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Securities Market Act¹

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Amended by the following acts

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20.02.2002	RT I 2002, 23, 131	01.07.2002
19.06.2002	RT I 2002, 63, 387	01.09.2002
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04.12.2002	RT I 2002, 105, 612	02.01.2003
03.12.2003	RT I 2003, 81, 544	01.01.2004
17.12.2003	RT I 2003, 88, 591	01.01.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
14.04.2004	RT I 2004, 36, 251	01.05.2004
22.04.2004	RT I 2004, 37, 255	01.05.2004
09.02.2005	RT I 2005, 13, 64	01.04.2005, partially 01.01.2006
15.06.2005	RT I 2005, 39, 308	01.01.2006
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21.11.2007	RT I 2007, 65, 405	15.12.2007
28.02.2008	RT I 2008, 13, 89	15.03.2008
12.03.2008	RT I 2008, 15, 108	01.11.2008
19.06.2008	RT I 2008, 31, 193	09.07.2008
28.01.2009	RT I 2009, 12, 71	27.02.2009
10.06.2009	RT I 2009, 37, 250	10.07.2009
26.11.2009	RT I 2009, 61, 401	26.12.2009
17.12.2009	RT I 2010, 2, 3	22.01.2010
28.01.2010	RT I 2010, 7, 30	26.02.2010
27.01.2010	RT I 2010, 9, 41	08.03.2010, partially 01.01.2013; entry into force partially changed 01.01.2014 [RT I, 22.09.2011, 3]; entry into force partially changed 01.01.2015 [RT I, 23.12.2013, 4]
22.04.2010	RT I 2010, 20, 103	01.07.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the

		European Union, Council Decision 12010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24 - 26).
09.12.2010	RT I, 21.12.2010, 6	31.12.2010
26.01.2011	RT I, 18.02.2011, 1	01.08.2011
27.01.2011	RT I, 23.02.2011, 3	01.01.2012
17.02.2011	RT I, 21.03.2011, 2	01.01.2012, entry into force changed 01.01.2013 [RT I, 22.12.2011, 3]
23.02.2011	RT I, 24.03.2011, 1	03.04.2011, partially01.08.2011
09.06.2011	RT I, 29.06.2011, 1	30.06.2011
15.09.2011	RT I, 22.09.2011, 3	02.10.2011
12.10.2011	RT I, 02.11.2011, 1	12.11.2011
08.12.2011	RT I, 22.12.2011, 3	23.12.2011 Repealed [RT I, 29.06.2012, 2]
07.03.2012	RT I, 29.03.2012, 1	30.03.2012, partially01.01.2013
07.06.2012	RT I, 28.06.2012, 5	01.07.2012
06.06.2012	RT I, 29.06.2012, 2	09.07.2012, partially01.01.2013
11.04.2013	RT I, 26.04.2013, 2	06.05.2013
20.06.2013	RT I, 12.07.2013, 2	22.07.2013
20.06.2013	RT I, 12.07.2013, 1	01.08.2013
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially01.01.2020
05.12.2013	RT I, 23.12.2013, 4	02.01.2014
26.03.2014	RT I, 11.04.2014, 1	01.10.2014
16.04.2014	RT I, 09.05.2014, 2	19.05.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers replaced on the basis of subsection 107 ³ (4) of the Government of the Republic Act.
03.12.2014	RT I, 23.12.2014, 2	01.01.2015
18.02.2015	RT I, 19.03.2015, 3	29.03.2015
28.10.2015	RT I, 14.11.2015, 1	24.11.2015

Part 1 GENERAL INFORMATION

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application

This Act regulates the public offer of securities and their admission to trading on regulated securities markets, the activities of investment firms, the provision of investment services, the operations of regulated securities markets and securities settlement systems as well as the exercising of supervision over the securities market and the participants therein.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 2. Security

(1) For the purposes of this Act, each of the following proprietary right or obligation or contract transferred on the basis of at least unilateral expression of will is a security, even without a document being issued therefor:

- 1) a share or other similar tradable right;
- 2) a bond, convertible security or other tradable debt obligation issued which is not a money market instrument;
- 3) a subscription right or other tradable right granting the right to acquire securities specified in clause 1) or 2) of this subsection;
- 4) an investment fund unit;
- 5) a money market instrument;
- 6) a derivative security or a derivative contract;
- 7) a tradable depositary receipt.

(2) For the purposes of this Act, a money market instrument is a low credit, unsecured, transferable and marketable debt obligation issued by an issuer for a term of up to one year which is traded on the money market,

including a treasury bond, commercial paper, certificate of deposit and bill of exchange secured by a credit institution complying with the aforementioned characteristics.

(3) For the purposes of this Act, a derivative instrument is a tradable security expressing a right or obligation to acquire, exchange or transfer, the underlying assets of which are securities specified in subsection (1) of this section or the price of which depends directly or indirectly on:

- 1) the stock exchange or market price of the security;
- 2) the interest rate;
- 3) the securities index, other financial index or financial indicator, including the inflation rate, freight rate, emission allowance or other official economic statistics;
- 4) currency exchange rates;
- 5) credit risk and other risks, including climatic variables;
- 6) the exchange or market price of a commodity, including precious metal.

(4) For the purposes of this Act, a convertible security is:

- 1) a convertible bond within the meaning provided for in § 241 of the Commercial Code;
- 2) a convertible bond which may be exchanged only for a share of a subsidiary of the issuer – exchangeable debt security;
- 3) a debt security with warrants consisting of a redeemable bond and the right to acquire a share to be issued (warrant).

(5) For the purposes of this Act, an equity security is:

- 1) any security specified in clause (1) 1) of this section;
- 2) any freely transferable subscription right, convertible security or derivative security which grants the right to acquire securities specified in clause (1) 1) of this section by way of exchange or exercise of another right if the issuer of the security to be issued is the issuer of securities which are the underlying assets of the security or belongs to the consolidation group of the issuer.

(6) For the purposes of this Act, a non-equity security is any other security not specified in subsection (5) of this section.

(7) For the purposes of this Act, securities issued in a continuous or repeated manner means issues on tap or at least two separate issues of securities of a similar type in a period of 12 months.

(8) For the purposes of this Act, bills of exchange, cheques and other means of payment, except bills of exchange secured by a credit institution deemed to be money market instruments, are not deemed to be securities.

(9) Derivative securities and derivative contracts are derivative instruments.

(10) For the purposes of this Act, a derivative contract is a contract providing for a right or obligation to acquire, exchange or transfer:

- 1) which is assumable or non-assumable by a third person with the consent of a party;
- 2) the underlyings of which are securities specified in subsection (1) of this section or the price of which depends directly or indirectly on the circumstances provided for in subsection (3) of this section.

(11) In Parts III and IV of this Act, "security" includes only the following derivative contracts:

- 1) option contracts, futures contracts, swaps, interest rate contracts and other derivative contracts related to a security, currency, interest rate, yields, derivative securities, derivative contracts, financial indices or financial indicators which may be performed in kind, in money or in money under the right of option or in the case of which performance in kind may be replaced by performance in money;
- 2) option contracts, futures contracts, swaps, interest rate contracts and other derivative securities and derivative contracts related to commodities which shall be performed in money, in money under the right of option or the performance of which may be replaced by performance in money;
- 3) option contracts, futures contracts, swaps and other derivative contracts related to commodities admitted to trading on a regulated securities market or an MTF which can actually be performed;
- 4) option contracts, futures contracts, swaps, forwards contracts and other derivative contracts related to commodities which are not specified in clause 3) of this subsection and not established for commercial purposes, but which have features characteristic of derivative instruments, since, among other things, they are performed through a settlement system or they are subject to regular margin calls;
- 5) derivative instruments for transfer of credit risks;
- 6) contracts for difference;
- 7) option contracts, futures contracts, swaps, interest rate contracts and derivative contracts related to climatic variables, freight rate, emission allowance, inflation rate, or other derivative contracts related to official economic statistics which shall be performed in money, in money under the right of option or the performance of which may be replaced by performance in money, also derivative contracts related to assets, rights, obligations, indices and circumstances not specified in this section which have features characteristic of

derivative instruments, among other things, the fact that they are performed through a settlement system or they are subject to regular margin calls or which are admitted to trading on a regulated securities market or an MTF.

(12) Detailed features of derivative instruments are provided for in Articles 38 and 39 of the Commission Regulation (EC) No 1287/2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive (OJ L 241, 2.09.2006, p.1-25).

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 3. Regulated securities market

For the purposes of this Act, a regulated securities market (hereinafter *regulated market*) is a multilateral system of organisational, legal and technical measures organised or managed in Estonia or in another Contracting Party to the EEA Agreement (hereinafter *Contracting State*) which is established for the purpose of enabling continuous and regular trade with securities admitted to trading there and where the non-simultaneous or simultaneous interests of different people for acquisition and transfer of securities are brought together under uniform conditions which result in a contract.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 4. Securities market participant

Issuers, bidders, investors, clients and professional securities market participants are securities market participants.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 5. Issuer

(1) For the purposes of this Act, an issuer is a legal person who has issued securities or has assumed an obligation to issue securities.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) For the purposes of Chapter 20 of this Act, an issuer shall mean in addition to provisions of subsection (1) of this section:

1) a natural person or pool of assets of another Contracting State who has issued securities or has assumed an obligation to issue securities;

2) in case of depositary receipts representing shares, the issuer of shares on the basis of which such depositary receipts are issued.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 5¹. Offeror

For the purposes of this Act, an offeror is a person who offers securities to the public.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 5². Person asking for admission to trading

A person asking for admission to trading for the purposes of this Act shall mean a person who applies for the admission of securities to trading on a regulated market or at whose request securities have been admitted to trading on a regulated market, including without the issuer's consent.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 6. Investor

(1) For the purposes of this Act, an investor is a person who owns a security or who has assumed an obligation to acquire securities.

