic.

(2) The branches provided for in subsection (1) must acquire a prior authorisation, as the case may be, by the Commission under this Law or the Central Bank under the Business of Credit Institutions Laws of 1997 to 2016, as amended, in accordance with the following conditions:

- (a) the provision of services for which the third-country firm requests authorisation is subject to authorisation and supervision in the third country where the firm is established and the requesting firm is properly authorised, whereby the Commission or the Central Bank pays due regard to any Financial Action Task Force (FATF) recommendations in the context of anti-money laundering and countering the financing of terrorism;
- (b) cooperation arrangements, that include provisions regulating the exchange of information for the purpose of

preserving the integrity of the market and protecting investors, are in place between the Commission or the Central Bank on one hand and the competent supervisory authorities of the third country where the firm is established;

- (c) sufficient initial capital is at free disposal of the branch;
- (d) one or more persons are appointed to be responsible for the management of the branch and they all comply with the requirement laid down in sections 9 and 10 of this Law;
- (e) the third country where the third-country firm is established has signed an agreement with the Republic, which fully complies with the standards laid down in Article 26 of the Organisation for Economic Co-Operation and Development (OECD) Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including, if any, multilateral tax agreements;
- (f) the firm belongs to an investor-compensation scheme authorised or recognised in accordance with Directive 97/9/EC.

(3) The third-country firm referred to in subsection (1) shall submit its application to the Commission or Central Bank, as the case may be.

Obligation to
provide
information

41. A third-country firm intending to obtain authorisation for the provision of any investment services or the performance of investment activities with or without any ancillary services in the Republic through a branch shall provide the Commission or the Central Bank, as the case may be, with the following:

- (a) the name of the authority responsible for its supervision in the third country concerned and, when more than one authority is responsible for supervision, the details of the respective areas of competence shall be provided;
- (b) all relevant details of the firm (name, legal form, registered office and address, members of the management body, relevant shareholders) and a programme of operations setting out the investment services or/and investment activities as well as the ancillary services to be provided and the organisational structure of the branch, including a description of any outsourcing to third parties of essential operating functions;
- (c) the name of the persons responsible for the management of the branch and the relevant documents that demonstrate compliance with requirements laid down in sections 9 and 10;
- (d) information about the initial capital at free disposal of the branch.

Granting of the
authorisation

42.-(1)(a) The Commission or the Central Bank, as the case may be, shall only grant authorisation when the competent authority is satisfied that:

- (i) the conditions under section 40 are fulfilled; and
- (ii) the branch of the third-country firm will be able to comply with the provisions referred to in subsection (2).

(b) The Commission or the Central Bank, as the case may be, shall inform the third-country firm, within six months of submission of a complete application, whether or not the authorisation has been granted.

(2) The branch of the third-country firm authorised in accordance with subsection (1), shall comply with the obligations laid down in sections 17 to 21, sections 24, 25, 26, 28, section 29(1), 31, 32 and 33 of this Law, and in Articles 3 to 26 of Regulation (EU) No 600/2014 and the measures adopted pursuant thereto and shall be subject to the supervision of the Commission or the Central Bank, as the case may be.

Provision of
services at the
exclusive initiative
of the client

43. Where a retail client or professional client within the meaning of Part II of the Second Appendix established or situated in the European Union, initiates at its own exclusive initiative the provision of an investment service or the performance of investment activity by a third-country firm, the requirement for authorisation under section 40 shall not apply to the provision of that service or activity by the third country firm to that person, including a relationship specifically relating to the provision of that service or activity. An initiative by such clients shall not entitle the third-country firm to market otherwise than through the branch, new categories of investment products or investment services to that client.

PART 2

Withdrawal of authorisations

- Withdrawal of authorisations
- 44.-(1) The Commission or the Central Bank, as the case may be, may withdraw the authorisation issued to a third country firm where such a firm:
- (a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has provided no investment services or performed no investment activity for the preceding six months; or
 - (b) has obtained the authorisation by making false statements or by any other irregular means; or
 - (c) no longer meets the conditions under which authorisation was granted; or
 - (d) has seriously and systematically infringed the provisions of this Law governing the operating conditions for IFs which are applicable to third-country firms, or provisions which are adopted pursuant to Directive 2014/65/EU; or
 - (e) falls within any of the cases where the laws of Cyprus, in respect of matters outside the scope of this Law, provide for withdrawal of authorisation.

TITLE III - REGULATED MARKETS OF THE REPUBLIC

- Authorisation and applicable law
- 45.-(1)(a) The Commission shall grant authorisation as a regulated market of the Republic, to those systems which comply with this Title.

(b) Authorisation as a regulated market of the Republic shall be granted only where the Commission is satisfied that both the market operator of the Republic and the systems of the regulated market of the Republic comply at least with the requirements laid down in this Title.

(c) In the case of a regulated market of the Republic that is a legal person and that is managed or operated by a market operator of the Republic other than the regulated market of the Republic itself, the Commission shall, by way of directives, establish how the different obligations imposed on the market operator of the Republic under this Law are to be allocated between the regulated market of the Republic and the market operator of the Republic.

(d) The market operator of the Republic shall provide all information, including a programme of operations setting out, inter alia, the types of business envisaged and the organisational structure, necessary to enable the Commission to satisfy itself that the regulated market of the Republic has established, at the time of its authorisation, all the necessary arrangements to meet its obligations under this Title.

(2)(a) The market operator of the Republic must perform tasks relating to the organisation and operation of the regulated market of the Republic under the supervision of the Commission.

(b) The Commission keeps under regular review the compliance of regulated markets of the Republic with this Title and shall ensure that regulated markets of the Republic comply at all times with the conditions for its authorisation established under this Title.

(3)(a) The market operator of the Republic is responsible for ensuring that the regulated market of the Republic that it manages, complies with the requirements laid down in this Title.

(b) The market operator of the Republic is entitled to exercise the rights that correspond to the regulated market of the Republic that it manages, by virtue of this Law.

(4) Without prejudice to any relevant provisions of Regulation (EU) No 596/2014 or of Directive 2014/57/EU, the public law governing the trading conducted under the systems of the regulated market of the Republic, shall be the law of Cyprus.

(5) The Commission may withdraw the authorisation issued to a regulated market of the Republic, where the regulated market of the Republic :

- (a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has not operated for the preceding six months; or
- (b) has obtained the authorisation by making false statements or by any other irregular means; or
- (c) no longer meets the conditions under which authorisation was granted; or
- (d) has seriously and systematically infringed the provisions of this Law or Regulation (EU) No 600/2014, or the provisions

which are adopted pursuant to Directive 2014/65/EU or Regulation (EU) No 600/2014; or

- (e) falls within any of the cases where the laws of Cyprus provide for withdrawal of authorisation.

(6) The Commission notifies ESMA of any withdrawal of authorisation.

Requirements for the management body of a market operator of the Republic.

46.-(1) All members of the board of directors of any market operator of the Republic must at all times be of sufficiently good repute, possess sufficient knowledge, skills and experience to perform their duties. The overall composition of the board of directors shall reflect an adequately broad range of experience.

(2) Members of the board of directors shall, in particular, fulfil the following requirements:

- (a)(i) All members of the board of directors shall commit sufficient time to perform their functions in the market operator of the Republic. The number of directorships a member of the board of directors can hold, in any legal entity, at the same time shall take into account individual circumstances and the nature, scale and complexity of the market operator of the Republic's activities.

- (ii) Unless representing the Republic, members of the board of directors of market operators of the Republic that are significant in terms of their size, internal organisation and

the nature, the scope and the complexity of their activities shall not at the same time hold positions exceeding more than one of the following combinations of positions in boards of directors:

- (a) one executive directorship with two non-executive directorships;
 - (b) four non-executive directorships.
- (iii) Executive or non-executive directorships held within the same group or undertakings where the market operator owns a qualifying holding shall be considered to be one single directorship.
- (iv) Irrespective of the provisions of subparagraphs (i) and (ii), the Commission may authorise members of the board of directors to hold one additional non-executive directorship and shall regularly inform ESMA of such authorisations.
- (v) Directorships in organisations which do not pursue predominantly commercial objectives shall be exempt from the limitation on the number of directorships a member of a board of directors can hold.
- (b) The board of directors shall possess adequate collective knowledge, skills and experience to be able to understand the market operator of the Republic's activities, including the main risks.

- (c) Each member of the board of directors must act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of the senior management where necessary and to effectively oversee and monitor decision-making.

(3) Market operators of the Republic shall devote adequate human and financial resources to the induction and training of members of the board of directors.

(4)(a) Market operators of the Republic which are significant in terms of their size, internal organisation and the nature, scope and complexity of their activities, must establish a nomination committee composed of members of the board of directors who do not perform any executive function in the market operator concerned.

(b) The nomination committee shall carry out the following:

- (i) identify and recommend, for the approval of the board of directors or for approval of the general meeting, candidates to fill board of directors vacancies. In doing so, the nomination committee shall evaluate the balance of knowledge, skills, diversity and experience of the board of directors. Further, the committee shall prepare a description of the roles and capabilities for a particular appointment, and assess the time commitment expected to be devoted to that particular appointment. Furthermore, the nomination committee shall decide on a target for the representation of the underrepresented

gender in the board of directors and prepare a policy on how to increase the number of the underrepresented gender in the board of directors in order to meet that target;

- (ii) periodically, and at least annually, assess the structure, size, composition and performance of the board of directors, and make recommendations to the board of directors with regard to any changes;
- (iii) periodically, and at least annually, assess the knowledge, skills and experience of individual members of the board of directors and of the board of directors collectively, and submit relevant reports to the board of directors accordingly;
- (iv) periodically review the policy of the board of directors for selection and appointment of senior management and make recommendations to the board of directors.

(c) In performing its duties, the nomination committee shall, to the extent possible and on an ongoing basis, take account of the need to ensure that the board of directors' decision making is not dominated by any one individual or small group of individuals in a manner that is detrimental to the interests of the market operator of the Republic as a whole.

(d) In performing its duties, the nomination committee shall be able to use any forms of resources it deems appropriate, including external advice.

(e) Where, under the laws of Cyprus, the board of directors does not have any competence in the process of selection and appointment of any of its members, this subsection shall not apply.

(5) Market operators of the Republic and their respective nomination committees must engage a broad set of qualities and competences when recruiting members to the board of directors and for that purpose they must put in place a policy promoting diversity on the board of directors.

(6)(a) The board of directors of a market operator of the Republic defines and oversees the implementation of the governance arrangements that ensure effective and prudent management of an organisation, including the segregation of duties in the organisation and the prevention of conflicts of interest, in a manner that promotes the integrity of the market.

(b) The board of directors monitors and periodically assesses the effectiveness of the market operator of the Republic's governance arrangements and takes appropriate steps to address any deficiencies.

(c) Members of the board of directors must have adequate access to information and documents which are needed to oversee and monitor management decision-making.

(7)(a) The Commission shall refuse authorisation if it is not satisfied that the members of the board of directors of the market operator of the Republic are of sufficiently good repute, possess sufficient knowledge, skills and experience and commit sufficient time to perform their functions, or if there are objective and demonstrable grounds for believing that the board of directors of the market operator of the Republic may pose a

threat to its effective, sound and prudent management and to the adequate consideration of the integrity of the market.

(b) In the process of authorisation of a regulated market of the Republic, the person or persons who effectively direct the business and the operations of an already authorised regulated market in accordance with this Law are deemed to comply with the requirements laid down in subsection (1).

(8) The market operator of the Republic must notify the Commission of the identity of all members of its board of directors and of any changes to its membership, along with all information needed to assess whether the market operator of the Republic complies with subsections (1) to (5).

Requirements
relating to persons
exercising
significant
influence over the
management of
the regulated
market of the
Republic

47.-(1) The persons who are in a position to exercise, directly or indirectly, significant influence over the management of the regulated market of the Republic must be suitable.

(2) The market operator of the regulated market of the Republic must:

(a) provide the Commission with, and make public, information regarding the ownership of the regulated market of the Republic or/and the market operator, and in particular, the

identity and scale of interests of any parties in a position to exercise significant influence over the management;

- (b) inform the Commission of, and make public, any transfer of ownership which gives rise to a change in the identity of the persons exercising significant influence over the operation of the regulated market of the Republic.

(3) The Commission shall refuse to approve proposed changes to the controlling interests of the regulated market of the Republic or/and the market operator, where there are objective and demonstrable grounds for believing that they would pose a threat to the sound and prudent management of the regulated market.