(2) For the purposes of this Act, each of the following is a qualified investor:

1) a credit institution, investment firm, management company, investment fund, insurance undertaking and another financial institution subject to financial supervision;

2) the Republic of Estonia, a foreign state, a local or regional government or the central bank of Estonia or a foreign state;

3) an international institution or organisation, including the International Monetary Fund, the European Central Bank, and the European Investment Bank;

4) a financial institution whose only business activity is investment in securities, a market trader in commodities and commodity derivatives;

5) a large enterprise;

6) another professional client not specified in clauses 1)–5) of this section or an eligible counterparty pursuant to the provisions of §§ 46 and 46¹ of this Act or a person who is considered a professional client or an eligible counterparty pursuant to the current legislation of another Contracting State, excluding the case when the client has applied for being treated as a retail client.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2¹) A large enterprise for the purposes of the Act is a company which meets at least two of the following conditions:

- 1) the balance sheet total thereof is equal to or exceeds 20 million euros;
- 2) the net turnover thereof is equal to or exceeds 40 million euros;
- 3) the equity thereof is equal to or exceeds 2 million euros.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2²) For determining a qualified investor by an issuer or an offeror, investment firms and credit institutions shall provide the information concerning the treatment of their client as a professional client or an eligible counterparty to the issuer or the offeror at the request of the latter unless otherwise provided by the Personal Data Protection Act.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(4) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 6¹. Market maker

For the purposes of this Act, a market maker is a person who is permanently ready to deal in securities on own account for a price determined in its purchase and sales offer.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 7. Professional securities market participant

(1) Each of the following is a professional securities market participant:

- 1) an investment firm;
- 2) a credit institution;
- 2¹) a management company;
- 3) an operator of the regulated market;
- 4) an operator of a securities settlement system;
- 5) other persons prescribed by law.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) [Repealed - RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 7¹. Offering programme

For the purposes of this Act, an offering programme means a plan of the issuer to issue non-equity securities, including warrants in any form, in a continuous or repeated manner during a specified issuing period.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 7². Regulated information

For the purposes of this Act, regulated information shall mean all information which the issuer or a person applying for admission to trading is required to disclose pursuant to the provisions of Chapter 20 or §§ 188⁷ and 188⁹ of this Act.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 8. Supervision of securities market

The Financial Supervision Authority (hereinafter *Supervision Authority*) shall exercise supervision over compliance with this Act and legislation established on the basis thereof on the basis of this Act and the Financial Supervision Authority Act.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 8¹. Consolidation group

(1) For the purposes of this Act, a consolidation group is formed by:

- 1) a parent company with a subsidiary or subsidiaries;
- 2) a parent company with a subsidiary or subsidiaries and a parent company or undertakings related to the subsidiaries thereof within the meaning of the holding specified in clause 8²(2) 1) of this Act;

3) companies or other legal persons under a common management pursuant to the contract entered into or the provisions of the memorandum of association or the articles of association or whose majority of the membership of the directing or supervisory bodies is formed by the same persons until the consolidated annual financial report is approved.

(2) For the purposes of this Act, a parent undertaking is a person who controls at least one company or other legal person (subsidiary) pursuant to § 10 of this Act. For the purposes of this Act, subsidiaries of subsidiaries of parent companies are deemed to be subsidiaries of the same parent company.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 8². Control relationships and close links

(1) In Part III and Chapters 14–18¹ of this Act "control relationships" means the relations between a parent company and a subsidiary provided for in § 8¹ of this Act.

(2) In Part III and Chapters 14–18¹ of this Act "close links" means a situation where at least two persons are linked:

- 1) by a holding where at least 20 per cent of the share capital or votes determined by shares is held in a company or other legal person;
- 2) by a control relationship within the meaning of subsection 1 of this section.

(3) A situation in which two or more persons are permanently linked to one and the same person by a control relationship shall also be regarded as constituting a close link.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 9. Qualifying holding

(1) For the purposes of this Act, a qualifying holding means any direct or indirect holding in the share capital of a company which represents 10 per cent or more of the share capital of the company, of all rights related thereto or of the voting rights in the company or which makes it possible to exercise a significant influence over the management of the company in which that holding subsists.

(2) Holding is direct if a person holds or exercises it personally.

(3) Holding is indirect if:

- 1) a person holds or exercises it together with one or several controlled companies;
- 2) it is held or exercised by one or several companies controlled by a person;
- 3) it is held or exercised by a person or a company controlled by the person upon agreement with a third party;
- 4) the voting rights arising therefrom are deemed to belong to a person.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 10. Controlled company and ownership of voting rights

(1) For the purposes of this Act, a company controlled by a person is a company which meets at least one of the following conditions:

- 1) the person holds the majority of the votes represented by shares in the company or holds the majority of the votes as a general partner or limited partner;
- 2) the person who is a general partner or limited partner of the company has the right to appoint or remove the majority of members of the supervisory board or management board of the company;
- 3) the person who is a general partner, a limited partner, a partner or a shareholder of the company controls alone the majority of votes pursuant to the agreement entered into with other general partners, limited partners, partners or shareholders.
- 4) a person exercises or has the power to exercise dominant influence or control over a company.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) Voting rights held by a controlled company and the right thereof to appoint or remove a majority of the members of the supervisory or management board of the company and the corresponding voting rights held on the account of the person or company controlled thereby, and held by a third person acting in its own name and the right thereof to appoint or remove the majority of members of the supervisory board or management board of the company are deemed to belong to the person upon application of clause (1) 2) of this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) Upon determination of voting rights, the following are deemed to belong to a person:

- 1) votes held personally by the person;
- 2) voting rights managed by a third party for the person in the person's own name;
- 3) votes held by a company controlled by the person;
- 4) votes held by a third party with whom the person has entered into an agreement which obliges the parties to use concerted voting to adopt a continuous common policy towards the management of the corresponding company;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

5) voting rights held by a third party and exercised on the basis of a written agreement providing for the temporary transfer of the voting rights to the person for a counter-performance, which is entered into by the third party;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

6) votes represented by shares used as collateral, except if the person who receives the collateral (temporary holder of shares) has the right to exercise voting rights arising from the shares and has not waived the right in favour of the person;

7) votes represented by shares encumbered for the benefit of a third party, except if the person for whose benefit the shares are encumbered has the right to exercise voting rights arising from the shares and has not waived the right in favour of the person;

8) votes represented by shares granted to the person as a collateral or encumbered for the benefit of the person, if the person has the right to exercise voting rights arising from the shares and the person has not waived the right;

9) voting rights represented by issued shares which a person has the right to acquire irrevocably or under the right of option on the due date for the exercise of rights or performance of obligations arising from the securities held by him or her directly or indirectly and on the basis of a binding arrangement pursuant to the law applicable thereto;

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

9¹) voting rights represented by shares held by a person directly or indirectly and issued by an issuer and by securities with similar economic effect to holding or entitlements to acquire such shares;

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

10) voting rights represented by shares deposited with the person, which the person may exercise at the discretion thereof, unless the actual holders of the corresponding shares have given instructions for the exercise of voting rights;

11) voting rights represented by shares encumbered with a commercial lease for the benefit of the person;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

12) voting rights, which the person may exercise at the discretion thereof and pursuant to authorisation issued to him or her, unless the shareholders have given specific instructions.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) For the purposes of subsection (3) of this section, the acquisition of votes represented by shares also includes:

1) the exchange of a convertible security for a share granting voting rights;

2) the right to acquire voting rights arising from the shares stated in the certificate of subscription upon acquisition of the shares;

3) the acquisition of voting rights by an owner of preferred shares.

(5) The securities specified in clauses (3) 9) and 9¹) of this section are deemed to be securities specified in clauses 2 (1) 1)–3), 6) and 7) of this Act and any contracts which may be performed in kind or in money.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 10¹. Other terms used in the Act

The terms not defined in this Act shall be used within the meaning of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.06.2013, p. 1-337).

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

Part 2 OFFER OF SECURITIES

[RT I 2005, 59, 464 - entry into force 15.11.2005]

Chapter 2 GENERAL PROVISIONS

§ 11. Offer of Securities

For the purposes of this Act, the offer of securities means a communication to persons in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable an investor to decide to purchase or subscribe to these securities.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 12. Public offer of securities

(1) Unless otherwise prescribed in subsection (2) of this section, the offer of securities is public.

(2) An offer of securities is not deemed to be public in the case of:

- 1) an offer of securities addressed solely to qualified investors, or
 - 2) an offer of securities addressed to fewer than 150 persons per Contracting State, other than qualified investors, or
 - 3) an offer of securities addressed to investors who acquire securities for a total consideration of at least 100,000 euros per investor, for each separate offer, or
 - 4) an offer of securities with the nominal value or book value of at least 100,000 euros per security, or
 - 5) an offer of securities with a total consideration of less than 100,000 euros per all the Contracting States in total calculated in a one-year period of the offer of the securities.
- [RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) Any subsequent resale of securities which were previously the subject of one or more of the types of offer provided for in subsection (2) of this section shall be regarded as a separate offer and it shall be decided each time whether that resale is an offer of securities to the public.

(4) The subsequent resale or final offer of securities through financial intermediaries is not deemed to be a public offer of securities if a valid prospectus is available pursuant to the provisions of § 14³ of this Act and if an issuer or a person responsible for the preparation of such prospectus provides the consent for its use based on a written contract.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 13. Issue of securities

(1) For the purposes of this Act, an issue of securities is a pool of securities of the same type issued on the basis of a single decision by the issuer (hereinafter *issue*).

(2) The issue of securities on the basis of a single decision but at different times (as a series) is deemed to be one issue. In the framework of one issue, non-equity securities may be issued as a series in such way that the total nominal value or book value of the issued or non-redeemable securities does not exceed the volume of the issue.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 13¹. Home Contracting State

(1) For the purposes of this Act, a home Contracting State shall mean:

- 1) Estonia in the case of an issuer registered in Estonia;
- 2) a Contracting State which is the registered office or, where appropriate, place of residence of the issuer of securities in the case of an issuer of another Contracting State;
- 3) at the choice of the issuer, offeror or person asking for admission to trading of a foreign state which is not a Contracting State (hereinafter *third country*), Estonia or another Contracting State where the securities of a third country issuer are offered to the public for the first time or where securities are asked for admission to trading on a regulated market for the first time, or, upon publication of the regulated information, at the choice of the issuer one of the Contracting States where the securities of a third country issuer have been admitted to trading on a regulated market.

(2) The issuer, offeror or person asking for admission to trading of non-equity securities may choose Estonia or another Contracting State which is the registered office or, where appropriate, place of residence of the specified issuer of non-equity securities or where these of non-equity securities have been admitted or are to be admitted to trading on a regulated market or these are offered to the public as the home Contracting State if one of the following conditions is met:

- 1) the nominal value of a security included in an issue of non-equity securities is not less than 1000 euros or in another currency is approximately 1000 euros;
- 2) securities included in an issue of non-equity securities shall grant the right to acquire another freely transferable security or receive a sum of money as a result of either an exchange of the securities or exercise of the rights arising therefrom provided that the issuer of the non-equity securities is not the issuer of securities which are the underlying assets of the non-equity securities or does not belong to one consolidation group with the issuer.