Organisational
requirements

48.-(1) The regulated market of the Republic must:

- (a) have arrangements to clearly identify and manage the potential adverse consequences, for the operation of the regulated market of the Republic or for its members or participants, of any conflict of interest between the interests of the regulated market of the Republic, its owners or its market operator and the sound functioning of the regulated market of the Republic, and in particular where such conflicts of interest might prove prejudicial to the accomplishment of any functions delegated to the regulated market of the Republic by the Commission; and

- (b) be adequately equipped to manage the risks to which it is exposed, to implement appropriate arrangements and systems to identify all significant risks to its operation, and to put in place effective measures to mitigate those risks; and
- (c) have arrangements for the sound management of the technical operations of the system, including the establishment of effective contingency arrangements to cope with risks of systems disruptions; and
- (d) have transparent and non-discretionary rules and procedures that provide for fair and orderly trading and establish objective criteria for the efficient execution of orders; and
- (e) have effective arrangements to facilitate the efficient and timely finalisation of the transactions executed under its systems; and
- (f) have available, at the time of authorisation and on an ongoing basis, sufficient financial resources to facilitate its orderly functioning, having regard to the nature and extent of the transactions concluded on the regulated market of the Republic and the range and degree of the risks to which it is exposed.

(2) The execution, by market operators of the Republic, of client orders against proprietary capital, or the engaging, by market operators of the

Republic in matched principle trading, on any of the regulated markets of the Republic they operate, is hereby forbidden.

Systems
resilience, circuit
breakers and
electronic trading

49.-(1) A regulated market of the Republic must have in place effective systems, procedures and arrangements to ensure its trading systems are resilient, have sufficient capacity to deal with peak order and message volumes, are able to ensure orderly trading under conditions of severe market stress, are fully tested to ensure such conditions are met and are subject to effective business continuity arrangements to ensure continuity of its services if there is any failure of its trading systems.

(2) A regulated market of the Republic must have in place:

- (a) written agreements with all IFs pursuing a market making strategy on the regulated market of the Republic;
- (b) a scheme, to ensure that a sufficient number of IFs participate in such agreements which require them to post firm quotes at competitive prices with the result of providing liquidity to the market on a regular and predictable basis, where such a requirement is appropriate to the nature and scale of the trading on that regulated market.

(3)(a) The written agreement referred to in subsection (2) must at least specify:

- (i) the obligations of the IF in relation to the provision of liquidity and, where applicable, any other obligation arising from

participation in the scheme referred to in paragraph (b) of subsection (2);

- (ii) any incentives in terms of rebates or otherwise offered by the regulated market of the Republic to an IF so as to provide liquidity to the market on a regular and predictable basis and, where applicable, any other rights accruing to the IF as a result of participation in the scheme referred to in paragraph (b) of subsection (2).

(b) The regulated market of the Republic shall monitor and enforce compliance of by IFs with the requirements of such binding written agreements. The regulated market of the Republic shall inform the Commission about the content of the binding written agreement and shall, upon request, provide all further information to the Commission, necessary to enable the Commission to satisfy itself of compliance by the regulated market of the Republic with this subsection.

(4) A regulated market of the Republic must have in place effective systems, procedures and arrangements to reject orders that, either exceed pre-determined volume and price thresholds, or, are clearly erroneous.

(5)(a) A regulated market of the Republic must be able to temporarily halt or constrain trading if there is a significant price movement in a financial instrument on that market or a related market during a short period and, in exceptional cases, to be able to cancel, vary or correct any transaction. A regulated market of the Republic must ensure that the parameters for halting trading are appropriately calibrated in a way which takes into account the liquidity of different asset classes and sub-classes,

the nature of the market model and types of users and is sufficient to avoid significant disruptions to the orderliness of trading.

(b) A regulated market of the Republic reports the parameters for halting trading and any material changes to those parameters to the Commission in a consistent and comparable manner, and the Commission shall in turn report them to ESMA. Where a regulated market, which is material in terms of liquidity in that financial instrument, halts trading in any Member State, that trading venue has the necessary systems and procedures in place to ensure that it will notify competent authorities in order for them to coordinate a market-wide response and determine whether it is appropriate to halt trading on other venues on which the financial instrument is traded until trading resumes on the original market.

(6) A regulated market of the Republic must have in place effective systems, procedures and arrangements, including requiring members or participants to carry out appropriate testing of algorithms and providing environments to facilitate such testing, to:

- (a) ensure that algorithmic trading systems cannot create or contribute to disorderly trading conditions on the market; and
- (b) manage any disorderly trading conditions which do arise from such algorithmic trading systems, including systems to limit the ratio of unexecuted orders to transactions that may be entered into the system by a member or participant; and
- (c) be able to slow down the flow of orders if there is a risk of its system capacity being reached; and

- (d) limit and enforce the minimum tick size that may be executed on the market.

(7)(a) A regulated market of the Republic that permits direct electronic access, must have in place effective systems procedures and arrangements to ensure that:

- (i) members or participants are only permitted to provide such services if they are IFs authorised under the law of a Member State complying with Directive 2014/65/EU or credit institutions authorised under the law of a Member State complying with Directive 2013/36/EU; and
- (ii) appropriate criteria are set and applied regarding the suitability of persons to whom such access may be provided; and
- (iii) the member or participant retains responsibility for orders and trades executed using that service in relation to the requirements of this Law.

(b) The regulated market of the Republic must set appropriate standards regarding risk controls and thresholds on trading through the access referred to in paragraph (a) and is able to distinguish and, if necessary to stop orders or trading by a person using direct electronic access, separately from other orders or trading by the member or participant.

(c) The regulated market of the Republic shall have arrangements in place to suspend or terminate the provision of direct electronic access by a member or participant to a client in the case of non-compliance with this subsection.

(8) A regulated market of the Republic must ensure that its rules on co-location services are transparent, fair and non-discriminatory.

(9)(a) A regulated market of the Republic must ensure that its fee structures including execution fees, ancillary fees and any rebates are transparent, fair and non-discriminatory and that they do not create incentives to place, modify or cancel orders or to execute transactions in a way which contributes to disorderly trading conditions or market abuse. In particular, a regulated market of the Republic must impose market making obligations in individual shares or a suitable basket of shares in exchange for any rebates that are granted.

(b) A regulated market of the Republic may adjust its fees for cancelled orders according to the length of time for which the order was maintained and to calibrate the fees to each financial instrument to which they apply.

(c) A regulated market of the Republic may impose a higher fee:

(i) for placing an order that is subsequently cancelled than an order which is executed; and

(ii) on participants placing a high ratio of cancelled orders to executed orders; and

(iii) on those operating a high-frequency algorithmic trading technique,

in order to reflect the additional burden on system capacity.

(10) A regulated market of the Republic must be able to identify, by means of flagging from members or participants, orders generated by algorithmic trading, the different algorithms used for the creation of orders and the relevant persons initiating those orders. The regulated market of the Republic must make available that information to the Commission, upon request.

(11) Upon request by the Commission, the regulated market of the Republic must make available to the Commission, data relating to the order book, or give the Commission access to the order book so that it is able to monitor trading.

Tick sizes

50.-(1) A regulated market of the Republic must adopt tick size regimes in shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and in any other financial instrument for which regulatory technical standards are developed by ESMA in accordance with Article 49, paragraph 4, of Directive 2014/65/EU.

(2) The tick size regimes referred to in subsection (1) must:

- (a) be calibrated to reflect the liquidity profile of the financial instrument in different markets and the average bid-ask spread, taking into account the desirability of enabling reasonably stable prices without unduly constraining further narrowing of spreads;
- (b) adapt the tick size for each financial instrument appropriately.

Synchronisation of business clocks 51. All trading venues and their members or participants synchronise the business clocks they use to record the date and time of any reportable event.

Admission of financial instruments to trading 52.-(1) A regulated market of the Republic must have clear and transparent rules regarding the admission of financial instruments to trading, which ensure that any financial instrument admitted to trading on a regulated market is being traded in a fair, orderly and efficient manner and, in the case of transferable securities, these are freely negotiable.

(2) In the case of derivatives, the rules referred to in subsection (1) must ensure in particular that the design of the derivative contract allows for its orderly pricing as well as for the existence of effective settlement conditions.

(3)(a) In addition to the obligations set out in subsections (1) and (2), a regulated market of the Republic must establish and maintain effective arrangements to verify that issuers of transferable securities that are admitted to trading on the regulated market comply with their obligations under European Union law in respect of initial, ongoing or ad hoc disclosure obligations.

(b) The regulated market of the Republic must establish arrangements which facilitate its members or participants in obtaining access to information which are public under European Union law or the laws of Cyprus transposing such European Union law.

(4) The regulated market of the Republic must establish the necessary arrangements to review regularly the compliance with the admission requirements of the financial instruments which it admits to trading.

(5) A transferable security that has been admitted to trading on a regulated market of the Republic can subsequently be admitted to trading on other regulated markets, even without the consent of the issuer, subject to the relevant provisions of the Public Offering and Prospectus Law. The issuer shall be informed by the regulated market of the Republic of the fact that its securities are traded on that regulated market. The issuer shall not be subject to any obligation to provide information required under subsection (3) directly to any regulated market which has admitted the issuer's securities to trading without its consent.

Suspension and removal of financial instruments from trading on a regulated market of the Republic.

53.-(1) Without prejudice to the right of the Commission under section 70(2) to demand suspension or removal of a financial instrument from trading, a market operator of the Republic may suspend or remove from trading a financial instrument which no longer complies with the rules of the regulated market of the Republic, unless such suspension or removal would be likely to cause significant damage to the investors' interests or the orderly functioning of the market of the Republic.

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(2)(a) The market operator of the Republic that suspends or removes from trading a financial instrument also suspends or removes the derivatives as referred to in points 4) to 10) of Part III of the First Appendix that relate or are referenced to that financial instrument, where necessary to support the objectives of the suspension or removal of the underlying financial instrument. The market operator of the Republic shall make public its decision on the suspension or removal of the financial instrument and of any related derivative and communicate the relevant decisions to the Commission.

(b) Where the suspension or removal decision originated in the Republic, the Commission shall require that other regulated markets of the Republic, MTFs, OTFs and systematic internalisers, which fall under its jurisdiction and trade the same financial instrument or derivatives as referred to in points 4) to 10) of Part III of the First Appendix of this Law that relate, or are referenced to, that financial instrument, also suspend or remove that financial instrument or derivatives from trading, where the suspension or removal is due to suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument infringing Articles 7 and 17 of Regulation (EU) No. 596/2014 except where such suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market.

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(c) The Commission shall immediately make public and communicate to ESMA and competent authorities of other Member States, the decision taken pursuant to paragraph (b), including an explanation if the decision was not to suspend or remove from trading the financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix that relate or are referenced to that financial instrument.

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(d) Where the suspension or removal decision originated in another Member State and the competent authority of that Member State notifies the Commission of its decision, the Commission shall require that, regulated markets of the Republic, other MTFs, other OTFs and systematic internalisers, which fall under their jurisdiction and trade the same financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix of this Law, that relate or are referenced to that financial instrument, also suspend or remove that financial instrument or derivatives from trading, where the suspension or removal is due to

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suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument infringing Articles 7 and 17 of Regulation (EU) No 596/2014, except where such suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market.

(e) The Commission, when receiving a notification as provided for in paragraph (d) by a competent authority of another Member State, shall communicate its decision to ESMA and other competent authorities, including an explanation if the decision was not to suspend or remove from trading the financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix that relate to, or are referenced to, that financial instrument.

(f) This subsection also applies when, the suspension from trading of a financial instrument or derivatives referred to in points (points 4) to 10) of Part III of the First Appendix that relate or are referenced to that financial instrument, is lifted.

(g) The notification procedure referred to in this subsection shall also apply in the case where the decision to suspend or remove from trading a financial instrument or derivatives referred to in points 4) to 10) of Part III of the First Appendix that relate or are referenced to that financial instrument, is taken by the Commission pursuant to section 70(2), points (m) and (n).

Access to a regulated market of the Republic. 54.-(1) A regulated market of the Republic must establish, implement and maintain transparent and non-discriminatory rules, based on objective criteria, governing access to or gaining membership to the regulated market.

(2) The rules referred to in subsection (1) shall specify any obligations for the members of the regulated market of the Republic or its participants, arising from:

- (a) the establishment and administration of the regulated market; and
- (b) the rules relating to transactions on the market; and
- (c) the professional standards imposed on the staff of the IF or credit institutions that are operating on the market; and
- (d) the conditions established, under subsection (3), for members or participants other than IFs and credit institutions; and
- (e) the rules and procedures for the clearing and settlement of transactions concluded on the regulated market.

(3) Regulated markets of the Republic may admit as members or participants, IFs, credit institutions authorised under the law of a Member State complying with Directive 2013/36/EU and other persons who:

- (a) are of sufficient good repute; and
- (b) have a sufficient level of trading ability, competence and experience; and

- (c) have, where applicable, adequate organisational arrangements; and
- (d) have sufficient resources for the role they are to perform, taking into account the different financial arrangements that the regulated market of the Republic may have established in order to guarantee the adequate settlement of transactions.

(4) For the transactions concluded on a regulated market of the Republic, members and participants are not obliged to apply to each other the obligations laid down in sections 25, 26, 28 and 29. However, the members or participants of the regulated market shall apply the obligations provided for in sections 25, 26, 28 and 29 with respect to their clients when they, acting on behalf of their clients, execute their orders on a regulated market.