(3) The issuer of non-equity securities specified in subsection (2) of this section may choose only one Contracting State as the home Contracting State and this choice shall remain valid for at least three years unless the securities of such issuer are no longer admitted to trading on the regulated market of any Contracting State or the provisions of subsection (1) or (4) of this section apply to this issuer within three years.

(4) An issuer may choose a new home Contracting State from among the Contracting States where the issuer's securities have been admitted to trading on a regulated market or which is the registered office or, where appropriate, place of residence of such issuer, if one of the following conditions is met:

- 1) the choice of the home Contracting State of a third country issuer was made by the offeror or person asking for admission to trading;

2) the issuer's securities are no longer admitted to trading on the regulated market in the chosen home Contracting State, but the securities have been admitted to trading in one or several host Contracting States. [RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 13². Host Contracting State

For the purposes of this Act, a host Contracting State shall mean Estonia or another Contracting State where securities are offered to the public, asked for admission to trading on a regulated market or where the issuer's securities have been admitted to trading on a regulated market, unless the state is a home Contracting State. [RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 14. Application of this Part

The provisions of Chapters 3 - 6 of this Act regarding securities are not applicable with respect to the following securities:

1) units or shares of a collective investment undertaking specified in Article 2 (1) (o) of Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64–89) (hereinafter *Prospectus Directive*);

[RT I 2008, 13, 89 - entry into force 15.03.2008]

2) money market instruments specified in clause 2 (1) 5) of this Act which are issued by a credit institution of Estonia or a person of a foreign state;

3) securities which are issued by the Guarantee Fund, the Estonian Unemployment Insurance Fund, the Estonian Health Insurance Fund or the Motor Insurance Fund specified in § 10 of the Motor Third Party Liability Insurance Act;

[RT I, 11.04.2014, 1 - entry into force 01.10.2014]

4) deposit certificates specified in subsection 24 (3) of the Guarantee Fund Act, which are issued in a continuous or repeated manner, guaranteed by a deposit guarantee scheme of the Contracting State, which are not subordinated, convertible, replaceable, which do not grant the right to acquire or exchange securities of a different type and are not underlying assets for derivative instruments;

5) derivative contracts.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 14¹. Prospectus

(1) A public offer prospectus of the securities (hereinafter in this Part *prospectus*) shall contain all information which is presented in an easily analysable and comprehensible form and, according to the particular nature of the issuer and of the securities offered to the public, is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor, and of the rights attaching to such securities.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) A prospectus may consist of one document or several separate documents. The prospectus shall consist of a registration document which contains information on the issuer, a securities note which contains information concerning the securities to be offered to the public and a summary provided for in subsection (3) of this section.

(3) A prospectus consisting of one or several separate documents shall contain a summary in the same language as the prospectus, which shall provide the main information in a brief manner and in non-technical language. The summary together with the prospectus shall provide information concerning the main characteristics of the relevant securities helping the investors decide on investment in these securities. The summary of single format shall be prepared to facilitate the comparison between similar securities. The summary shall contain the following warnings:

1) the warning that the summary should be read as an introduction to the prospectus and any decision to invest in the securities should be based on consideration of the prospectus as a whole by the investor;

2) the warning that in case a claim relating to the information contained in a prospectus is brought before a court, the plaintiff investor might, under the national legislation of the home Contracting State or host Contracting State, have to bear the costs of translating the prospectus before the legal proceedings are initiated;

3) the warning that no civil liability shall attach to any person solely on the basis of the summary or the translation thereof, unless it is misleading, inaccurate or contradicting the other parts of the prospectus, or together with the other parts of the prospectus it does not convey the main information, which would help the investor decide on investment in these securities.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3¹) The main information is material and relevantly structured information, which shall be provided to the investors so that they would have the opportunity to understand the type of issuer, guarantor and the securities offered to them or admitted to trading on a regulated market and the risks related to these and so that the

investors would have the opportunity to decide the offers of which securities have to be additionally considered without the limitation of the application of the provisions of clause (3) 1) of this section.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3²) The following material data shall be provided in the main information in regard to offers and securities:

- 1) brief description of the risks and main features of the issuer and potential guarantor, including assets, liabilities and financial situation;
- 2) brief description of the risk associated with the investment in the securities and the main features of the investment, including the rights accompanying the securities;
- 3) general terms and conditions of offer, including the provisional expenses, which payment is demanded by the issuer or the offeror from the investor;
- 4) details of admitting to trading;
- 5) reasons for offer and use of received revenue.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(4) A prospectus, except a summary, may pursuant to the provisions of Article 28 of the Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (Text with EEA relevance) (OJ L 149, 30.04.2004, p. 1–137) (hereinafter *Prospectus Regulation*) set out information as references to one or several documents published earlier which are registered with the Supervision Authority or the securities market supervisory agency of the home Contracting State of the issuer or which has been submitted to them for publication. The above requirements for incorporation by reference are also applied to data, in the submission of which the Prospectus Directive or Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38–57) was followed. If information has been submitted as references, the prospectus shall contain a list of references which allows investors to easily find the information. These data shall be the latest data at the issuer's disposal.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(5) More precise requirements for the information contained in prospectuses and the format of prospectuses shall be provided for in Chapters 2 and 3 of the Prospectus Regulation.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

(6) The specific requirements towards the preparation of the prospectus of small or medium-sized companies (SMEs) and companies with low market capitalization, based on the principle of proportionality, are provided in Article 26b of the Prospectus Regulation and Annexes 25–28 to the Regulation.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(7) For the purposes of this Act, a SME is a company which according to its last annual report or consolidated accounts meets at least two of the following criteria:

- 1) its average number of employees during the financial year is less than 250;
- 2) its annual balance sheet total does not exceed 43 million euros;
- 3) its annual net turnover does not exceed 50 million euros.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(8) For the purposes of this Act, a company with low market capitalization is a company, which securities have been admitted to trading on a regulated market, and the average market capitalization of these securities has been throughout the three previous calendar years based on the year-end closing price or quotation less than 100,000,000 euros.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 14². Base prospectus

(1) A base prospectus may be drawn up instead of a prospectus if non-equity securities issued under an offering programme or covered bonds which meet the conditions provided for in subsection 260 (1) of the Investment Funds Act (hereinafter *covered bonds*) are offered to the public.

(2) A base prospectus shall contain complete information on the issuer and the securities offered to the public and, at the choice of the issuer, on the final term of the offer which is supplemented, if necessary, with supplements provided for in § 23 of this Act.

(2¹) If the final terms and conditions of the offer of securities are neither included in the base prospectus nor supplements thereto, the final terms and conditions shall be communicated to the investors and submitted to the securities market supervisory agency of the home Contracting State in case of each public offer. If the issuer's home Contracting State is Estonia, the Supervision Authority shall communicate the final terms and conditions to the securities market supervisory agency of the host Contracting State as promptly as possible and, if possible, before the start of the public offer or admitting the securities to trading. The Supervision Authority shall forward the final terms and conditions of the offer of securities to the European Securities and Markets Authority. The final terms and conditions contain only the information concerning the description of

the securities, and these are not used for supplementing the base prospectus. In the case specified in the previous sentence, the requirements provided for in subsection 17 (3) of this Act shall be applied.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(3) More precise requirements for the information contained in base prospectuses and the format of base prospectuses shall be provided for in Chapters 2 and 3 of the Prospectus Regulation.

(4) The provisions of this Act regarding prospectuses apply to base prospectuses, unless otherwise provided for in this Act or the Prospectus Regulation.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 14³. Validity of prospectus

(1) A prospectus is valid for 12 months as of its registration, provided that the prospectus has been sufficiently supplemented with supplements provided for in § 23 of this Act.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) The registration document of a prospectus is separately valid for 12 months as of its registration with the Supervision Authority or the securities market supervisory agency of the home Contracting State of the issuer, provided that it has been sufficiently supplemented with relevant information in connection with any material change or recent developments, which could affect the investors' assessment.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) A base prospectus is valid for twelve months in the case of an offering programme or, upon issue of covered bonds, until the end of the issue of the covered bonds.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

Chapter 3 PUBLIC OFFER PROSPECTUS

§ 15. Making prospectus public

(1) Unless otherwise provided for in § 17 of this Act, a prospectus pertaining to the public offer of securities in Estonia, which complies with the requirements of this Act shall be made public in connection with the public offer.

(2) The prospectus shall be made public no later than on the day on which the public offer of securities is announced.

(3) A prospectus shall be made public taking account of the requirements provided for in Articles 29 and 30 of the Prospectus Regulation in one of the following manners:

1) in at least one national daily newspaper;
2) in a printed form to be made available, free of charge, to the public at the registered office of the issuer and at the offices of the financial intermediaries placing or reselling the securities, including intermediaries of payments made on the securities of the issuer (hereinafter *paying agent*);
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

3) on the website of the issuer or another person specified in clause 2) of this subsection;
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

4) on the website of the securities market supervisory agency of the home Contracting State of the issuer or another person or agency responsible for the registration of the prospectus (hereinafter in this Part *securities market supervisory agency*).

(3¹) If the prospectus is made public in the manner provided for in clause (3) 1) or 2) of this section, it shall be also made public on the website of the issuer or, if necessary, the financial intermediaries placing or reselling the securities, including the paying agent of the issuer.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(4) In the case of a prospectus consisting of several separate documents or information presented as references, the documents and information in the prospectus may be made public and disseminated separately provided that all the specified documents are made publicly available free of charge according to the provisions of subsection (3) of this section. Each document shall contain a notation where other documents forming the remaining part of the prospectus can be examined.

(5) Upon existence of a registration document valid according to the provisions of subsection 14³(2) of this Act, only a securities note and a summary may be prepared and made public upon an offer of securities. In

such case, the securities note shall contain the significant events and circumstances which usually must be presented in the registration documents, which may affect the assessments of investors and which occur after the registration of the registration document or a supplement to a prospectus in accordance with § 23 of this Act with the Supervision Authority or the securities market supervisory agency of the home Contracting State of the issuer.

(6) The content and format of a prospectus and supplements to a prospectus shall at all times be identical to the prospectus and its supplements registered with the Supervision Authority or the securities market supervisory agency of the home Contracting State of the issuer and published on the website of the Supervision Authority.

(7) Instead of a prospectus, a trading prospectus specified in subsection 132¹(1) of this Act or listing particulars specified in § 157 of this Act may be made public.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 16. Obligation to register or give notification

(1) If the home Contracting State of the issuer of securities which are publicly offered is Estonia, a prospectus or, in the case provided for in subsection 15 (5) of this section, a securities note or a summary shall be registered with the Supervision Authority prior to being made public and the offer being announced.

(2) A base prospectus shall be registered only before the first issue of securities.

(3) If the host Contracting State of the issuer of securities which are publicly offered is Estonia, the European Securities and Markets Authority and the Supervision Authority shall be informed thereof prior to the prospectus being made public and the offer being announced through the securities market supervisory agency of the home Contracting State of the issuer, and the following documents shall be appended:

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

1) the registration certificate of the prospectus issued by the securities market supervisory agency of the home Contracting State of the issuer, which must contain a confirmation that the prospectus has been prepared pursuant to the requirements for prospectuses provided for in EU legislation and information concerning the exceptions made relating to the information contained in the prospectus in accordance with the provisions of EU legislation and the reasons for the specified exceptions;

2) a transcript of the prospectus or, in the case provided for in subsection 15 (5) of this Act, a transcript of the securities note and summary of the prospectus in Estonian or English or, with the consent of the Supervision Authority, in another language;

3) at the request of the Supervision Authority, a translation of the summary of the prospectus into Estonian.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

(4) The Supervision Authority shall be entitled to request additional information regarding the prospectus specified in subsection (3) of this section from the securities market supervisory agency of the home Contracting State of the issuer.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

§ 17. Exceptions

(1) A prospectus need not be made public if the public offer of securities meets at least one of the following criteria:

1) the issuer of the non-equity securities offered is a Contracting State, the central bank or a regional or local government of a Contracting State, the European Central Bank or an international organisation in which at least one Contracting State is a member;

2) the offer concerns securities which are unconditionally and irrevocably guaranteed by a Contracting State or a local or regional government of a Contracting State;

3) a credit institution offers non-equity securities which are issued in a continuous or repeated manner, which are not subordinated, convertible, replaceable, which do not grant the right to acquire or exchange securities of a different type and which are not underlying assets for derivative instruments, with a total consideration of less than 75,000,000 euros per all the Contracting States in total calculated in a one-year period of the issue or offer of the securities;

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

4) the offer concerns shares which are interchangeable with the already issued shares of the same type and of the same public limited company, provided that the offer does not result in an increase in the share capital of the public limited company;

5) securities are offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded by the Supervision Authority to comply with the requirements established by this Act regarding prospectuses;

6) securities are offered or allotted in connection with a merger or division, provided that a document is available containing information which is regarded by the Supervision Authority to comply with the requirements established by this Act regarding prospectuses and observes the requirements provided for in the legislation of the European Union;

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

7) shares are offered in connection with a bonus issue within the meaning of § 350 of the Commercial Code or, in the case of an issuer of a foreign state, dividends are paid out in the form of shares (share dividends),

provided that a document is made available which contains relevant information on the number and nature of the shares and the reasons for and details of the offer;

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

8) shares are offered or allotted in connection with the increase in the share capital or, in other cases, free of charge to existing shareholders, provided that a document is made available which contains relevant information on the number and nature of the shares and the reasons for and details of the offer;

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

9) securities issued by an issuer or a company belonging to the consolidation group of the issuer are offered to existing or former members of the supervisory board or management board or employees of the issuer provided that the headquarters or the registered office of the company is in a Contracting State and a document is made available which contains relevant information on the number and nature of the securities and the reasons for and details of the offer.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(1¹) Clause (1) 9) of this section also applies to companies established in third countries, which securities are admitted to trading either on a regulated market or the market of the third country. In the latter case, the exception is applied in case the sufficient information, including the document specified in clause (1) 9) of this section, is available at least in English and if the European Commission has adopted a resolution which certifies the equivalence in respect to the market of the third country in question.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) Without prejudice to the adequate information of investors, where certain information required to be included in a prospectus according to the provisions of the Prospectus Regulation is inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities offered, the prospectus shall contain information equivalent to the required information.

(3) Where the final offer price and amount of securities which will be offered to the public cannot be included in the prospectus or, in the case of a base prospectus, in the supplements to the prospectus, the prospectus, base prospectus or supplements to the base prospectus shall, if possible, contain at least the maximum price of securities and the criteria in accordance with which the amount and final offer price of securities will be determined. In such case, final information on the offer price and amount of securities which will be offered to the public shall be filed as soon as possible to the Supervision Authority or the securities market supervisory agency of the home Contracting State of the issuer and shall be made public immediately pursuant to the requirements provided for in § 15 of this Act.

(4) The minister responsible for the area shall establish by a regulation the specific requirements towards the public offer, trading prospectus and listing particulars of the securities which are subject to offer in the Contracting States with a total consideration of less than 5,000,000 euros calculated in a one-year period of the issue or offer of the securities.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(4¹) In case of offering the securities specified in subsection (4) of this section, the prospectus shall be prepared and made public pursuant to the requirements towards the prospectuses established by the Prospectus Regulation or the requirements towards the prospectuses established by the regulation of the minister responsible for the area specified in subsection (4) of this section.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(5) The minister responsible for the area may provide, by his or her regulation, the conditions under which and the procedure pursuant to which the Supervision Authority may make exceptions regarding the disclosure of information or the composition of information in a prospectus if:

1) disclosure of such information in the prospectus would be contrary to the public interest; or
2) disclosure of such information in the prospectus would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, offeror or guarantor, if any, and of the rights attached to the securities offered/ to which the prospectus relates; or

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

3) such information is of minor importance only for a specific offer and is not such as will influence the assessment of the financial position and prospects of the issuer, offeror or guarantor, if any.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(6) An issuer or an offeror has the right to offer the securities of an issuer whose home Contracting State is Estonia and which are specified in clauses (1) 1)-3) and subsection (4) of this section to the public pursuant to the provisions of § 391 of this Act in all host Contracting States only if a prospectus is made public regarding the securities pursuant to the requirements provided for in this Act and Chapters 2 and 3 of the Prospectus Regulation.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(7) An issuer or an offeror has the right to offer the securities of an issuer whose host Contracting State is Estonia and which are specified in clauses (1) 1)-3) and subsection (4) of this section to the public pursuant to the provisions of subsection 16 (3) of this Act in Estonia only if a prospectus is made public regarding the securities pursuant to the requirements provided for in this Act and Chapters 2 and 3 of the Prospectus Regulation.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(8) If the securities are guaranteed by the Contracting State, the issuer, offeror or person asking for admission to trading has the right not to make public in the prospectus the information concerning such Contracting State, and this applies also in case the prospectus is made public irrespective of the provisions of clause (1) 2) of this section.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 18. Application for registration

(1) In order to register a prospectus with the Supervision authority, an application shall be submitted. If the home Contracting State of the issuer of offered securities is not Estonia, an application for the registration of a prospectus may be submitted to the Supervision Authority by the securities market supervisory agency of another Contracting State.

(2) The prospectus and, if the issuer and the offeror have articles of association, copies thereof shall be appended to the application.

(3) If the documents submitted upon filing the application do not meet the requirements prescribed by legislation, including a prospectus which, in the opinion of the Supervision Authority, does not include all the necessary information taking account of the interests of investors, the Supervision Authority shall demand that the documents be brought into compliance with the legislation or be amended within ten working days after the filing of the application.

(4) In order to verify the information submitted upon application, the Supervision Authority may request that more specific information and documents be submitted, perform on-site inspections, order assessment or special audit, consult state databases and obtain oral explanations from the persons specified in subsection 24 (1) of this Act, their representatives and, in the event of justified need, third parties concerning the content of documents and facts which are relevant in the making of a decision on the registration of the prospectus.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 19. [Repealed - RT I 2005, 59, 464 - entry into force 01.01.2011]

§ 19¹. Transfer of registration

(1) If necessary and with the agreement of the securities market supervisory agency of another Contracting State, the Supervision Authority may decide to transfer the registration or approval of a prospectus to the such agency, upon prior notification thereof of the European Securities and Markets Authority.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(2) The Supervision Authority shall inform the applicant of making a decision provided for in subsection (1) of this section within three working days after the corresponding decision is made, shall communicate the documents submitted upon application immediately to the securities market supervisory agency of another Contracting State and, if necessary, shall append the translations required by the securities market supervisory agency of the corresponding Contracting State.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 20. Registration of prospectus

(1) The Supervision Authority shall make a decision concerning registration of or refusal to register a prospectus within ten working days as of the submission of the application for registration or the submission of documents brought into compliance with the legislation or additional documents to the Supervision Authority or as of the receipt of documents communicated to the Supervision Authority by the securities market supervisory agency of another Contracting State upon transfer of the registration of the prospectus.

(2) The Supervision Authority has the right to extend the term for making a decision provided for in subsection (1) of this section to up to twenty working days if the public offer involves securities issued by an issuer which does not have any securities admitted to trading on a regulated market and who has not previously offered securities to the public.

(3) If registration is refused, the decision shall be reasoned and, upon registration of a prospectus, include the registration number.

(4) The Supervision Authority shall immediately deliver a decision concerning registration or refusal to register a prospectus to the applicant.

(5) If the Supervision Authority has not made a decision within a term provided for in subsections (1) or (2) of this section, a prospectus is not deemed to be registered.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

(6) The Supervision Authority shall notify the European Securities and Markets Authority of the registration of the prospectus and supplements thereto at the same time when the applicant is notified thereof and simultaneously submit to the European Securities and Markets Authority a transcript of the prospectus and supplements thereto.
[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

§ 21. Refusal to register

The Supervision Authority has the right to refuse to register a prospectus if:

- 1) the conditions of the offer are contrary to legislation in force or the articles of association of the issuer;
- 2) the prospectus does not meet the requirements established by legislation and the deficiencies are significant;
- 3) the issuer or the offeror does not, upon application, submit all the documents prescribed by legislation or the documents are contradictory with regard to each other, or the requirement prescribed in subsection 18 (3) of this Act has not been met.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 22. [Repealed - RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 23. Supplement to prospectus

(1) Any new significant circumstances, mistakes or inaccuracies relating to the information included in the prospectus which is capable of affecting the assessment of the securities and which become known after the registration of the prospectus but before the final closing of the offer to the public or before starting the trading on a regulated market, depending on which event takes place later, shall be stated in a supplement to the prospectus. If necessary, the prospectus summary and its translations shall also be supplemented.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) A supplement to a prospectus shall be registered with the Supervision Authority or the securities market supervisory agency of the home Contracting State of the issuer and shall be made public in the same way and in accordance with at least the same arrangements as were applied when the prospectus to which the corresponding supplement is appended was made public. A supplement to a prospectus is an integral part of the prospectus.