(5) The rules on access to, or membership of, or participation in, the regulated market of the Republic, provide for the direct or remote participation of IFs and credit institutions.

(6)(a) A regulated market of another Member State may provide appropriate arrangements in the Republic so as to facilitate access to and trading on, that market, by remote members or participants established in the Republic.

(b)(i) The regulated market of the Republic shall communicate to the Commission, the Member State in which it intends to provide such arrangements, so as to facilitate access to and trading on that market by

remote members or participants established in that Member State. The Commission shall communicate that information to the Member State in which the regulated market of the Republic intends to provide such arrangements within one month.

(ii) The Commission shall, on the request of the competent authority of the host Member State and, without undue delay, communicate the identity of the members or participants of the regulated market of the Republic, established in that host Member State.

(7) The market operator of the Republic must communicate, on a regular basis, to the Commission, the list of the members or participants of the regulated market of the Republic.

Monitoring of compliance with the rules of the regulated market of the Republic and with other legal obligations .

55.-(1) The regulated market of the Republic must establish and maintain effective arrangements and procedures including the necessary resources for the regular monitoring of the compliance by their members or participants with their rules. The regulated market of the Republic must monitor orders sent, including cancellations, and the transactions undertaken by its members or participants under its systems in order to identify infringements of those rules, disorderly trading conditions or conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014 or system disruptions in relation to a financial instrument.

(2)(a) The market operator of the regulated market of the Republic must immediately inform the Commission of significant infringements of the regulated market of the Republic's rules or disorderly trading conditions or conduct that may indicate behaviour that is prohibited under

Regulation (EU) No 596/2014 or system disruptions in relation to a financial instrument.

(b) The Commission shall communicate to ESMA and to the competent authorities of the other Member States the information referred to in paragraph (a);

It is provided that, in relation to conduct that may indicate behaviour that is prohibited under Regulation (EU) No 596/2014, the Commission shall be convinced that such behaviour is being or has been carried out before it notifies the competent authorities of the other Member States and ESMA.

(3) The market operator of the Republic must supply the information referred to in paragraph (a) of subsection (2), without undue delay, to the Commission, and must provide full assistance to the latter in investigating and prosecuting market abuse occurring on or through the systems of the regulated market of the Republic.

Provisions
regarding CCP
and clearing and
settlement
arrangements

56.-(1)(a) Without prejudice to Titles III, IV or V of Regulation (EU) No 648/2012, the regulated market of the Republic may enter into appropriate arrangements with a CCP or clearing house and a settlement system of another Member State with a view to providing for the clearing or/and settlement of some or all trades concluded by market participants under the systems of the regulated market of the Republic.

(b) Without prejudice to Titles III, IV or V of Regulation (EU) No 648/2012, the regulated market of another Member State may enter into appropriate arrangements with a CCP or clearing house and a settlement system of the Republic with a view to providing for the clearing

or/and settlement of some or all trades concluded by market participants in the systems of the regulated market of the Republic.

(2)(a) Without prejudice to Titles III, IV or V of Regulation (EU) No 648/2012, the Commission may not oppose the use of CCP, clearing houses or/and settlement systems in another Member State except where demonstrably necessary in order to maintain the orderly functioning of that regulated market of the Republic and taking into account the conditions for settlement systems established in section 38(2) of this Law.

(b) In order to avoid undue duplication of control, the Commission shall take into account the oversight or supervision of the clearing and settlement system already exercised by the central banks as overseers of clearing and settlement systems or by other supervisory authorities with competence in relation to such systems.

List of regulated markets

57. The Commission shall draw up a list of the regulated markets of the Republic and shall forward that list to the other Member States and ESMA. A similar communication shall be effected in respect of each change to that list.

TITLE IV - POSITION LIMITS AND POSITION MANAGEMENT CONTROLS IN COMMODITY DERIVATIVES AND REPORTING

Position limits and position management controls in commodity derivatives.

58.-(1)(a) The Commission, in line with the methodology for calculation determined in regulatory technical standards by ESMA, shall, pursuant to Article 57, paragraph 3, of Directive 2014/65/2014, establish and apply position limits on the size of a net position which a person can hold at all times in commodity derivatives traded on trading venues and economically equivalent OTC contracts. The limits shall be set on the

basis of all positions held by a person and those held on its behalf at an aggregate group level in order to:

- (i) prevent market abuse;
- (ii) support orderly pricing and settlement conditions, including preventing market distorting positions, and ensuring, in particular, convergence between prices of derivatives in the delivery month and spot prices for the underlying commodity, without prejudice to price discovery on the market for the underlying commodity.

(b) Position limits shall not apply to positions held by or on behalf of a non-financial entity and which are objectively measurable as reducing risks directly relating to the commercial activity of that non-financial entity.

(2) Position limits shall specify clear quantitative thresholds for the maximum size of a position in a commodity derivative that persons may hold.

(3)(a) The Commission shall set limits for each contract in commodity derivatives traded on trading venues based on the methodology for calculation determined by ESMA in accordance with Article 57, paragraph 3 of Directive 2014/65/EU. That position limit shall include economically equivalent OTC contracts.

(b) The Commission shall review position limits where there is a significant change in deliverable supply or open interest or any other significant change on the market, based on its determination of deliverable supply and open interest by the Commission, and reset the

position limit in accordance with the methodology for calculation developed by ESMA.

(4) The Commission shall notify ESMA of the exact position limits it intends to set in accordance with the methodology for calculation established by ESMA under Article 57, paragraph 3, of Directive 2014/65/EU. The Commission shall modify the position limits in accordance with the opinion addressed to it by ESMA in accordance with Article 57, paragraph 5 of Directive 2014/65/EU, or provide ESMA with justification why the change is considered to be unnecessary. Where the Commission imposes limits contrary to an ESMA opinion, it shall immediately publish on its website a notice fully explaining its reasons for doing so.

(5)(a) Where the same commodity derivative is traded in significant volumes on trading venues in more than one jurisdiction, and the largest volume of trading takes place in a regulated market of the Republic or an MTF or OTF which is managed by a CIF or market operator of the Republic, the Commission shall set the single position limit to be applied on all trading in that derivative contract. The Commission shall consult the competent authorities of other trading venues on which that derivative is traded in significant volumes on the single position limit to be applied and any revisions to that single position limit.

(b) Where the competent authority of the trading venue where the largest volume of trading takes place is a competent authority other than the Commission, and the Commission does not agree with the single position limit, the Commission shall state in writing to ESMA, the full and detailed reasons why it considers that the requirements laid down in subsection (1) are not met.

(c) The Commission shall put in place cooperation arrangements, including exchange of relevant data with each other, with the competent authorities of the trading venues where the same commodity derivative is traded and the competent authorities of position holders in that commodity derivative, in order to enable the monitoring and enforcement of the single position limit.

(6) A CIF or a market operator of the Republic operating a trading venue which trades commodity derivatives apply position management controls. Those controls shall include at least, the powers for the trading venue to:

- (a) monitor the open interest positions of persons;
- (b) access information, including all relevant documentation, from persons, regarding the size and purpose of a position or exposure entered into, information about beneficial or underlying owners, any concert arrangements, and any related assets or liabilities in the underlying market;
- (c) require a person to terminate or reduce a position, on a temporary or permanent basis as the specific case may require, and to unilaterally take appropriate action to ensure the termination or reduction if the said person does not comply; and
- (d) where appropriate, require a person to provide liquidity back into the market at an agreed price and volume, on a

temporary basis, with the express intent of mitigating the effects of a large or dominant position.

(7) The position limits and position management controls shall be transparent and non-discriminatory, specifying how they apply to persons and taking account of the nature and composition of market participants and of the use the participants make of the contracts submitted to trading

(8)(a) The CIF or market operator of the Republic operating the trading venue shall inform the Commission of the details of position management controls.

(b) The Commission shall communicate the same information as well as the details of the position limits it has established to ESMA.

(9) The position limits of subsection (1) shall be imposed by the Commission pursuant to of section 90(2), point (p).

(10)(a) The Commission shall not impose limits which are more restrictive than those adopted pursuant to subsection (1) except in exceptional cases where they are objectively justified and proportionate taking into account the liquidity of the specific market and the orderly functioning of that market. The Commission shall publish on its website the details of the more restrictive position limits it decides to impose, which shall be valid for an initial period not exceeding six months from the date of their publication on the website. The more restrictive position limits may be renewed for further periods not exceeding six months at a time if the grounds for the restriction continue to be applicable. If not renewed after that six-month period, they shall automatically expire.

(b) Where the Commission decides to impose more restrictive position limits, it shall notify ESMA. The notification shall include a justification for the more restrictive position limits.

(c) Where the Commission imposes limits contrary to an ESMA opinion pursuant to Article 57, paragraph 13 of Directive 2014/65/EU relating to the necessity or not of the more restrictive position limits to address the exceptional case, it shall immediately publish on its website a notice fully explaining its reasons for doing so.

(11) The Commission may exercise its powers to impose sanctions under this Law, for the infringements of position limits set in accordance with this section, to:

- (a) positions held by persons situated or operating in the Republic or abroad which exceed the limits on commodity derivative contracts the Commission has set in relation to contracts on trading venues situated or operating in the Republic, or economically equivalent OTC contracts;
- (b) positions held by persons situated or operating in the Republic, which exceed the limits on commodity derivative contracts set by competent authorities in other Member States.

Position reporting by categories of position holders.

59.-(1) IFs or market operators operating a trading venue which trades commodity derivatives or emission allowances or derivatives thereof:

- (a) make public a weekly report with the aggregate positions held by the different categories of persons for the different commodity derivatives or emission allowances or derivatives thereof traded on their trading venue, specifying the number of long and short positions by such categories, changes thereto since the previous report, the percentage of the total open interest represented by each category and the number of persons holding a position in each category in accordance with subsection (4) and communicate that report to the competent authority and to ESMA;
- (b) provide the Commission with a complete breakdown of the positions held by all persons, including the members or participants and the clients thereof, on that trading venue, at least on a daily basis:

It is provided the obligation laid down in paragraph (a) shall only apply when both the number of persons and their open positions exceed the minimum thresholds.

(2) IFs trading in commodity derivatives or emission allowances or derivatives thereof outside a trading venue provide:

- (a) to the Commission, when the above are traded on a trading venue supervised by the Commission, or
- (b) to the competent authority of the trading venue with the highest trading volume, where the commodity derivatives or emission allowances or derivatives

thereof are traded in significant volumes, on trading venues in more than one jurisdiction,

at least on a daily basis with a complete breakdown of their positions taken in commodity derivatives or emission allowances or derivatives thereof traded on a trading venue and economically equivalent OTC contracts, as well as of those of their clients and the clients of those clients until the end client is reached, in accordance with Article 26 of Regulation (EU) No 600/2014 and, where applicable, of Article 8 of Regulation (EU) No 1227/2011.

(3) In order to enable monitoring of compliance with section 58(1), members or participants of regulated markets, MTFs and clients of OTFs must report to the CIF or market operator operating that trading venue the details of their own positions held through contracts which are traded on that trading venue, at least on a daily basis, as well as those of their clients and the clients of those clients until the end client is reached.

(4)(a) Persons holding positions in a commodity derivative or emission allowance or their derivatives thereof, shall be classified by the CIF or market operator operating that trading venue according to the nature of their main business, taking account of any applicable authorisation, as either:

- (i) IFs or credit institutions;
- (ii) investment funds, either as UCITS, or as AIFMs as defined in section 2(1) of the Alternative Investment Fund Managers Law;

56(l) of 2013

8(l) of 2015

- 97(I) of 2015.
- (iii) other financial institutions, including insurance undertakings and reinsurance undertakings as defined in Directive 2009/138/EC, and institutions for occupational retirement provision as defined in Directive 2003/41/EC;
 - (iv) commercial undertakings;
 - (v) in the case of emission allowances or derivatives thereof, operators with compliance obligations under Directive 2003/87/EC.

(b) The reports referred to in paragraph (a) of subsection (1) shall specify the number of long and short positions by category of persons, any changes thereto since the previous report, percent of total open interest represented by each category, and the number of persons in each category.

(c) The reports referred to in paragraph (a) of subsection (1) and the breakdowns referred to in subsection (2) shall differentiate between:

- (i) positions identified as positions which in an objectively measurable way reduce risks directly relating to commercial activities; and
- (ii) other positions.

TITLE V - DATA REPORTING SERVICES

Part 1

Authorisation procedures for data reporting services providers

Requirement for
authorisation.
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60.-(1) The provision of data reporting services described in Part IV of the First Appendix as a regular occupation or business, by a data reporting services provider whose home Member State is the Republic, is subject to prior authorisation in accordance with this Section. Such authorisation shall be granted by the Commission.

(2) Irrespective of subsection (1), a CIF or a market operator of the Republic operating a trading venue may operate the data reporting services of an APA, a CTP and an ARM, subject to the prior verification by the Commission of their compliance with this Title. Such a service shall be included in their authorisation.

(3)(a) The Commission registers all data reporting services providers in a register. The register shall be publicly accessible and shall contain information on the services for which the data reporting services provider is authorised. The Commission updates the register on a regular basis and notifies every authorisation to ESMA.

(b) Where the Commission has withdrawn an authorisation in accordance with section 63 of this Law, it Communicates that withdrawal to ESMA, for the purposes of Article 59, paragraph 3 of Directive 2014/65/EU.

(4) Data reporting services providers must provide their services under the supervision of the Commission. The Commission keeps under regular review the compliance of data reporting services providers with this Title and monitors that data reporting services providers comply at all times with the conditions for authorisation established under this Title.

Scope of authorisation. 61.-(1) The authorisation specifies the data reporting service which the data reporting services provider is authorised to provide. A data reporting services provider seeking to extend its business to additional data reporting services shall submit to the Commission a request for extension of its authorisation.

(2)(a) The authorisation shall be valid for the entire European Union and shall allow a data reporting services provider to provide the services, for which it has been authorised, throughout the European Union.

(b) An authorisation granted by the competent authority of a home Member State other than the Republic, shall be valid in the Republic and shall allow a data reporting services provider to provide the services, for which it has been authorised, in the Republic.

Procedures for granting and refusing requests for authorisation. 62.-(1) The Commission shall not grant authorisation unless and until such time as it is fully satisfied that the person applying a data reporting services provider authorisation and is applying for a CIF authorisation (that in this Part from now on will be known as "the applicant"), complies with all the requirements provided for in this Law and the acts of the European Union issued pursuant to Directive 2014/65/EU.

(2) The applicant shall provide all information, including a programme of operations setting out, inter alia, the types of services envisaged and the organisational structure, necessary to enable the Commission to satisfy itself that the applicant has established, at the time of authorisation, all the necessary arrangements to meet its obligations under the provisions of this Title.

(3) The Commission informs the applicant, within six months of the submission of a complete application, whether or not authorisation has been granted.

Withdrawal of authorisations.

63. The Commission may withdraw the authorisation granted to a data reporting services provider where the provider:

- (a) does not make use of the authorisation within twelve months, expressly renounces the authorisation or has provided no data reporting services for the preceding six months; or
- (b) has obtained the authorisation by making false statements or by any other irregular means; or
- (c) no longer meets the conditions under which authorisation was granted; or
- (d) has seriously and systematically infringed the provisions of this Law or of Regulation (EU) No 600/2014.

Requirements for the management body of a data reporting services provider.

64.-(1)(a) All members of the board of directors of a data reporting services provider shall at all times be of sufficiently good repute, possess sufficient knowledge, skills and experience and commit sufficient time to perform their duties.

(b) The board of directors shall possess adequate collective knowledge, skills and experience to be able to understand the activities of

the data reporting services provider. Each member of the board of directors shall act with honesty, integrity and independence of mind to effectively challenge the decisions of the senior management, where necessary, and to effectively oversee and monitor management decision-making where necessary.

(c) Where a market operator of the Republic seeks authorisation to operate an APA, a CTP or an ARM and the members of the board of directors of the APA, the CTP or the ARM are the same as the members of the management body of the regulated market of the Republic, those persons are presumed to comply with the requirements laid down in the paragraph (a).

(2) The data reporting services provider must notify the Commission of all members of its board of directors and of any changes to its membership, along with all information needed to assess whether the provider complies with subsection (1).

(3) The board of directors of a data reporting services provider defines and oversees the implementation of the governance arrangements that ensure effective and prudent management of an organisation including the segregation of duties in the organisation and the prevention of conflicts of interest, in a manner that promotes the integrity of the market and the interest of its clients.

(4) The Commission shall refuse authorisation if it is not satisfied that the person or the persons who shall effectively direct the business of the data reporting services provider are of sufficiently good repute, or if there are objective and demonstrable grounds for believing that the proposed changes to the board of directors of the provider pose a threat to its sound

and prudent management and to the adequate consideration of the interest of its clients and the integrity of the market.

Part 2

Conditions for APAs

Organisational requirements.

65.-(1) An APA must have adequate policies and arrangements in place to make public the information required under Articles 20 and 21 of Regulation (EU) No 600/2014 as close to real time as is technically possible, on a reasonable commercial basis. The APA must ensure that the information shall be made available free of charge 15 minutes after the APA has published it. The APA must be able to efficiently and consistently disseminate such information in a way that ensures fast access to the information, on a non-discriminatory basis and in a format that facilitates the consolidation of the information with similar data from other sources.

(2) The information made public by an APA in accordance with subsection (1) shall include, at least, the following details:

- (a) the identifier of the financial instrument;
- (b) the price at which the transaction was concluded;
- (c) the volume of the transaction;
- (d) the time of the transaction;
- (e) the time the transaction was reported;

- (f) the price notation of the transaction;
- (g) the code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internaliser the 'SI' code or otherwise the 'OTC' code;
- (h) if applicable, an indicator that the transaction was subject to specific conditions.

(3) The APA must operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an APA who is also a market operator of the Republic or a CIF, shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.

(4) The APA must have sound security mechanisms in place designed to guarantee the security of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage before publication. The APA must maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.

(5) The APA must have systems in place that can effectively check trade reports for completeness, identify omissions and obvious errors and request re-transmission of any such erroneous reports.

Part 3

Conditions for CTPs

Organisational requirements.

66.-(1)(a) A CTP must have adequate policies and arrangements in place to collect the information made public in accordance with Articles 6 and 20 of Regulation (EU) No 600/2014, to consolidate the information into a continuous electronic data stream and to make the information available to the public as close to real time as is technically possible, on a reasonable commercial basis.

(b) That information shall include, at least, the following details:

- (i) the identifier of the financial instrument;
- (ii) the price at which the transaction was concluded;
- (iii) the volume of the transaction;
- (iv) the time of the transaction;
- (v) the time the transaction was reported;
- (vi) the price notation of the transaction;
- (vii) the code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internaliser the 'SI' code or otherwise the 'OTC' code;
- (viii) where applicable, the fact that a computer algorithm within the IF is responsible for the investment decision and the execution of the transaction;
- (ix) where applicable, an indicator that the transaction was subject to specific conditions;
- (x) if the obligation to make public the information referred to in Article 3(1) of Regulation (EU) No 600/2014 was waived in accordance with point (a) or (b) of Article 4(1) of that Regulation, a flag to indicate which of those waivers the transaction was subject to.

(c) The CTP shall ensure that the information shall be made available free of charge 15 minutes after the CTP has published it. The CTP must be able to efficiently and consistently disseminate such information in a way that ensures fast access to the information, on a non-discriminatory basis and in formats that are easily accessible and utilisable for market participants.

(2)(a) A CTP must have adequate policies and arrangements in place to collect the information made public in accordance with Articles 10 and 21 of Regulation (EU) No 600/2014, to consolidate it into a continuous electronic data stream and make following information available to the public as close to real time as is technically possible, on a reasonable commercial basis including, at least, the following details:

- (i) the identifier of the financial instrument;
- (ii) the price at which the transaction was concluded;
- (iii) the volume of the transaction;
- (iv) the time of the transaction;
- (v) the time the transaction was reported;
- (vi) the price notation of the transaction;
- (vii) the code for the trading venue the transaction was executed on, or where the transaction was executed via a systematic internaliser the 'SI' code or otherwise the 'OTC' code;
- (viii) where applicable, an indicator that the transaction was subject to specific conditions;

(b) The CTP shall ensure that the information shall be made available free of charge 15 minutes after the CTP has published it. The

CTP must be able to efficiently and consistently disseminate such information in a way that ensures fast access to the information, on a non-discriminatory basis and in generally accepted formats that are interoperable and easily accessible and utilisable for market participants.

(3) The CTP must ensure that the data provided is consolidated from all the regulated markets, MTFs, OTFs and APAs and for the financial instruments specified by regulatory technical standards under Article 65, paragraph 8, point (c) of Directive 2014/65/EU.

(4) The CTP must operate and maintain effective administrative arrangements designed to prevent conflicts of interest. In particular, a market operator of the Republic or an APA, who also operate a consolidated tape, shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.

(5) The CTP must have sound security mechanisms in place, designed to guarantee the security of the means of transfer of information, and must minimise the risk of data corruption and unauthorised access. The CTP must maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.

Part 4

Conditions for ARMs

Organisational requirements

67.-(1) An ARM must have adequate policies and arrangements in place to report the information required under Article 26 of Regulation (EU) No 600/2014 as quickly as possible, and no later than the close of the working day following the day upon which the transaction took place. Such

information shall be reported in accordance with the requirements laid down in Article 26 of Regulation (EU) No 600/2014.

(2) The ARM must operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an ARM that is also a market operator of the Republic or a CIF shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.

(3) The ARM must have sound security mechanisms in place designed to guarantee the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage, maintaining the confidentiality of the data at all times. The ARM must maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.

(4)(a) The ARM must have systems in place that can effectively check transaction reports for completeness, identify omissions and obvious errors caused by the CIF and where such error or omission occurs, to communicate details of the error or omission to the CIF and request re-transmission of any such erroneous reports.

(b) The ARM must have systems in place that enable it to detect errors or omissions caused by the ARM itself, and that enable the ARM to correct and transmit, or re-transmit as the case may be, correct and complete transaction reports to the competent authority.

TITLE VI - COMPETENT AUTHORITIES

CHAPTER I***Designation, powers and redress procedures***

Designation of competent authorities. 68. The Commission and the Central Bank are designated as the competent authorities to exercise the competencies set out in the different provisions of Regulation (EU) No. 600/2014 and this Law.

Cooperation between authorities in the Republic. 69.-(1)(a) The Commission is responsible for the supervision and application of the provisions of this Law.

(b) The Central Bank is responsible for the supervision and application of the provisions set out in section 3(3) and (4).

(c) The Commission and the Central Bank shall cooperate closely with each other.

(2) The Commission and the Central Bank shall also cooperate closely with the competent authorities of the Republic responsible for the supervision of pension funds, insurance and reinsurance intermediaries and insurance undertakings.

(3) The Commission and the Central Bank shall exchange any information which is essential or relevant to the exercise of their functions and duties.

Supervisory powers.

70.-(1) The Commission and the Central Bank have all the supervisory powers, including investigatory powers and powers to impose remedial measures, necessary to fulfil their duties under this Law and under Regulation (EU) No 600/2014.

(2) The powers of the Commission and the Central Bank referred to in subsection (1), shall include, in addition to the powers of the Commission set out in the Cyprus Securities and Exchange Commission Law, and of the Central Bank, set out in this Law, at least, the following powers:

- (a) to have access to any document or other data in any form which they consider could be relevant for the performance of their duties and receive or take a copy of it;
- (b) to require or demand the provision of information from any person and if necessary to summon and question a person with a view to obtaining information;
- (c) to carry out on-site inspections or investigations;
- (d) to require existing recordings of telephone conversations or electronic communications or other data traffic records held by an IF or a credit institution, or any other entity regulated by this Law or by Regulation (EU) No 600/2014;
- (e) to require the freezing or the sequestration of assets, or both;
- (f) to require the temporary prohibition of professional activity;

- (g) to require that auditors of CIFs, regulated markets of the Republic and data reporting services providers, provide information;
- (h) to ensure for the exercise of criminal prosecution;
- (i) to assign to auditors or experts to carry out verifications or investigations;
- (j) to require or demand the provision of information, including all relevant documentation, from any person regarding the size and purpose of a position or exposure entered into via a commodity derivative, and any assets or liabilities in the underlying market;
- (k) to require the temporary or permanent cessation of any practice or conduct that the Commission or the Central Bank considers to be contrary to the provisions of Regulation (EU) No 600/2014 and the provisions of this Law, and prevent repetition of that practice or conduct;
- (l) to take any measure to ensure that IFs, regulated markets and other persons to whom this Law or Regulation (EU) No 600/2014 applies, continue to comply with legal requirements;
- (m) to require the suspension of trading in a financial instrument;

- (n) to require the removal of a financial instrument from trading, whether on a regulated market or under other trading arrangements;
- (o) to request any person to take measures to reduce the size of the position or exposure;
- (p) to limit the ability of any person from entering into a commodity derivative, including by introducing limits on the size of a position any person can hold at all times in accordance with section 58 of this Law;
- (q) to issue public notices;
- (r) to require existing data traffic records held by a telecommunication operator, where there is a reasonable suspicion of an infringement and where such records may be relevant to an investigation into infringements of this Law or of Regulation (EU) No 600/2014;
- (s) to suspend the marketing or sale of financial instruments or structured deposits where the conditions of Articles 40, 41 or 42 of Regulation (EU) No 600/2014 are met;
- (t) to suspend the marketing or sale of financial instruments or structured deposits where the CIF has not developed or applied an effective product approval process or otherwise failed to comply with section 17(3) of this Law;

- (u) to require the removal of a natural person from the management board of an CIF or market operator of the Republic.