(3) The provisions of §§ 18-21 of this Act are applicable to proceedings regarding the registration of supplements to prospectuses with the Supervision Authority, and the term specified in subsection 18 (3) and 20 (1) is seven working days.

(4) If the home Contracting State of the issuer is Estonia, the Supervision Authority has the right to request, by its precept, that the offeror or issuer make a prospect which complies with this section public.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 24. Approval of prospectus

(1) The correctness and completeness of information included in a prospectus shall be approved in the prospectus by the issuer and, upon existence, by the issuer or the offeror. The approval of the issuer shall be signed by all members of the management board of the issuer or of the body substituting therefor. The approval of the issuer or the offeror shall be signed by an issuer or an offeror who is a natural person or, in the case of a legal person, at least one member of the management board of the issuer or the offeror or of the body substituting therefor who has the right to represent the issuer or the offeror.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) An auditor shall confirm the accuracy of the information presented in the annual or semi-annual reports contained in the prospectus by his or her signature.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 25. Obligation to compensate

(1) If the prospectus contains information which is significant for the purpose of assessing the value of the securities and such information proves to be different from the actual circumstances, the issuer or the offeror shall compensate the owner of the security for damage sustained thereby due to the difference between the actual circumstances and the information presented in the prospectus, provided that the issuer or offeror was or should have been aware of such difference.

(2) The provisions of subsection (1) of this section also apply if the prospectus is incomplete due to the omission of relevant facts, provided that the incompleteness of the prospectus results from the issuer or the offeror hiding of the facts.

(2¹) The provisions of subsection (1) of this section applies to the summary of a separate prospectus, including any translation thereof, but only if the summary is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

(3) The obligation to compensate for damage prescribed in subsection (1) of this section also rests with the issuer or offeror if a third party is the source of the information presented in the prospectus.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 26. Level of compensation

(1) A person who causes damage prescribed in § 25 of this Act has the right to compensate for the damage by acquiring the security from the person that sustained the damage for the price that the latter paid to acquire the offered security. By acquiring securities in this manner from the person that sustained the damage, the person causing the damage is released from the obligation to compensate for any other damage to the person that sustained the damage.

(2) An issuer or offeror shall not have the obligation to compensate for damage on the basis of § 25 of this Act if the person that sustained the damage was aware, at the moment of acquiring the security, that the prospectus which was the basis for the offer was incomplete or contained inaccurate information. The same applies if a qualified investor that sustains damage should have realised, at the moment of acquiring the security and by exercising due care in its activities, that the information contained in the prospectus was inaccurate or incomplete, unless liability for the damage caused derives from intentional acts of the person causing the damage.

§ 27. Limitation period

The limitation period for a claim prescribed in § 25 of this Act is five years as of the beginning of the offer of the relevant security on the basis of a prospectus which contains inaccurate information or is incomplete.

§ 28. Agreement to limit liability

Any agreements which exclude, limit or reduce compensation or the limitation period prescribed in §§ 25-27 of this Act shall be null and void.

Chapter 4 ANNOUNCEMENT AND EXECUTION OF OFFERS

§ 29. Announcement of offer

(1) Before a public offer begins, the issuer or the offeror shall announce the offer.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) The requirement provided for in subsection (1) of this section does not apply if, pursuant to the provisions of this Act, it is not required to make a prospectus public.

(3) In order to announce an offer, the issuer or the offeror shall publish a relevant notice (hereinafter *notice of offer*) in at least one national daily newspaper pursuant to the procedure provided for in Article 31 of the Prospectus Regulation.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 30. Notice of offer

A notice of an offer shall contain the information required in Article 31 of the Prospectus Regulation.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 31. Requirements for advertising

(1) A notice of an offer and any other advertising pertaining to the offer disclosed orally or in writing, including information not disclosed for advertising purposes, may not be incorrect or misleading in character and may only contain information to be found in the prospectus.

(2) Advertising pertaining to an offer shall comply with the requirements provided for in Article 34 of the Prospectus Regulation and the Advertising Act and contain information about places where the prospectus is made public and can be obtained.
[RT I 2008, 15, 108 - entry into force 01.11.2008]

(3) A notice of an offer and any advertising materials pertaining to the offer shall be submitted to the Supervision Authority prior to being made public.

(4) An offer may be advertised only after registration of the prospectus. The planned date of disclosure and the place or manner of making it available to the investor shall be indicated in the advertising published before the disclosure of the notice of offer.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(5) When according to the provisions of this Act making a prospectus public is not required, material information provided by an issuer or an offeror and addressed to qualified investors or special categories of investors, including information disclosed in the context of meetings relating to offers of securities, shall be disclosed to all qualified investors or special categories of investors to whom the offer is exclusively addressed. If the prospectus is made public, the specified information shall be included in the prospectus or a supplement to the prospectus provided for in § 23 of this Act.

(6) If the home Contracting State of the issuer is Estonia, the Supervision Authority has the right, by its precept, to prohibit or suspend advertisements concerning a public offer for a maximum of ten consecutive working days on any single occasion if it has reasonable grounds for believing that the requirements provided for in this section have been infringed.

(7) Upon suspension of the broadcast of advertising concerning a public offer, the Supervision Authority shall require, by its precept, the issuer or the offeror to eliminate the circumstances which were the bases for the broadcasting of advertising within the term specified in subsection (6) of this section. While eliminating such circumstances, the issuer or the offeror may continue to broadcast advertising with the permission of the Supervision Authority.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 32. Language

(1) A notice of an offer, the prospectus, supplements to the prospectus and other documents and notices pertaining to the issuer and the securities offered shall be prepared and published, in the case of a prospectus registered with the Supervision Authority, in Estonian or in English or, provided that the interests of investors are not damaged, in another language with the permission of the Supervision Authority. If the prospectus is not published in Estonian, the Supervision Authority may demand that the summary of the prospectus be translated into Estonian and be published.

(2) In the case of a prospectus which is registered with the securities market supervisory agency of another Contracting State, a notice of an offer, the prospectus, supplements to the prospectus and other documents and notices pertaining to the issuer and the securities offered shall be published in English or, by agreement of the Supervision Authority, the home Contracting State of the issuer and the securities market supervisory agencies of other host Contracting States, in another language. If the prospectus is not published in Estonian, the Supervision Authority may demand that the summary of the prospectus be translated into Estonian and be published.

(3) If the documents and notices specified in subsection (1) of this section are compiled in Estonian and another language and if their wording differs or it is possible to interpret them differently, the wording of the relevant document in Estonian or its translation into Estonian takes precedence.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 33. Obligations of issuer or offeror

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

The issuer or the offeror has the obligation to ensure that:

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

- 1) all potential investors receive information on an equal basis;
- 2) delivery of the printed prospectus free of charge to a professional securities market participant reselling the securities of the offeror or the issuer.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 34. [Repealed - RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 35. Obligation to repurchase

(1) If an issuer or an offeror who offers securities to the public in Estonia makes a supplement to a prospectus public during the period of the offer, the issuer or the offeror is required:

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(1¹) The obligations provided for in subsection (1) of this section apply to issuers or offerors also if the registered and published prospectus does not include the final offer price and amount of securities and information provided for in subsection 17 (3) of this Act.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) A claim to cancel the subscription or repurchase the securities on the grounds prescribed in subsection 1 or 1¹ of this section shall be filed with the issuer or the offeror during the term of the offer prescribed in the notice of the offer which shall not be shorter than two working days as of making the supplement to the prospectus or final information on the offer price and amount of securities public if any new significant circumstances, mistakes or inaccuracies relating to the information included in the prospectus became known before the final closing of the offer to the public and the transfer of the securities. The issuer or the offeror may extend the term. The final date of the right of cancellation shall be specified in a supplement to the prospectus.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) The funds received as a result of the subscription provided for in this section shall be returned or the securities shall be repurchased within ten working days as of the receipt of the claim specified in subsection (2) of this section. The issuer or the offeror shall notify the Supervision Authority of any claims filed against the issuer or the offeror or the return of the funds received as a result of the subscription or the repurchase of the securities within one working day. Any expenses related to the return of the repurchase shall be borne by the issuer or the offeror.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 36. Suspension of offer

(1) If the home Contracting State of the issuer is Estonia, the Supervision Authority has the right to request, by its precept, that the public offer of securities be terminated or suspended if:

- 1) the requirements of this Act and legislation established on the basis thereof or other legislation concerning the public offer are violated or there is reason to believe that the specified requirements are violated;
- 2) the terms and conditions of the offer as prescribed in the prospectus have not been complied with;
- 3) the information submitted upon registration of the prospectus has been rendered inaccurate to a significant extent.

(2) When suspending an offer, the Supervision Authority shall issue a precept to oblige the issuer or the offeror to eliminate the circumstances causing the suspension of the offer. While eliminating such circumstances, the issuer or the offeror may resume the offer with the permission of the Supervision Authority.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) [Repealed - RT I 2005, 59, 464 - entry into force 15.11.2005]

(4) With the prior consent of the Supervision Authority, the issuer or the offeror may suspend the offer.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(5) The offer shall be suspended for a term determined by the Supervision Authority but for a maximum of ten consecutive working days. If the offer is not resumed after this term, the issuer or the offeror is required to cancel the subscription and return the funds received as a result of the subscription to the subscribers within ten working days as of the expiry of the term.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(6) The issuer or the offeror shall immediately inform the public of the suspension or resumption of the offer or the cancellation of the subscription at least in the same national daily newspaper in which the notice of the offer was published. The Supervision Authority shall publish the precept specified in subsection (1) of this section and the consent specified in subsection (4) of this section on its website pursuant to the procedure provided on the basis of subsection 237 (3) of this Act.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

Chapter 5 OFFERS BY FOREIGN ISSUERS

§ 37. Application for registration

(1) In order for a prospectus of a third country issuer to be registered with the Supervision Authority, the following documents shall be submitted to the Supervision Authority in addition to the documents provided for in subsections 18 (1) and (2) of this Act:

- 1) a certificate of registration of the prospectus issued by a competent securities market supervisory agency of the home country of the issuer or another document permitting the prospectus to be made public or permitting trading on a regulated securities market or certifying the listing on the stock exchange, if the issue of such document is required;
- 2) a copy of the audited annual report of the issuer for the previous economic year which, at the request of the Supervision Authority, is submitted together with translation of the report into Estonian;

- 3) upon submission of a prospectus in a foreign language, a translation thereof into Estonian if the Supervision Authority so requests;
- 4) an agreement with a professional securities market participant located in Estonia to carry out the issue;
- 5) a description of the terms and conditions of the offer of securities.