Sanctions for
infringements

71.-(1) Without prejudice to the supervisory powers of the Commission and the Central Bank in accordance to section 70, including investigatory powers and powers to impose remedial measures, each of the Commission and the Central Bank may impose administrative sanctions and take measures for every infringement of this Law or of Regulation (EU) No 600/2014, and of the acts adopted pursuant to these, or of the acts adopted pursuant to Directive 2014/65/EU, and shall take all measures necessary to ensure that they are implemented. Such sanctions and measures must be effective, proportionate and dissuasive and shall apply to infringements even where they are not specifically referred to in subsections (3), (4) and (5).

(2) In the case of an infringement of obligations that apply to IFs, market operators, data reporting services providers, credit institutions in relation to investment services or investment activities and ancillary services, and branches of third-country firms, sanctions can be imposed and measures can be applied, subject to the conditions laid down in the laws of Cyprus for areas not covered by this Law, to the members of the IFs' and market operators' board of directors, and any other natural or legal persons who, under this Law, are responsible for an infringement.

(3) The infringement of at least the following provisions of this Law or of Regulation (EU) No. 600/2014 shall be regarded as an infringement of this Law or of Regulation (EU) No. 600/2014:

- (a) with regard to this Law:

- (i) section 8(1)(b),
- (ii) sections 9(1), (7), (14), (15) and (16), and 10(1)(a),
(c), (d) and (e),
- (iii) section 12(1) and (3),
- (iv) section 17,
- (v) section 18,
- (vi) section 19(1) to (9), and the first sentence of section
19(10),
- (vii) sections 20 and 21,
- (viii) section 22(1),
- (ix) section 24,
- (x) section 25(1) to (5) and (7) to (11),
- (xi) section 26(1) to (6)
- (xii) section 27(1)(b), (2) and (3),
- (xiii) section 28,
- (xiv) section 29,
- (xv) section 30(2), (3)(a), (4) and (5),

- (xvi) section 31(1)(b) and the first sentence of section 31(3)(b),
- (xvii) section 32(1), (2)(a) and (3),
- (xviii) section 33(1) and (2)(a), (b) and (d),
- (xix) section 34(3),
- (xx) section 35(2), the first sentence of section 35(4), section 35(5)(a) and the first sentence of section 35(7),
- (xxi) section 36(2) and (7)(a) and the first sentence of section 36(10),
- (xxii) section 37,
- (xxiii) section 38(1)(a), the first sentence of section 38(1)(b), and section 38(2) excluding the qualification,
- (xxiv) section 45(1)(d), (2)(a), 3(a) and (5)(b),
- (xxv) section 46(1) to (6) and (8),
- (xxvi) section 47(1) and (2),
- (xxvii) section 48,

- (xxviii) section 49,
 - (xxix) section 50(1),
 - (xxx) section 51,
 - (xxxi) section 52(1) to (4) and the second sentence of section 52(5),
 - (xxxii) section 53(1) and (2)(a), (b) and (d),
 - (xxxiii) section 54(1), (2) and (3), the first sentence of section 54(6)(b)(i) and section 54(7),
 - (xxxiv) section 55(1), (2)(a) and (3),
 - (xxxv) section 58(1), (2), (6) and (8)(a),
 - (xxxvi) section 59,
 - (xxxvii) section 64(1) to (3),
 - (xxxviii) section 65,
 - (xxxix) section 66,
 - (xl) section 67.
- (b) with regard to Regulation (EU) No 600/2014:
- (i) Articles 3(1) and (3);

- (ii) the first subparagraph of Article 4(3);
- (iii) Article 6;
- (iv) the first sentence of third subparagraph of Article 7(1);
- (v) Article 8(1), (3) and, (4);
- (vi) Article 10;
- (vii) the first sentence of third subparagraph of Article 11(1) and the third subparagraph of Article 11(3);
- (viii) Article 12(1);
- (ix) Article 13(1);
- (x) Article 14(1), the first sentence of Article 14(2) and the second, third and fourth sentence of Article 14(3);
- (xi) the first subparagraph and the first and third sentences of second subparagraph of Article 15(1), Article 15(2) and the second sentence of Article 15(4);
- (xii) the second sentence of Article 17(1);
- (xiii) Article 18(1) and (2), first sentence of Article 18(4), first sentence of Article 18(5), the first subparagraph of Article 18(6), Article 18(8) and (9);
- (xiv) Article 20(1) and the first sentence of Article 20(2);
- (xv) Article 21(1), (2) and (3);
- (xvi) Article 22(2);
- (xvii) Article 23(1) and (2);

- (xviii) Article 25(1) and (2);
- (xix) the first subparagraph of Article 26(1), Article 26(2) to (5), the first subparagraph of Article 26(6), the first to fifth and eighth subparagraph of Article 26(7);
- (xx) Article 27(1);
- (xxi) Article 28(1) and the first subparagraph of Article 28(2);
- (xxii) Article 29(1) and (2);
- (xxiii) Article 30(1);
- (xxiv) Article 31(2) and (3);
- (xxv) Article 35(1), (2) and (3);
- (xxvi) Article 36(1), (2) and (3);
- (xxvii) Article 37(1) and (3);
- (xxviii) Articles 40, 41 and 42.

(4) Providing investment services or performing investment activities, as a regular occupation or business, without the required authorisation or approval in accordance with the following provisions of this Law or of Regulation (EU) No 600/2014 shall also be considered to be an infringement of this Law or of Regulation (EU) No 600/2014:

- (a) section 5 or section 6(2) or sections 34, 35, 39, 44 or 59 of this Law; or

- (b) the third sentence of Article 7(1) or Article 11(1) of Regulation (EU) No 600/2014.

(5) Failure to cooperate or comply in an investigation or with an inspection or request covered by section 70 shall also be regarded as an infringement of this Law.

(6) In the cases of infringements referred to in subsections (3), (4) and (5), each of the Commission and the Central Bank can impose at least the following administrative sanctions and measures:

- (a) a public statement, which indicates the natural or legal person and the nature of the infringement in accordance with section 72;
- (b) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;
- (c) in the case of a CIF, a market operator of the Republic authorised to operate an MTF or OTF, a regulated market, an APA, a CTP and an ARM, withdrawal of the authorisation of the institution, in accordance with sections 8, 44 and 63, or suspension of that authorisation;
- (d) a temporary or, for repeated serious infringements a permanent ban against any member of the investment firm's management body or any other natural person, who is held responsible, to exercise management functions in CIFs;

- (e) a temporary ban on any CIF from being a member of or participant in regulated markets or MTFs or being a client of OTFs;
- (f) in the case of a legal person, maximum administrative fines of at least five million euro (EUR 5 000 000);
- (g) in the case of a natural person, maximum administrative fines of at least five million euro (EUR 5 000 000);
- (h) maximum administrative fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in paragraphs (f) and (g).

(7) The Minister of Finance is responsible for fulfilling the obligations of the Republic, as a Member State, under Article 70, paragraph 1, third subparagraph of Directive 2014/65/EU.

(8) Each of the Commission and the Central Bank are empowered to impose, to any person infringing the provisions of section 93, an administrative fine not exceeding three hundred and fifty thousand euro (€350.000) and, in case of relapse or continuation of the violation an administrative fine not exceeding seven hundred thousand euro (€700.000).

Publication of decisions.

72.-(1)(a) Each of the Commission and the Central Bank shall publish any decision imposing an administrative sanction or measure for infringements of Regulation (EU) No 600/2014 or of this Law, on their

official websites, without undue delay, after the person on whom the sanction was imposed has been informed of that decision. The publication shall include at least information on the type and nature of the infringement and the identity of the persons responsible. This obligation does not apply to decisions for the imposition of measures of an investigatory nature.

(b) Without prejudice to paragraph (a), where the publication of the identity of the legal persons or of the personal data of the natural persons is considered by the Commission or the Central Bank to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where publication jeopardises the stability of financial markets or an on-going investigation, the Commission and the Central Bank, shall either:

- (i) defer the publication of the decision to impose the sanction or measure until the moment where the reasons for non-publication cease to exist;
- (ii) publish the decision to impose the sanction or measure on an anonymous basis in a manner which complies with the laws of Cyprus, if such anonymous publication ensures an effective protection of the personal data concerned
- (iii) not publish the decision to impose a sanction or measure at all in the event that the options set out in subparagraphs (i) and (ii) are considered to be insufficient to ensure:

- (A) that the stability of financial markets would not be put in jeopardy;
- (B) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.

(c) In the case of a decision to publish a sanction or measure on an anonymous basis, the publication of the relevant data may be postponed for a reasonable period of time if it is envisaged that within that period the reasons for anonymous publication shall cease to exist.

(2) Where, in accordance to Article 146 of the Constitution, judicial review has been exercised against a decision for the imposition of a sanction or measure, each of the Commission and the Central Bank shall publish, immediately, on their official website, information on the judicial review and any subsequent information on the outcome of such judicial review. Moreover, any decision annulling a previous decision to impose a sanction or a measure shall also be published.

(3)(a) The Commission and the Central Bank shall ensure that any publication in accordance with this section shall remain on their official website for a period of at least five years after its publication. Personal data contained in the publication shall only be kept on the official website of the Commission or the Central Bank for the period which is necessary in accordance with the applicable data protection rules.

(b) The Commission and the Central Bank shall inform ESMA of all administrative sanctions or measures imposed but not published in accordance with subparagraph (iii) of paragraph (b) of subsection (1), including any judicial review in relation thereto, and the outcome thereof. The Commission and the Central Bank ensure they receive information and the final judgement in relation to any criminal sanction imposed and submit it to ESMA.

(4)(a) The Commission and the Central Bank shall provide ESMA annually with aggregate information regarding all sanctions and measures imposed in accordance with subsections (1) and (2). That obligation does not apply to measures of an investigatory nature.

(b) The Commission and the Central Bank shall provide ESMA, annually, with anonymised and aggregated data regarding all criminal investigations undertaken and criminal sanctions imposed.

(5) Where the Commission and Central Bank have disclosed an administrative measure, sanction or criminal sanction to the public, they shall, at the same time, report that fact to ESMA.

Exercise of
supervisory
powers and
powers to impose
sanctions

73.-(1) Each of the Commission and the Central Bank shall exercise the supervisory powers including, investigatory powers and powers to impose remedial measures referred to in section 70, and the powers to impose sanctions referred to in section 71, in accordance with the laws of Cyprus:

(a) directly;

- (b) in collaboration with other authorities;

- (c) by application to the competent judicial authorities, where applicable under the laws of Cyprus.

(2)(a) When determining the type and level of an administrative sanction or measure to be imposed under the exercise of powers to impose sanctions of section 71, each of the Commission and the Central Bank must take into account all relevant circumstances, including, where appropriate:

- (i) the gravity and the duration of the infringement;
- (ii) the degree of responsibility of the natural or legal person responsible for the infringement;
- (iii) the financial strength of the responsible natural or legal person, as indicated in particular by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
- (iv) the importance of profits gained or losses avoided by the responsible natural or legal person, insofar as they can be determined;
- (v) the losses for third parties caused by the infringement, insofar as they can be determined;
- (vi) the degree of cooperation of the responsible natural or legal person with the Commission or Central Bank, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
- (vii) previous infringements by the responsible natural or legal person.

(b) Each of the Commission and the Central Bank may take into account additional factors to those referred to in paragraph (a) when determining the type and level of administrative sanctions and measures.

Reporting of
infringements

74.-(1)(a) Each of the Commission and the Central Bank establish effective mechanisms to enable reporting of potential or actual infringements of the provisions of Regulation (EU) No 600/2014 and of this Law.

(b) The mechanisms referred to in the paragraph (a) shall include at least:

- (i) specific procedures for the receipt of reports on potential or actual infringements and their follow-up, including the establishment of secure communication channels for such reports;
- (ii) appropriate protection for employees of financial institutions who report infringements committed within the financial institution at least against retaliation, discrimination or other types of unfair treatment;
- (iii) protection of the identity of both the person who reports the infringements and the natural person who is allegedly responsible for an infringement, at all stages of the procedures unless such disclosure is required by national law in the context of further investigation or subsequent administrative or judicial proceedings.

(2) IFs, market operators, data reporting services providers, credit institutions in relation to investment services or activities and ancillary services, and branches of third-country firms must have in place appropriate procedures for their employees to report potential or actual infringements internally through a specific, independent and autonomous channel.

Right to judicial review. 75.-(1) Every decision of the Commission or the Central Bank issued pursuant to the provisions of Regulation (EU) No. 600/2014 or the provisions of this Law and the directives issued pursuant to it, is duly justified and is subject to judicial review before the Supreme Court by reason of Article 146 of the Constitution. The aforementioned right of judicial review shall also apply where, in respect of an application for authorisation which provides all the information required, no decision is taken within six months of its submission.