(2) The Supervision Authority has the right to request additional and specifying information about the legislation in force in the home country of the issuer and the offeror.

(3) Notwithstanding the provisions of § 21 of this Act, the Supervision Authority may register a prospectus of a third country issuer which does comply with the requirements established in this Act regarding prospectuses if, in the opinion of the Supervision Authority, the following conditions are met:

- 1) the prospectus has been drawn up in accordance with international standards set by international organisations of securities supervision authorities, including the IOSCO disclosure standards;
 - 2) the information requirements are equivalent to the requirements established in this Act and legislation established on the basis thereof and in the Prospectus Regulation regarding prospectuses.
- [RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 38. [Repealed - RT I 2005, 59, 464 - entry into force 15.11.2005]

Chapter 6

OFFERS IN FOREIGN STATES

§ 39. Obligation to notify of offer in third country

(1) The issuer registered in Estonia is required to notify the Supervision Authority of any offer of securities issued and offered thereby in a foreign state.

(2) In order to perform the obligation specified in subsection (1) of this section, an issuer shall submit the following to the Supervision Authority:

- 1) a copy of the document issued to the issuer in the state where the offer is carried out permitting publication of the prospectus, if such document is issued;
- 2) a copy of the prospectus;
- 3) copies of other documents submitted to the securities market supervisory agency of the state where the offer was carried out by the issuer in connection with the offer.

(3) The documents prescribed in subsection (1) of this section shall be submitted to the Supervision Authority within ten days as of the beginning of the offer.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 39¹. Offer in Contracting State

(1) An issuer whose home Contracting State is Estonia has the right to offer securities to the public in all host Contracting States on the basis of a prospectus and supplements to the prospectus registered with the Supervision Authority on the condition that the European Securities and Markets Authority has been notified thereof.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(2) On the basis of a corresponding application of an issuer, the Supervision Authority is required, within three working days after the submission of the application or, if an application for the registration of a prospectus provided for in subsection 18 (1) of this Act has been submitted to the Supervision Authority together with the application, within one working day after the registration of the prospectus, to submit to the securities market supervisory agency of the corresponding host Contracting State the following documents:

- 1) the registration certificate of the prospectus which must contain a confirmation that the prospectus has been prepared pursuant to the requirements provided for in this Act, legislation established on the basis thereof and the Prospectus Regulation and information concerning the exceptions made relating to the information contained in the prospectus on the basis of subsections 17 (2) and (5) of this Act and the reasons for the specified exceptions;
- 2) a transcript of the prospectus in English or, by agreement of the Supervision Authority and the securities market supervisory agency of the corresponding host Contracting State, in another language;
- 3) at the request of the securities market supervisory agency of the host Contracting State, a translation of the summary of the prospectus produced under the responsibility of the issuer into the official language of the corresponding host Contracting State.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

(2¹) The registration certificate specified in clause (2) 1) of this section, simultaneously with the submission to the securities market supervisory agency of the corresponding host Contracting State, shall also be submitted to the issuer or a person responsible for the preparation of the prospectus.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) The Supervision Authority shall notify the European Securities and Markets Authority of the registration of the prospectus at the same time when it notifies thereof the securities market supervision agency of the host Contracting State.
[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

Part 3

INVESTMENT FIRMS

Chapter 7

GENERAL PROVISIONS

§ 40. Investment firm

(1) For the purposes of this Act, an investment firm is a public limited company whose permanent activity is the provision of one or more investment services to third parties or the performance of one or more investment activities on a professional basis. An investment firm is a financial institution within the meaning of § 5 of the Credit Institutions Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) An investment firm may engage in activities not specified in subsection (1) of this section only in cases prescribed by law or if such activities are directly necessary for the provision of investment services or non-core services.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

(3) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) The reorganisation of credit institutions operating in several states provided for in Chapter 10¹ of the Credit Institutions Act shall apply also to investment firms, including their branches located in other Contracting State. An investment firm shall have the meaning of a credit institution provided for in Chapter 10¹ of the Credit Institutions Act.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

§ 41. Protection of name

Only investment firms may use the word "investment firm" [investment firm] or derivatives or foreign language equivalents thereof in their business names.

§ 42. [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 43. Investment services and activities

(1) For the purposes of this Act, investment services and activities (hereinafter *investment services*) are:

- 1) reception and transmission of orders related to securities;
- 2) execution of orders related to securities in the name of or for the account of the client;
- 3) dealing in securities on own account;
- 4) securities portfolio management;
- 5) provision of investment advice;
- 6) guarantee of securities or guarantee of the offer, issue or sale of securities;
- 7) organising an offer or issue of securities;
- 8) operation of a MTF where the interests of different people for acquisition and transfer of securities are brought together under uniform conditions which result in entry into a contract (hereinafter *operation of a MTF*).

(2) The content of the investment service specified in clause (1) 2) of this section is performance of an act for entry to a contract or entry into a contract in the name of or for the account of the client in order to acquire or transfer securities.

(3) The content of the investment service specified in clause (1) 3) of this section is conducting a securities transaction against proprietary capital.

(4) The content of the investment service specified in clause (1) 4) of this section is management of a portfolio of securities separately for each client in accordance with a mandate given by the client.

(5) The content of the investment service specified in clause (1) 5) of this section is making personal recommendations to clients concerning transactions related to securities.

(6) A personal recommendation specified in subsection (5) of this section is a recommendation made to a person as an investor or to a representative of an investor. Recommendations made to a representative of an investor shall be deemed to be recommendations made to an investor. A recommendation is not personal, if it is intended only for publishing or making known or available through distribution channels to the public.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 44. Ancillary services

For the purposes of this Act, ancillary services are:

- 1) safekeeping and administration of securities for a client and activities related thereto, including receipt of securities transfer and pledge orders and other orders related to the encumbrance of financial securities from clients and forwarding or execution thereof;
- 2) grant of a credit or loan to an investor to conduct securities transactions on the condition that the creditor or lender itself is related to the transaction;
- 3) provision of advice to undertakings on capital structure, business strategy and related matters and advice and service relating to mergers of undertakings and participation therein;
- 4) provision of foreign exchange services where these are connected with the provision of investment services;
- 5) preparation or provision of recommendations on investment and financial analysis or other general recommendations in connection with securities transactions;
- 6) services related to the guarantee of the offer or issue of securities;
- 7) provision of other investment and ancillary services in connection with the derivative instruments specified in clauses 2 (1) 2), 3), 4) or 7) of this Act, if the securities are connected with the provision of investment or ancillary services.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 45. Provision of investment services

Investment services may be provided as a permanent activity only by:

- 1) an investment firm, a branch of a foreign investment firm or cross-border by a foreign investment firm pursuant to this Act;
- 2) a credit institution or a branch of a foreign credit institution or cross-border by a foreign credit institution pursuant to this Act and the Credit Institutions Act;
- 3) a management company, a branch of a foreign management company or cross-border by a foreign management company pursuant to this Act and the Investment Funds Act;
- 4) an operator of a regulated market pursuant to this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 46. Client of investment firm

(1) Within the meaning of Part III of this Act, a client of an investment firm is any person to whom an investment firm provides investment services or ancillary services. A person to whom it is wished to provide or offer investment or ancillary services, but with whom no contractual relations have been entered into is deemed to be a potential client of an investment firm (hereinafter *potential client*).

(2) A professional client of an investment firm is a person specified in clauses 6 (2) 1)-5) of this Act.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) A person not specified in subsection (2) shall be deemed to be a retail client.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(4) A professional client may apply for being treated as a retail client, if the professional client finds that he or she is unable to assess or manage sufficiently the risks related to the services and transactions. In such case it is not presumed that he or she is as highly knowledgeable in the securities market as a professional client.

(5) In order to treat a professional client as a retail client on the initiative of the client or the investment firm, the investment firm shall enter into a written contract with the client which shall set out with regard to which services, transactions or securities the professional client shall be treated as a retail client.

(6) A retail client may apply for being treated as a professional client, if the retail client finds that he or she has sufficient experience, knowledge and expertise for making investment decisions and for adequate assessment of the risks related thereto. An investment firm is required to assess the abovementioned circumstances and upon assessment the investment firm shall take account of the nature of the planned transactions and services.

(7) An investment firm may assess the expertise, experiences and knowledge of a client on the basis of the requirements set for the managers of credit institutions and other financial institutions subject to financial

supervision. In case of companies which are not large enterprises for the purposes of this Act, the person holding the right of representation, which is necessary for the conclusion of transactions, shall be assessed pursuant to the provisions of this section.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(8) Upon the assessment specified in subsections (6) and (7) of this section at least two of following conditions shall be complied with:

- 1) the client has on average concluded ten transactions of a significant size on securities markets per quarter over the last four quarters;
- 2) the volume of the securities portfolio of the client exceeds 500,000 euros;
- 3) the client works or has worked for at least one year in the financial sector in a position or office which requires knowledge of securities investment.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(9) An investment firm is required to take all necessary measures to guarantee that a retail client complies with the conditions specified in subsections (6)-(8) of this section before a decision is made to treat the retail client as a professional client and an retail client may be treated as a professional client only if all the following conditions are complied with:

- 1) the client shall provide written confirmation to the investment firm that he or she wishes to be treated as a professional client generally or in connection with a concrete investment service or transaction or type of transaction or service;
- 2) the investment firm shall present the client a written explanation concerning the rights which the client may lose when treated as a professional client;
- 3) the client shall provide written confirmation that he or she is aware of the rights which he or she will lose as a result of being treated as a professional client.

(10) If a client is already treated as a professional client on the basis of the characteristics specified in subsections (6) – (9) of this section and simultaneously on the basis of equivalent characteristics and procedure, the procedure arising from subsections (6) – (9) of this section does not affect the relationship between the client and the investment firm.

(11) An investment firm is required to establish written procedures for treating clients.

(12) A professional client is required to notify the investment firm of any changes which may affect the treatment of the client as a professional client. If it becomes known to the investment firm that a client treated as a professional client does not comply with the conditions provided for in this section any more, the investment firm shall apply the provisions of retail clients to the client in accordance with the changed circumstances.

(13) An investment firm has the right, both on its own initiative and on the basis of an application made by the client, to treat the client who could be treated as an eligible counterparty pursuant to the provisions of § 46¹ of this Act as a retail client or professional client.

(14) Non-compliance with the formal requirements provided for in this section shall not render a contract void. [RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 46¹. Transactions with eligible counterparties

(1) An investment firm holding an activity licence for the provision of investment services specified in clauses 43 (1) 1), 2), or 3) of this Act has the right to conclude transactions with an eligible counterparty and provide ancillary services thereto related to the specified transactions without applying clauses 85 5)–7) and 9) and §§ 86–87⁵, 89 and 89¹ of this Act, except the provisions prohibiting market abuse.

(2) For the purposes of this Act, an eligible counterparty is a person specified in clauses 6 (2) 1), 2) and 3) and clauses 47 (1) 11) and 12) of this Act.

(3) An investment firm may, with the consent of a professional client, treat the client as an eligible counterparty. In such case the investment firm shall explain the client thoroughly the consequences of such change in the status before the treatment of the professional client as an eligible counterparty by the investment firm.

(4) An eligible counterparty has the right to demand that the investment firm treat the counterparty as another type of client generally or with regard to a concrete transaction. In such case, subsection (1) of this section does not apply to the investment firm and the client.

(5) If pursuant to subsection (4) of this section an eligible counterparty applies for the treatment thereof as another type of client to whose relations with an investment firm the provisions of clauses 85 5)-7) and §§ 86–87⁶, 89 and 89¹ of this Act apply, but who does not expressly apply for being treated as a retail client and the investment firm consents to this application, the investment firm shall treat the eligible counterparty as a professional client.

(6) If an eligible counterparty applies for being treated as a retail client, the provisions of § 46 of this Act apply with regard to the counterparty.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 47. Application of this Part

(1) Part III of this Act does not apply to:

- 1) an insurance undertaking holding an activity licence of a Contracting State;
- 2) a person providing investment services only to a person belonging to the same group;
- 3) a person providing investment services where these services are provided in an incidental manner in the course of a professional activity and that activity is regulated by legislation or a code of ethics governing the profession which do not exclude the provision of an investment service;
- 4) a person dealing on own account, unless the person is a market maker or deals regularly and frequently on own account outside the regulated market or MTF enabling access for third persons for conclusion of transactions;
- 5) the Guarantee Fund or any other person providing an investment service confined to the management of a pension or compensation system with participation of the employees;
- 6) a person providing investment services confined to the management of a pension or compensation system with participation of the employees and provision of an investment service only to a person belonging to the same group;
- 7) Eesti Pank and other central bank of a Contracting State, the Ministry of Finance and the debt manager of a Contracting State, established under public law or other such type of person or agency;
- 8) investment funds, including pension funds and a depository of such funds and a management company in connection with the management of the investment fund, unless otherwise provided by law;
- 9) a person trading securities in their own name or providing investment services to clients in commodity derivatives specified in clause 2 (11) 7) of this Act in connection with its main activity, provided that the person does not belong to a consolidation group which main activity is provision of an investment service within the meaning of this Act or provision of a financial service provided for in § 6 of the Credit Institutions Act or provision of other similar service and that the service provided by the person is deemed to be an ancillary activity to the main activity of the consolidation group and the service is provided only to a client with whom the person has initial contractual relationship or any other legal relationship through the transaction related to such main activity;
- 10) a person providing investment advice in the course of providing another professional activity not regulated by this Act, provided that the provision of such advice is not specifically remunerated;
- 11) a person whose main business consists of dealing on own account in commodities or commodity derivatives;
- 12) a person dealing on own account on markets in financial futures or options or other derivatives and on cash markets for the sole purpose of hedging positions on derivatives markets or which deal for the accounts of other members of those markets or make prices for them and the execution of whose transactions is guaranteed by clearing members of the same markets;
- 13) offers of units of a pension fund and the transactions and acts performed in relation to them.

(2) Clause (1) 11) of this section shall not be applied if the person dealing on own account in commodities or commodity derivatives forms part of a consolidation group which main activity is provision of another investment service or provision of a financial service provided for in § 6 of the Credit Institutions Act.

(3) The share capital requirement provided for in clause 93 (1) 1) of this Act shall be applied to a person provided for in clause (1) 12) of this section and to a person whose sole investment service is to provide investment advice or to forward orders for the acquisition or transfer of securities and which has no authority to acquire or possess the money or securities of the client when providing such investment services.

(4) Sections 64, 65, 65¹, 69, 70, 70¹ and 236¹ apply to the person provided for in clause (1) 12) of this section.

(5) The provisions of this Part relating to investment firms and the provision of investment services are applicable with respect to credit institutions, management companies and branches of foreign credit institutions and management companies in so far as this Act, the Credit Institutions Act and the Investment Funds Act do not provide otherwise.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Chapter 8 RIGHT TO OPERATE

Division 1

Activity Licences

§ 48. Activity licence

(1) In order to operate as an investment firm, a person shall hold a relevant activity licence (hereinafter in this Part *activity licence*).

(2) Activity licences are issued for an unspecified term.

(3) Activity licences are not transferable, and the acquisition or use thereof by other persons is prohibited.

§ 49. Scope of activity licences

(1) An activity licence is issued for the provision of one or several investment services. An activity licence may include one or several ancillary services. No separate activity licence is issued to an investment firm for the provision of merely ancillary services.

(2) An investment firm may provide only those investment services and ancillary services for the provision of which it has been granted an activity licence. In order to provide investment services and ancillary services not specified in the activity licence, an investment firm shall apply for an additional licence.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 50. Activity licences of credit institution and management company

(1) A company which holds an activity licence of a credit institution need not apply for a separate activity licence for the provision of investment services and ancillary services.

(2) A company which holds an activity licence of a management company need not apply for a separate activity licence for the provision of a service provided for in clauses 43 (1) 4) and 5) and clause 44 1) of this Act pursuant to the procedure provided for in this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 51. Decision

(1) An activity licence shall be issued or revoked by a decision of the Supervision Authority. Upon issue of an activity licence, the Supervision Authority may establish more favourable secondary conditions to the applicant which, if it is justified, permit the applicant to derogate from the circumstances on the basis of which the activity licence is obtained or to extend the term provided for in § 55¹ of this Act in the course of which the applicant shall bring itself into conformity with the requirements on the basis of which the activity licence is issued.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) A decision regarding an activity licence shall at least set out:

1) the name and registry code of the person with regard to whom the decision is made;

2) the type or types of investment services or ancillary services with regard to which the decision is made;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

3) the date on which the decision is made and the date on which it enters into force.

(3) A decision refusing to grant or revoking an activity licence shall contain the justification therefor.

§ 52. Notification regarding decision

(1) The Supervision Authority shall immediately deliver a decision regarding the issue or refusal to issue an activity licence or the revocation of an activity licence to the investment firm.

(2) The Supervision Authority shall publish a decision to issue, amend or revoke an activity licence on its website not later than on the working day following the day the decision is made.

(3) In addition to the provisions of subsection (2) of this section, the Supervision Authority shall publish a decision regarding the revocation of an activity licence in at least one daily national newspaper.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 53. Application for activity licence

(1) In order to apply for an activity licence, the members of the management board of a company being founded or an operating company (hereinafter in this Division *applicant*) shall submit a corresponding application.

(2) An application shall consist of a written application and the supplements specified in § 54 of this Act.

(3) If, during the processing of an application for an activity licence, there are changes in the information or documents specified in subsection 54 (1) of this Act, the applicant shall promptly submit the corresponding updated information and documents to the Supervision Authority.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 54. Information submitted upon application

(1) Upon application for an activity licence, the applicant shall submit the following information and documents:

1) upon foundation of a company, a notarised transcript of the memorandum of association or foundation resolution;

2) a copy of the articles of association and, in the case of an operating company, the resolution of the general meeting on amendment of the articles of association, and the amended text of the articles of association;

3) a list of the shareholders of the applicant which sets out the name and the personal identification code or registry code of each shareholder, or the date of birth in the absence of a personal identification code or registry code, and information on the number of shares and votes to be acquired or owned by each shareholder;

4) information specified in subsection 74 (1) of this Act relating to shareholders and other persons, with a qualifying holding in the applicant and information specified in subsection 55 (7) of this Act relating to the relationship with an investment firm, credit institution, insurance undertaking or other person subject to financial supervision holding an activity licence in a Contracting State;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

5) information on the members of the applicant's managers, including, for each person, the name and surname, personal identification code or, in the absence thereof, date and place of birth, educational background, a complete list of places of employment and positions held during the last five years and, for the members of the board of management, a description of their areas of responsibility and other documents certifying the managers' trustworthiness and conformity to the requirements of this Act which the applicant deems necessary to submit;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

6) information on companies in which the holding of the applicant or its manager exceeds 20 per cent, which also sets out the amount of share capital, a list of the areas of activity and the size of the holding of the applicant and each manager;

7) information on the auditor and person(s) conducting the internal audit of the applicant, including the name, residence or seat, personal identification code or, in the absence of the identification code, the date of birth or registry code;

8) the opening balance sheet of the applicant and an overview of the revenue and expenditure of the applicant or, in the case of an operating company, the balance sheet and income statement as at the end of the month prior to submission of the application and, if they exist, the last three annual reports;

9) in the case of an operating company, documents certifying the amount of own funds together with the sworn auditor's reports;

[RT I 2010, 9, 41 - entry into force 08.03.2010]

10) if a credit institution, management company, investment fund, investment firm, insurance undertaking or another person subject to financial supervision of a third country has a qualifying holding in the applicant, confirmation from the supervision authority of the appropriate state to the effect that the specified person of a third country holds a valid activity licence and, according to the knowledge of the supervision authority, its activities are not contrary to legislation in force;

11) the applicant's three-year business plan which sets out at least a description of the applicant's planned activities, organisational structure, places of business, information systems and other technical facilities, and a description of its economic indicators;

12) the accounting policies and procedures and the internal policies specified in § 82 of this Act or their drafts;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

13) the rules of procedure specified in subsection 29 (1) of the Money Laundering and Terrorist Financing Prevention Act and the internal audit rules to monitor compliance therewith;

[RT I 2009, 61, 401 - entry into force 26.12.2009]

14) a document by which the applicant assumes the obligation to pay the single contribution prescribed in the Guarantee Fund Act;

15) certification to the Supervision Authority concerning payment of the administrative fee.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1¹) An applicant or manager of an investment firm shall be a member of the supervisory board and management board. The Supervision Authority may consider an employee of an applicant or investment firm or any other person who makes independent management decisions concerning the development or business of the applicant or investment firm as manager.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The accuracy of information and documents submitted with regard to natural persons specified in clauses (1) 5) and 7) of this section shall be confirmed by the above-mentioned persons by their signatures.