(2) Any one of the following legalised bodies, may apply to a Court with civil jurisdiction, requesting for a prohibitive, or peremptory order to be issued, including an interim order, against any person, that in its judgement, is involved or/and is responsible for any violation of this Law or Regulation (EU) No 600/2014, offending the collective interests of consumers which this body protects:

- (a) public bodies or their representatives;
- (b) consumer organisations having a legitimate interest in protecting consumers;

- (c) professional organisations having a legitimate interest in acting to protect their members.

Extra-judicial mechanism for consumers complaints. 159(I) of 2012. 76.-(1) Without prejudice to the Certain Matters of Mediation in Civil Law Differences Law, the provisions of the Establishment and Operation of a Single Agency for the Out of Court Settlement of Disputes of Financial Nature Laws of 2010 to 2015, apply to consumer disputes concerning the provision of investment services and ancillary services by an IF.

84(I) of 2010
125(I) of 2014
126(I) of 2014
125(I) of 2015
...(I) of 2017.

(2) The Financial Ombudsman, established pursuant to the Establishment and Operation of a Single Agency for the Out of Court Settlement of Disputes of Financial Nature Laws of 2010 to 2015, cooperates with its counterparts in other Member States in the resolution of cross-border disputes.

(3) The Commission shall notify ESMA the legislation referred to in subsections (1) and (2).

Professional secrecy. 77.-(1) The Commission or the Central Bank, every person which exercises or has exercised activity on behalf of the Commission or the Central Bank, as well as auditors or experts instructed by the Commission or the Central Bank, auditors or experts, are bound by the obligation of professional secrecy. No confidential information which they may receive in the course of their duties may be divulged to any person or authority

whatsoever, save in summary or aggregate form such that particular IFs, market operators, regulated markets or any other person cannot be identified, without prejudice to requirements set out in the Cyprus criminal or tax laws or other provisions of this Law or of Regulation (EU) No 600/2014.

(2) Where an IF, market operator or regulated market has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties may be divulged in civil or commercial proceedings if necessary for carrying out the proceeding.

(3) Without prejudice to cases covered by Cyprus criminal law or tax law, the Commission and the Central Bank and other authorities, bodies or natural or legal persons which receive confidential information pursuant to this Law or to Regulation (EU) 600/2014, may use it only in the performance of their duties and for the exercise of their functions, in the case of the Commission and the Central Bank, within the scope of this Law or of Regulation (EU) No 600/2014 or, in the case of other authorities, bodies or natural or legal persons, for the purpose for which such information was provided to them and/or in the context of administrative or judicial proceedings specifically relating to the exercise of those functions. However, where the Commission or the Central Bank or other authority, body or person communicating information consents thereto, the authority receiving the information may use it for other purposes.

(4) Any confidential information received, exchanged or transmitted pursuant to this Law or to Regulation (EU) No 600/2014 shall be subject to the conditions of professional secrecy laid down in this section. Nevertheless, this section shall not prevent the Commission or the Central Bank from exchanging or transmitting confidential information in

accordance with this Law or with Regulation (EU) No 600/2014 and with other laws transposing Directives of the European Union into national laws or Regulations of the European Union applicable to IFs, credit institutions, pension funds, UCITS, AIFs, insurance and reinsurance intermediaries, insurance undertakings, regulated markets or market operators, CCPs, CSDs, or otherwise with the consent of the competent authority or other authority or body or natural or legal person that communicated the information.

(5) This section shall not prevent the Commission or Central Bank from exchanging or transmitting in accordance with the laws of Cyprus, confidential information that has not been received from a competent authority of another Member State.

Relations with
auditors.

78.-(1)(a) An auditor who performs for a CIF, a regulated market of the Republic or a data reporting services provider the duties of section 34 of Directive 2013/34/EU or section 58 of the Law regulating Open-Ended Undertakings for Collective Investment or any other task prescribed by law, has a duty to report promptly to the Commission any fact or decision concerning that undertaking, of which the auditor has become aware while carrying out that task and which is liable to:

- (i) constitute a material infringement of the laws, regulations or administrative provisions which lay down the conditions governing CIF authorisation or which specifically govern pursuit of the activities of CIFs;
- (ii) affect the continuous functioning of the CIF;
- (iii) lead to refusal to certify the accounts or to the expression of reservations.

(b) The auditor shall also have a duty to report any facts and decisions of which he becomes aware in the course of carrying out one of the tasks referred to in paragraph (a) in an undertaking having close links with the CIF within which he is carrying the duties provided for in paragraph (a).

(2) The disclosure in good faith to the Commission, by auditors, of any fact or decision referred to in subsection (1) shall not constitute a breach of any contractual or legal restriction on disclosure of information and shall not involve such persons in liability of any kind.

Data protection

138(I) of 2001
37(I) of 2003
105(I) of 2012.

The processing of personal data collected in or for the exercise of the supervisory powers including investigatory powers in accordance with this Law shall be carried out in accordance with the provisions of the Processing of Personal Data (Protection of Individuals) Law and with Regulation (EC) No 45/2001 where applicable.

CHAPTER II

Cooperation between the competent authorities of the Member States and with ESMA

Obligation to cooperate.

80.-(1)(a) The Commission and the Central Bank shall cooperate with the competent authorities of other Member States, making use of their powers whether set out in this Law or in Regulation (EU) No 600/2014 or in national law or in the Cyprus Securities and Exchange Commission Law or in the or the Central Bank of Cyprus Law, where this is necessary for the purpose of carrying out their duties under this Law or under Regulation (EU) No 600/2014, and the duties of the competent authorities of other

Member States, under their national laws adopted pursuant to Directive 2014/65 / EU or Regulation (EU) 600/2014.

(b) Each of the Commission and the Central Bank may request and receive by the Attorney General of the Republic, information relating to criminal investigations or proceedings of a criminal nature, commenced for possible infringements of this Law and of Regulation (EU) No 600/2014 and they shall provide the same to other competent authorities and ESMA to fulfil their obligation to cooperate with each other and ESMA for the purposes of this Law and of Regulation (EU) No 600/2014.

(c) The Commission and the Central Bank shall render assistance to competent authorities of the other Member States. In particular, they shall exchange information and cooperate in any investigation or supervisory activities.

(d) The Commission and the Central Bank may also cooperate with competent authorities of other Member States with respect to facilitating the recovery of fines.

(e) In order to facilitate and accelerate the cooperation, and in particular for the exchange information, the Commission shall be designated the contact point for the purposes of this Law and of Regulation (EU) No 600/2014.

When the Central Bank is subject, on the basis of this section, to an obligation to notify a competent authority of another Member State or ESMA, it shall proceed to the said notification via the Commission.

(2)(a) When, taking into account the situation of the securities markets in the host Member State, the operations of a trading venue that has established arrangements in a host Member State have become of substantial importance for the functioning of the securities markets and the protection of the investors in that host Member State, the Commission and the host competent authorities of the trading venue shall establish proportionate cooperation arrangements.

(b) When, taking into account the situation of the securities markets in the Republic as the host Member State, the operations of a trading venue that has established arrangements in the Republic, have become of substantial importance for the functioning of the securities markets and the protection of the investors in the Republic, the Commission and the home competent authorities of the trading venue shall establish proportionate cooperation arrangements.

(3) Each of the Commission and the Central Bank shall take the necessary administrative and organisational measures to facilitate the assistance provided for in subsection (1). Each of the Commission and the Central Bank may use their powers for the purpose of cooperation provided for in this section, even where the conduct under investigation does not constitute an infringement of any law of Cyprus.

(4)(a) Where the Commission or the Central Bank has good reasons to suspect that acts contrary to the provisions of this Law or of Regulation (EU) No 600/2014 or contrary to other legislation adopted pursuant to Directive 2014/65/EU or to Regulation (EU) No 600/2014, are being carried out by entities not subject to their supervision, are being or have been carried out in the territory of another Member State, they shall notify

the competent authority of the other Member State and ESMA in as specific a manner as possible.

(b) Where the Commission or the Central Bank receive a notification pursuant to Article 79, paragraph 4 of the Directive 2014/65/EU, the Commission or Central Bank, as the case may be:

- (i) shall take appropriate action, inform the notifying competent authority and ESMA of the outcome of the action and, to the extent possible, of significant interim developments, and
- (ii) this shall be without prejudice to the competence of the notifying competent authority.

(5)(a) Without prejudice to subsections (1) and (4), each of the Commission and the Central Bank shall notify ESMA and other competent authorities of the details of:

- (i) any requests to reduce the size of a position or exposure pursuant to section 70(2)(o);
- (ii) any limits on the ability of persons to enter into a commodity derivative pursuant to section 70(2)(p).

(b) The notification provided for in paragraph (a) shall include, where relevant, the details of the request or the demand pursuant to section 70(2)(j) including the identity of the person or persons to whom it was addressed and the reasons therefor, as well as the scope of the limits

introduced pursuant to section 70(2)(p) including the person concerned, the applicable financial instruments, any limits on the size of positions the person can hold at all times, any exemptions thereto granted in accordance with section 58, and the reasons therefor.

(c) The notification provided for in paragraph (a) shall be made not less than 24 hours before the actions or measures are intended to take effect. In exceptional circumstances, the Commission or the Central Bank, as the case may be, may make the notification less than 24 hours before the measure is intended to take effect where it is not possible to give 24 hours' notice.

(d) Where the Commission or the Central Bank receive a relevant notification by a competent authority of another Member State, they may take measures in accordance with section 70(2)(o) or (p), where they are satisfied that the measure is necessary to achieve the objective of the other competent authority. The Commission or the Central Bank, as the case may be, shall also give notice in accordance with this subsection where it proposes to take measures.

(e) When an action referred to in subparagraph (i) or (ii) of paragraph (a), relates to wholesale energy products, the Commission shall also notify the Agency for the Cooperation of Energy Regulators established under Regulation (EC) No 713/2009.

(6) In relation to emission allowances, each of the Commission and the Central Bank shall cooperate with public bodies competent for the oversight of spot and auction markets and competent authorities, registry administrators and other public bodies charged with the supervision of compliance under the Establishment of a Greenhouse Gas Emission

Trading Scheme Law in order to ensure that they can acquire a consolidated overview of emission allowances markets.

(7) In relation to agricultural commodity derivatives, each of the Commission and the Central Bank shall report to and cooperate with public bodies competent for the oversight, administration and regulation of physical agricultural markets under Regulation (EU) No 1308/2013.

Cooperation
between
competent
authorities in
supervisory
activities, for on-
site verifications or
investigations

81.-(1)(a) A competent authority of another Member State may request the cooperation of each of the Commission and the Central Bank in a supervisory activity or for an on-the-spot verification or in an investigation. In the case of CIFs that are remote members or participants of a regulated market established in another Member State, the competent authority of that Member State may choose to address them directly.

(b) Where an IF is a remote member or participant of a regulated market of the Republic, the Commission may address it directly, in which case it shall inform the competent authority of the home Member State of the remote member or participant accordingly.

(2) Where the Commission or the Central Bank receives a request with respect to an onsite verification or an investigation, it shall, within the framework of its powers:

- (a) carry out the verifications or investigations itself;
- (b) allow the requesting authority to carry out the verification or investigation;

- (c) assigns to auditors or experts to carry out the verification or investigation.

Exchange of
information

82.-(1)(a) The Commission shall immediately exchange with competent authorities of Member States having been designated as contact points in accordance with Article 79 paragraph (1) of Directive 2014/65/EU, the information required for the purposes of carrying out the duties of the Commission or the Central Bank, set out in this Law or Regulation (EU) No 600/2014, and for the purpose of carrying out the duties of the competent authorities of the other Member States, set out in national legislation adopted pursuant to Directive 2014/65/EU and Regulation (EU) No. 600/2014

(b) The Commission, when exchanging information with other competent authorities under Directive 2014/65/EU or Regulation (EU) No 600/2014 may indicate at the time of communication that such information must not be disclosed without its express agreement. Where the competent authority of another Member State indicates, at the time of communication with the Commission under Directive 2014/65/EU or Regulation (EU) No 600/2014, that such information must not be disclosed without its express consent, the Commission ensures that such information may be exchanged solely for the purposes for which the said authorities gave its agreement.

(2) The Commission may transmit to the Central Bank the information received under subsection (1) of this section and under sections 78 and 89. The Commission shall not transmit that information to other bodies or natural or legal persons without the express agreement of the competent authority which disclosed it and solely for the purposes for which that

authority gave its agreement, except in duly justified circumstances. In this last case, the Commission shall immediately inform the competent authority designated as the contact point , which sent the information.

(3) The Commission and the Central Bank as well as other bodies or natural and legal persons receiving confidential information under subsection (1) of this section or under sections 78 and 89 may use it only in the course of their duties, in particular:

- (a) to check that the conditions governing the taking-up of the business of CIFs are met and to facilitate the monitoring, on a non-consolidated or consolidated basis, of compliance with the conditions of the business of CIFs, especially with regard to the capital adequacy requirements imposed by Directive 2013/36/EU, administrative and accounting procedures and internal-control mechanisms;
- (b) to monitor the proper functioning of trading venues;
- (c) to impose sanctions;
- (d) in administrative appeals against decisions by the Commission or the Central Bank;
- (e) in court proceedings initiated under section 75;
- (f) in proceedings before the Financial Ombudsman provided for in section 76.

(4) This section and sections 77 and 89 shall not prevent Commission or the Central Bank from transmitting to ESMA, the ESRB, central banks of other Member States, the European System of Central Banks and the European Central Bank, in their capacity as monetary authorities, and, where appropriate, to other public authorities responsible for overseeing payment and settlement systems, confidential information intended for the performance of their tasks. Likewise such authorities or bodies shall not be prevented from communicating to the Commission or the Central Bank such information as they may need for the purpose of performing their functions provided for in this Law or in Regulation (EU) No 600/2014.

Binding mediation 83. The Commission may refer to ESMA situations where a request relating to one of the following has been rejected or has not been acted upon within a reasonable time:

- (a) to carry out a supervisory activity, an onsite verification, or an investigation, as provided for in section 81; or
- (b) to exchange information as provided for in section 82.

Refusal to cooperate 84.-(1) The Commission or the Central Bank may refuse to act on a request for cooperation in carrying out an investigation, onsite verification or supervisory activity as provided for in section 85 or to exchange information as provided for in section 82 only where:

- (a) judicial proceedings have already been initiated in respect of the same actions and the same persons before addressed court of the Republic;

- (b) final court judgment has already been delivered in the Republic in respect of the same persons and the same actions.

(2) In the case of such a refusal, the Commission or the Central Bank shall notify the requesting competent authority and ESMA accordingly, providing as detailed information as possible.

Consultation prior to authorisation. 85.-(1) The opinion of the competent authorities of the other Member State involved shall be requested by the Commission prior to granting authorisation to a CIF which is any of the following:

- (a) a subsidiary of an IF or market operator or credit institution authorised in another Member State;
- (b) a subsidiary of the parent undertaking of an IF or credit institution authorised in another Member State;
- (c) controlled by the same natural or legal persons which controls an IF or credit institution authorised in another Member State.

(2) The opinion of the competent authority of the Member State responsible for the supervision of credit institutions or insurance undertakings shall be requested by the Commission prior to granting an authorisation to a CIF or market operator of the Republic which is any of the following:

- (a) a subsidiary of a credit institution or insurance undertaking authorised in the Union;
- (b) a subsidiary of the parent undertaking of a credit institution or insurance undertaking authorised in the Union;
- (c) controlled by the same person, whether natural or legal, who controls a credit institution or insurance undertaking authorised in the Union.

(3) The Commission:

- (a) shall consult with the other competent authorities referred to in subsections (1) and (2), in particular when assessing the suitability of the shareholders or members and the reputation and experience of persons who effectively direct the business of the entity, involved in the management of another entity of the same group; and
- (b) exchange with them all information regarding the suitability of shareholders or members and the reputation and experience of persons who effectively direct the business of the entity, where such information is of relevance to the other competent authorities involved, for the granting of an authorisation as well as for the ongoing assessment of compliance with operating conditions.

Powers of the Commission as a host Member State.

86.-(1) The Commission may, for statistical purposes, require all IFs with branches within the Republic to report to them periodically on the activities of those branches.

(2) The Commission may require branches of IFs to provide it with the information necessary for the monitoring of their compliance with the provisions that apply to them under this Law, for the cases provided for in section 36(8). Those requirements may not be more stringent than those which this Law imposes on firms established in the Republic for the monitoring of their compliance.

Precautionary measures to be taken by host Member States.

87.-(1)(a) Where the Commission has clear and demonstrable grounds for believing that an IF acting within the Republic under the freedom to provide services, infringes the obligations arising from this Law or from the provisions adopted pursuant to Directive 2014/65/EU, or that an IF that has a branch within the Republic infringes the obligations arising from this Law or from the provisions adopted pursuant to Directive 2014/65/EU, which do not confer powers on the Commission, it shall refer those findings to the competent authority of the home Member State.

(b) If, despite the measures taken by the competent authority of the home Member State or because such measures prove inadequate, the IF persists in acting in a manner that is clearly prejudicial to the interests of the investors or the orderly functioning of markets of the Republic, the following shall apply:

- (i) after informing the competent authority of the home Member State, the Commission shall take all the appropriate measures needed in order to protect investors and the proper functioning of the markets,

which shall include the possibility of preventing IFs provided for in paragraph (a) from initiating any further transactions within the Republic. The European Commission and ESMA shall be informed of such measures without undue delay; and

- (ii) the Commission may refer the matter to ESMA.

(2)(a) Where the Commission ascertains that an IF that has a branch within the Republic infringes the provisions of this Law which confer powers on the Commission, the Commission shall require the IF concerned to put an end to its irregular situation.

(b) If the IF concerned fails to take the necessary steps, the Commission shall take all appropriate measures to ensure that the IF concerned puts an end to its irregular situation. The nature of those measures shall be communicated to the competent authorities of the home Member State.

(c) Where, despite the measures taken by the Commission, the IF persists in infringing the provisions of this Law, the Commission shall, after informing the competent authority of the home Member State, take all the appropriate measures required in order to protect investors and the proper functioning of the markets. The Commission informs the European Commission and ESMA of such measures, without undue delay.

(d) In addition, the Commission may refer the matter to ESMA.

(3)(a) Where the Commission, in acting as the competent authority of the host Member State of a regulated market, an MTF or OTF, has clear and demonstrable grounds for believing that such regulated market, MTF or OTF infringes the obligations arising from the provisions of this Law, or from the provisions adopted pursuant to Directive 2014/65/EU, it shall refer those findings to the competent authority of the home Member State of the regulated market or the MTF or OTF.

(b) Where, despite the measures taken by the competent authority of the home Member State or because such measures prove inadequate, that regulated market or the MTF or OTF persists in acting in a manner that is clearly prejudicial to the interests of investors in the Republic, or the orderly functioning of markets, the Commission shall, after informing the competent authority of the home Member State, take all the appropriate measures needed in order to protect investors and the proper functioning of the markets, which shall include the possibility of preventing that regulated market or the MTF or OTF from making their arrangements available to their remote members or participants, where their remote members or participants are established in Republic. The Commission shall inform the European Commission and ESMA of such measures without undue delay.

(c) In addition, the Commission may refer the matter to ESMA.

(4) Any measure adopted pursuant to subsections (1), (2) or (3) involving sanctions or restrictions on the activities of an IF or of a regulated market shall be properly justified and communicated to the IF or to the regulated market concerned.

Cooperation and exchange of information with ESMA

88.-(1) The Commission and the Central Bank shall cooperate with ESMA, for the purposes of this Law, in accordance with Regulation (EU) No 1095/2010.

(2) The Commission and the Central Bank shall, without undue delay, provide ESMA with all information necessary to carry out its duties under this Law and under Regulation (EU) No 600/2014 and in accordance with Articles 35 and 36 of Regulation (EU) No 1095/2010.

CHAPTER III

Cooperation with third countries

Exchange of information with third countries.

89.-(1)(a) The Commission and the Central Bank, may conclude cooperation agreements providing for the exchange of information with the competent authorities of third countries only if the information disclosed is subject to guarantees of professional secrecy at least equivalent to those required under section 77. Such exchange of information must be intended for the performance of the tasks of those competent authorities.

(b) Transfer of personal data to a third country by the Commission or the Central Bank shall be in accordance with the Processing of Personal Data (Protection of Individuals) Law.

(c) The Commission and the Central Bank may also conclude cooperation agreements providing for the exchange of information with

third country authorities, bodies and natural or legal persons responsible for one or more of the following:

- (i) the supervision of credit institutions, other financial institutions, insurance undertakings and the supervision of financial markets;
- (ii) the liquidation and bankruptcy of IFs and other similar procedures;
- (iii) the carrying out of statutory audits of the accounts of IFs and other financial institutions, credit institutions and insurance undertakings, in the performance of their supervisory functions, or which administer compensation schemes, in the performance of their functions;
- (iv) oversight of the bodies involved in the liquidation and bankruptcy of IFs and other similar procedures;
- (v) oversight of persons charged with carrying out statutory audits of the accounts of insurance undertakings, credit institutions, IFs and other financial institutions;
- (vi) oversight of persons active on emission allowance markets for the purpose of ensuring a consolidated overview of financial and spot markets;
- (vii) oversight of persons active on agricultural commodity derivatives markets for the purpose of ensuring a consolidated overview of financial and spot markets.

(d) The cooperation agreements referred to in paragraph (c) may be concluded only where the information disclosed is subject to guarantees of professional secrecy at least equivalent to those required

under section 77. Such exchange of information shall be intended for the performance of the tasks of those authorities or bodies or natural or legal persons. Where a cooperation agreement involves the transfer of personal data by a Member State, it shall comply with section 9 of the Processing of Personal Data (Protection of Individuals) Law and with Regulation (EC) No 45/2001 in the case ESMA is involved in the transfer.

(2) Where the information originates in another Member State, it may not be disclosed without the express agreement of the competent authorities which have transmitted it and, where appropriate, solely for the purposes for which those authorities gave their agreement. This provision also applies to information provided by third country competent authorities.

TITLE VII - CIF SUPPLEMENTARY SUPERVISION

CIF
supplementary
supervision.

90.-(1) A CIF, which belongs to a financial conglomerate, is subject to conditions and supplementary supervision, in addition to the provisions of this Law.

(2) The Commission may, by way of directives, define the obligations and rules in relation to the supplementary supervision of the CIF stated in subsection (1), the measures to facilitate the supplementary supervision, as well as any other specific matter or detail.

Administrative
sanctions.

91. The Commission may impose an administrative fine not exceeding one hundred and seventy five thousand euro (€175.000) to any person who is in violation of the provisions of this Title or/and the directives issued pursuant to it, and, in case of relapse or continuation of the violation, an

administrative fin not exceeding three hundred and fifty thousand euro (€350.000).

TITLE VIII – PERSONS EMPLOYED BY A CIF

Persons employed by a CIF. 92.-(1) The Commission may, by way of a directive, designate the natural persons which must be certified by the Commission to be employed and/or appointed to a CIF. The directive issued pursuant to this section also defines any specific matter concerning, inter alia, the obligation to certify those persons, the procedure, as well as any related matter concerning their registration and deletion from the relevant register for the registration of certified persons, which will be set up and maintained under that directive.

(2) In the case of natural persons which must be certified by the Commission in accordance to subsection (1), the CIF employs such persons only if they comply with the Commission's directive issued pursuant to subsection (1) and if they meet the requirements of that directive.

PART XVII – CRIMINAL AND CIVIL LIABILITY

Obligation to submit correct, complete and accurate information. 93.-(1) Any person under an obligation pursuant to this Law or the directives issued pursuant to this Law or Regulation (EU) No 600/2014, to submit or notify to the Commission or to the Central Bank, or to make public, or to announce publicly any information, data, documents or forms, must ensure their correctness, completeness and accuracy.

(2) The provision of false, or misleading information or data or documents or forms, or the withholding of material information from any

application or notification submitted to the Commission or the Central Bank, or within any other process provided for in this Law or the directives issued pursuant to this Law, or Regulation (EU) No 600/2014, is hereby forbidden.

Criminal offence and civil liability.

94.-(1) A person who infringes or fails to comply with section 93, is guilty of a criminal offence, punishable, in the event of conviction, by a term of imprisonment not exceeding five years or by a fine not exceeding seven hundred thousand euro (€700.000), or both.

(2) Where the offence referred to in subsection (1) is committed by a legal person, criminally liable besides that legal person, is also any member of its board of directors, of its the managerial, supervisory or auditory bodies, where it is established that such member has consented or is party to the offence.

(3) Persons which, as provided for in subsection (2), are criminally liable for the offences carried out by a legal person, are liable together with the legal person or/and separately, for every damage caused to third parties by the act or omission comprising the offence.

TITLE X – CHARGES AND ANNUAL FEES

Payment of charges and annual fees.

95.-(1) For the purposes of this Law, persons that fall within its scope, must pay charges for the submission and assessment of requests, applications, notifications or/and disclosures, as well as annual fees, the amount of which shall be defined by way of directives issued by the Commission.

(2) Non-payment of the annual fees referred to in subsection (1) within the deadline, as this shall be set by the Commission by way of directives, constitutes a reason for suspension by the Commission of authorisation, as provided for in section 71(6)(c), until such annual fees have been paid.

(3) The charges and annual fees as defined in subsection (1) shall be calculated as revenue of the Commission.

TITLE XI - FINAL AND TRANSITIONAL PROVISIONS

Issue and implementation of directives.	96.-(1) Without prejudice to of any other provision of this Law which provides for the issue of directives, each of the Commission and the Central Bank may issue directives for the regulation of any other matter in this Law, which requires or may be subject to determination.
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(2) The implementation of directives issued by the Commission pursuant to this Law is obligatory for persons to whom they are addressed.

Continuation of operation of existing CIFs.	97. A CIF, which before this section came into force, had received a valid authorisation by the Commission pursuant to section 6(1) of the Provision of Investment Services, the Exercise of Investment Activities and the Operation of Regulated Markets Laws of 2007 to 2016, as amended, to provide investment services or/and perform investment activities, is deemed to have authorisation for the purposes of this Law. Those CIFs are subject to the provisions of this Law and the directives issued pursuant to this Law, and any infringement of this Law and the directives issued pursuant to this Law by the said CIFs is subject to the sanctions provided for in this Law.
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- Continuation of operation of existing third country IFs. 98. Third country IFs or third country credit institutions, which, before this section came into force, were authorised by the Commission or the Central Bank, as the case may be, pursuant to section 78(1) of the Provision of Investment Services, the Exercise of Investment Activities and the Operation of Regulated Markets Laws of 2007 to 2016, as amended, to provide investment and ancillary services or/and perform investment activities in the Republic, are deemed, for the purposes of this Law, to have been granted an authorisation as provided for in section 40 of this Law. Those third country entities are subject to the provisions of this Law and the directives issued pursuant to this Law, and any infringement of this Law and the directives issued pursuant to this Law by the said third country entities, is subject to the sanctions provided for in this Law.
- Continuation of operation of existing credit institutions offering investment services. 99. Authorised credit institutions, which, before this section came into force, were authorised by the Central Bank pursuant to the relevant legislation, to provide investment services in the Republic, shall continue to provide such services for the purposes of this Law. Those authorised credit institutions are subject to the provisions of this Law and the directives issued pursuant to this Law, and any infringement of this Law and the directives issued pursuant to this Law by the said authorised credit institutions, is subject to the sanctions provided for in this Law.
- Existing tied agents. 100. The tied agents who are registered in the public register provided for by section 40(6) of the Investment Services and Activities and Regulated Markets Laws of 2007 to 2016, as amended, are deemed, for

the purposes of this Law, as being registered in the public register provided for in section 30(3) of this Law.

Existing professional clients. 101. A CIF referred to in section 97, may continue to regard existing professional clients as such, provided that, this is consistent with this Law. The CIF shall inform its clients about the conditions established in this Law for the categorisation of clients.

Continuation of operation of CSE. 102.-(1) The Cyprus Stock Exchange continues to operate pursuant to the Cyprus Securities and Stock Exchange Law and must comply with the provisions of this Law.

14(l) of 1993

32(l) of 1993

91(l) of 1994

45(l) of 1995

74(l) of 1995

50(l) of 1996

16(l) of 1997

62(l) of 1997

71(l) of 1997

83(l) of 1997

29(l) of 1998

137(l) of 1999

19(l) of 2000

20(l) of 2000

39(l) of 2000

42(l) of 2000

49(l) of 2000

50(l) of 2000

136(l) of 2000

137(l) of 2000

141(l) of 2000
142(l) of 2000
175(l) of 2000
9(l) of 2001
37(l) of 2001
43(l) of 2001
66(l) of 2001
79(l) of 2001
80(l) of 2001
81(l) of 2001
82(l) of 2001
105(l) of 2001
119(l) of 2001
120(l) of 2001
1(l) of 2002
87(l) of 2002
147(l) of 2002
162(l) of 2002
184(l) of 2003
164(l) of 2004
205(l) of 2004
43(l) of 2005
99(l) of 2005
115(l) of 2005
93(l) of 2006
28(l) of 2007
56(l) of 2009
90(l) of 2009
171(l) of 2012
153(l) of 2015

154(I) of 2015.

(2) With regard to the definition of the term "market operator of the Republic" in section 2(1), the Cyprus Stock Exchange is deemed to be a market operator of the Republic.

Transitional
Provisions.

103.-(1) The directives of the Commission and of the Central Bank that were issued pursuant to the Investment Services and Activities and Regulated Markets Laws of 2007 to 2016, as amended, shall remain in force until they are replaced pursuant to this Law or other legislation.

(2)(a) Until January 3rd 2021 -

- (i) the clearing obligation set out in Article 4 of Regulation (EU) No 648/2012 and the risk mitigation techniques set out in Article 11(3) of that regulation shall not apply to energy derivative contracts of Part III.6 entered into by non-financial counterparties that meet the conditions in Article 10(1) of Regulation (EU) No 648/2012 or by non-financial counterparties that shall be authorised for the first time as IFs as from 3 January 2018; and
- (ii) such energy derivative contracts of Part III.6 shall not be considered to be OTC derivative contracts for the purposes of the clearing threshold set out in Article 10 of Regulation (EU) No 648/2012.

It is provided that, energy derivative contracts of Part III.6, benefiting from the transitional regime set out in the paragraph (a) shall be subject to all other requirements laid down in Regulation (EU) No 648/2012.

(b) The Commission shall grant CIFs the exemption referred to in paragraph (a) and notify to ESMA the energy derivative contracts of Part III.6 to which it has granted an exemption in accordance with paragraph (a).

Repeal of laws.

104.-(1) Without prejudice to subsections (2) and (3) and subject to the provisions of subsection (4), the provisions of Investment Services and Activities and Regulated Markets Laws of 2007 to 2016, as amended, are hereby repealed.

(2) The provisions of sections 2, 8, 10, 17,18(2)(e), 18(2)(f), 18(2)(g),18(3), 68, 70, 71 (1) and (2), 72A 73, 74,115(1) to (3), 119, 126, 127, 128, 130, 131, 131A, 131B,132, 132A, 132B, 134 (5) and (6),136, 141(3), and 155(2) of the Investment Services and Activities and Regulated Markets Laws of 2007 to 2016, as amended, shall remain into force.

(3) The provisions of sections 71(3), 141 (1) and (2) and (4) to (8) of the Investment Services and Activities and Regulated Markets Laws of 2007 to 2016, as amended, shall remain into force.

(4) Those articles of the Investment Services and Activities and Regulated Markets Laws of 2007 to 2016, as amended, which have been repealed according to subsection (1) but which refer to sections which are included in subsections (2) and (3), shall apply together with the latter sections, for the purposes of those latter sections, as if they have not been repealed by subsection (1).

Entry into force of this Law. 105.-(1) Without prejudice to subsections (2) and (3), this Law comes into force on 3rd January 2018.

(2) Sections 45(1)(c) and 74(1) come into force upon publication of this Law in the Official Gazette of the Republic.

(3) Section 66(2) comes into force on 3rd September 2019.

FIRST APPENDIX

(Articles 2, 6, 12, 26, 33, 53, 60)

LISTS OF SERVICES AND ACTIVITIES AND FINANCIAL INSTRUMENTS

PART I

Investment services and activities

- (1) Reception and transmission of orders in relation to one or more financial instruments;
- (2) Execution of orders on behalf of clients;
- (3) Dealing on own account;
- (4) Portfolio management;
- (5) Provision of investment advice;
- (6) Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;
- (7) Placing of financial instruments without a firm commitment basis;
- (8) Operation of an MTF;
- (9) Operation of an OTF.

PART II

Ancillary services

- (1) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management and excluding maintaining securities accounts at the top tier level (“central maintenance service”), as referred to in point 2 of Section A of the Annex to Regulation (EU) No 909/2014.
- (2) Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction;

- (3) Provision of advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings;
- (4) Foreign exchange services where these are connected to the provision of investment services;
- (5) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments;
- (6) Services related to underwriting.
- (7) Investment services and activities as well as ancillary services of the type included under Part I or II of this Appendix related to the underlying of the derivatives included under points 5), 6), 7) and 10) of Part III of this Appendix where these are connected to the provision of investment or ancillary services.

PART III
Financial instruments

- (1) Transferable securities;
- (2) Money-market instruments;
- (3) Units in collective investment undertakings;
- (4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;
- (5) Options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;
- (6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a

MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;

- (7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6) of this Part and not being for commercial purposes, which have the characteristics of other derivative financial instruments;
- (8) Derivative instruments for the transfer of credit risk;
- (9) Financial contracts for differences;
- (10) Options, futures, swaps, forward-rate agreements and any other derivative contracts relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Part, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, OTF, or an MTF;
- (11) Emission allowances consisting of any units recognised for compliance with the requirements of Directive 2003/87/EC.

PART IV

Data reporting services

- (1) Operating an APA;
- (2) Operating a CTP;
- (3) Operating an ARM.

SECOND APPENDIX

(Articles 2, 40, 43)

PROFESSIONAL CLIENTS FOR THE PURPOSE OF THIS LAW

Professional client is a client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs. In order to be considered to be professional client, the client must comply with the following criteria:

PART I**CATEGORIES OF CLIENT WHO ARE CONSIDERED TO BE PROFESSIONALS**

The following shall all be regarded as professionals in all investment services and activities and financial instruments for the purposes of the Law:

- (1) Entities which are required to be authorised or regulated to operate in the financial markets. The list below shall be understood as including all authorised entities carrying out the characteristic activities of the entities mentioned: entities authorised by a Member State under a Directive of the European Union, entities authorised or regulated by a Member State without reference to a Directive, and entities authorised or regulated by a third country:
 - (a) Credit institutions;
 - (b) IFs;
 - (c) Other authorised or regulated financial institutions;
 - (d) Insurance companies;
 - (e) Collective investment schemes and management companies of such schemes;
 - (f) Pension funds and management companies of such funds;
 - (g) Commodity and commodity derivatives dealers;
 - (h) Locals;
 - (i) Other institutional investors;
- (2) Large undertakings meeting two of the following size requirements on a company basis:
 - **balance sheet total:** EUR 20 000 000

- **net turnover:** EUR 40 000 000
- **own funds:** EUR 2 000 000

(3) National and regional governments, including public bodies that manage public debt at national or regional level, Central Banks, international and supranational institutions such as the World Bank, the International Monetary Fund, the European Central Bank, the European Investment Bank and other similar international organisations.

(4) Other institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitisation of assets or other financing transactions.

The entities referred to above are considered to be professionals. They must however be allowed to request non-professional treatment and IFs may agree to provide a higher level of protection. Where the client of an IF is an undertaking referred to above, the IF must inform it prior to any provision of services that, on the basis of the information available to the IF, the client is deemed to be a professional client, and will be treated as such unless the IF and the client agree otherwise. The IF must also inform the customer that he can request a variation of the terms of the agreement in order to secure a higher degree of protection.

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

This higher level of protection will be provided when a client who is considered to be a professional enters into a written agreement with the IF to the effect that it shall not be treated as a professional for the purposes of the applicable conduct of business regime of the IF. Such agreement shall specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.

PART II

CLIENTS WHO MAY BE TREATED AS PROFESSIONALS ON REQUEST

1. Identification criteria

Clients other than those mentioned in Part I of this Appendix, including public sector bodies, local public authorities, municipalities and private individual investors, may also be allowed to waive some of the protections afforded by the conduct of business rules of IFs.

IFs shall therefore be allowed to treat any of those clients as professionals provided the relevant criteria and procedure mentioned below are fulfilled. Those clients shall not, however, be presumed to possess market knowledge and experience comparable to that of the categories listed in Part I of this Appendix.

Any such waiver of the protection afforded by the standard conduct of business regime shall be considered to be valid only if an adequate assessment of the expertise, experience and knowledge of the client, undertaken by the IF, gives reasonable assurance, in light of the nature of the transactions or services recommended, that the client is capable of making investment decisions and understanding the risks involved.

The fitness test applied to managers and directors of entities licensed under Directives of the European Union in the financial field, may be regarded as an example of the assessment of expertise and knowledge. In the case of small entities, the person subject to that assessment shall be the person authorised to carry out transactions on behalf of the entity.

In the course of that assessment, as a minimum, two of the following criteria shall be satisfied:

- the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters,
- the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds EUR 500 000,
- the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.

2. Procedure:

Those clients may waive the benefit of the detailed rules of business conduct only where the following procedure is followed:

- they must state in writing to the IF that they wish to be treated as a professional client, either generally or in respect of a particular investment service or transaction, or type of transaction or product,
- the IF must give them a clear written warning of the protections and investor compensation rights they may lose,
- they must state in writing, in a separate document from the contract, that they are aware of the consequences of losing such protections.

Before deciding to accept any request for waiver, IFs must be required to take all reasonable steps to ensure that the client requesting to be treated as a professional client meets the relevant requirements stated in Section 1. Of this Part.

However, if clients have already been categorised as professionals under parameters and procedures similar to those referred to above, it is not intended that their relationships with IFs shall be affected by any new rules adopted pursuant to this Appendix.

IFs must implement appropriate written internal policies and procedures to categorise clients. Professional clients are responsible for keeping the IF informed about any change, which could affect their current categorisation. Should the IF become aware however that the client no longer fulfils the initial conditions, which made him eligible for a professional treatment, the IF shall take appropriate action.