(3) Upon application for an additional activity licence, an investment firm shall submit the information and documents specified in clauses (1) 3), 9), 10), 12) 13) and 15) of this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 55. Review of application

(1) If an applicant has failed to submit all the information and documents specified in § 54 of this Act or if such information or documents are incomplete or have not been prepared in accordance with the requirements, the Supervision Authority shall demand elimination of the deficiencies by the applicant.

(2) The Supervision Authority may demand the submission of additional information and documents if it is not convinced on the basis of the information and documents specified in § 54 of this Act as to whether the applicant has adequate facilities for the provision of investment services or whether it meets the requirements for investment firms prescribed by law or on the basis thereof.

(3) In order to verify the information submitted by an applicant, the Supervision Authority may perform on-site inspections, order assessment and a special audit, consult state databases, obtain oral explanations from the managers and auditors of the applicant, their representatives and, in the event of justified need, third parties concerning the content of documents and facts which are relevant in the making of a decision on the issue of an activity licence.

(4) The data referred to in subsections (1)-(3) of this section shall be submitted during a reasonable term determined by the Supervision Authority.

(4¹) The Supervision Authority may refuse to review an application if the applicant has failed to eliminate the deficiencies specified in subsection (1) of this section within the prescribed term or has not submitted the information or documents requested by the Supervision Authority by the end of the term. Upon refusal to review the application, the Supervision Authority shall return the submitted documents.

(5) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(6) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(7) Upon processing of an application for an activity licence, the Supervision Authority shall cooperate with the securities market or financial supervision authority of the corresponding Contracting State if:

- 1) the applicant is a subsidiary of a credit institution, investment firm, insurance undertaking or another person subject to financial supervision holding an activity licence in a Contracting State;
- 2) the applicant is a subsidiary of a parent undertaking of a credit institution, investment firm, insurance undertaking or another person subject to financial supervision holding an activity licence in a Contracting State;
- 3) the applicant is supervised by a person or persons supervising an investment firm, credit institution, insurance undertaking or other person subject to financial supervision holding an activity licence in another Contracting State.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(8) The Supervision Authority shall consult the securities market and financial supervision authorities of other Contracting States for assessment of the reputation, experience and suitability of the applicant and the persons having a qualifying holding and managers of a legal person belonging to the same consolidation group with such applicant. In the course of such a consultation the Supervision Authority shall forward only essential data concerning the reputation, experience and suitability of the applicant and the persons having a qualifying holding and managers of a legal person belonging to the same consolidation group with such applicant which are necessary for other securities market and financial supervision authorities related to granting an activity licence of a Contracting State.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 55¹. Issue of activity licence

(1) The Supervision Authority shall issue an activity licence if the applicant has submitted all information required by legislation provided that no bases exist for refusal to issue an activity licence or for termination of an activity licence and if the doubt of the Supervision Authority expressed to the applicant concerning the fact that the applicant does not comply with the requirements arising from this Act or legislation issued on the basis thereof has been eliminated.

(2) If there is justified reason for the Supervision Authority to believe that the applicant does not comply with the requirements arising from this Act or legislation issued on the basis thereof, the applicant is required to provide information to the Supervision Authority on its own initiative for the purpose of elimination of the doubt. The Supervision Authority shall specify beforehand which information and data are required for the elimination of the doubt.

(3) The Supervision Authority shall make a decision to issue or refuse to issue an activity licence within two months after receipt of all the necessary information and documents, but not later than within six months after receipt of the application for the activity licence.

(4) The Supervision Authority shall make a decision to issue or refuse to issue an additional activity licence within one month after receipt of the corresponding application and all the necessary information and documents, but not later than within six months after receipt of the application for the additional activity licence.

(5) An investment firm holding an activity licence shall notify immediately the Supervision Authority of material changes in the circumstances submitted to the Supervision Authority by the applicant which were the basis for the issue of the activity licence upon becoming aware of them.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 56. Refusal to issue activity licence

The Supervision Authority shall refuse to issue an activity licence if:

- 1) the information or documents submitted upon application for the activity licence do not meet the requirements provided for in this Act or legislation established on the basis thereof or are inaccurate, misleading or incomplete;
- 2) the applicant fails, within the prescribed term, or refuses to submit the information and documents subject to submission upon application for a permit or as are requested by the Supervision Authority to the Supervision Authority;
- 3) the applicant does not meet the requirements provided for in this Act or legislation established on the basis thereof;
- 4) in the opinion of the Supervision Authority, the manager or person carrying out the duties of the internal audit unit of the applicant or a person having a qualifying holding in the applicant does not meet the requirements provided for in this Act;

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

5) the applicant has materially or repeatedly violated requirements provided for in legislation or the activities or omissions of the applicant are in contradiction with good business practices;

6) close links between the applicant and another person prevent sufficient supervision over the investment firm, or the requirements arising from legislation or the implementation of legislation of the state which legal provisions are applied to the applicant or to the persons with whom the applicant has close links prevent sufficient supervision over the investment firm.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 57. Termination of activity licence

An activity licence terminates:

- 1) if a decision is taken to dissolve the investment firm;
- 2) if the activity licence is revoked;
- 3) in the event of a merger of investment firms, if it is held by the firm being acquired;
- 4) if the investment firm is declared bankrupt.

§ 58. Revocation of activity licence

(1) Revocation of an activity licence means total or partial deprivation of a right granted by the activity licence. An activity licence may be revoked completely or by individual investment services or ancillary services, whereupon the rights of which the holder of the activity licence is deprived of upon revocation of the activity licence shall be specified.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The Supervision Authority may revoke an activity licence if:

1) the investment firm fails to commence activities or if an act by the founders of the investment firm indicates that the investment firm will be unable to commence activities within twelve months as of the issue of the activity licence, or if the investment firm has not provided investment services for more than six consecutive months;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

2) it has been established that the investment firm has submitted misleading or inaccurate information or misleading or falsified documents or, upon application for the activity licence, misleading or inaccurate information or misleading or falsified documents have been submitted to the Supervision Authority;

3) the investment firm has violated repeatedly or to a material extent the provisions of legislation regulating the activities thereof, the investment firm or its manager has been punished for an economic offence, official misconduct, offence against property or offence against public trust if information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act or the activities of the investment firm are not in compliance with good business practice;

4) the investment firm does not meet the requirements in force with regard to the issue of activity licences;

5) the circumstances provided for in clauses 56 (4) or 6) of this Act become evident;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

6) the investment firm has failed to implement a precept of the Supervision Authority within the term or to the extent prescribed;

7) the amount of own funds of the investment fund does not comply with the requirements of this Act or legislation issued on the basis thereof;

8) the investment firm is unable to perform the obligations it has assumed or if, for any other reason, its activities significantly damage the interests of investors or other clients or adversely affect the regular functioning of the securities market;

9) the investment firm has been involved in money laundering or violates the procedure for preventing money laundering and terrorist financing established by legislation;

10) the investment firm belongs to a consolidation group the structure of which prevents the receipt of information necessary for supervision on a consolidated basis, or if a company which belongs to the same consolidation group as the investment firm operates on the basis of legislation of a foreign state, which prevents the exercise of sufficient supervision;

11) the investment firm fails to pay the contributions to the Investor Protection Sectoral Fund prescribed in the Guarantee Fund Act within the specified term or in full;

12) the investment firm has published materially incorrect or misleading information or advertising concerning its activities or managers;

13) according to the information submitted to the Supervision Authority by the securities market supervisory agency of the Contracting State, the investment firm has violated the requirements which are provided for in legislation of the Contracting State;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

14) the internal rules specified in § 82 of this Act are not sufficiently accurate or unambiguous for regulation of the activities of the investment firm;

15) it becomes evident that the investment firm has chosen Estonia as the place for application for the activity licence and registration for the purpose of evading the stricter standards for the activities of investment firms in force in another Contracting State within whose territory it carries on the greater part of its activities.

(3) An activity licence or an additional activity licence shall be revoked in full or in part on the application of the investment firm if the investment firm no longer wishes to provide investment services and if the legitimate interests of its clients are thereby adequately protected.

(3¹) The Supervision Authority may refuse to revoke an activity licence on the basis of an application specified in subsection (3) of this section if there is good reason to believe that revocation of the activity licence may damage the interests of investors or other clients.

(3²) An application specified in subsection (3) of this section shall be reviewed by the Supervision Authority and a decision to revoke in part or in full or to refuse to revoke the activity licence shall be made within two months as of the receipt of the application.

(4) Prior to making a decision to revoke an activity licence on the basis of subsection (2) of this section, the Supervision Authority may issue a precept to the investment firm establishing a term for elimination of the deficiencies which are the basis for revocation of the activity licence.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 58¹. Amendment of decision on issue of activity licence

(1) Upon changes in the business name or registered office of an investment firm, the Supervision Authority shall make a decision on amendment of a decision on issue of an activity licence specified in subsection § 55¹(3) of this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The Supervision Authority shall decide on amendment of a decision on issue of an activity licence not later than within one month after the receipt of the changed information specified in subsection (1) of this section.

(3) The Supervision Authority shall immediately deliver the decision on amendment specified in subsection (1) of this section to the investment firm.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

Division 2 Activities Abroad

§ 59. Subsidiary and branch abroad

(1) If an investment firm registered in Estonia wishes to found a subsidiary or branch providing investment services in a third country or acquire a holding in a third country investment firm and as a result of that the latter becomes a subsidiary of the Estonian firm, relevant permission (hereinafter in this Division *permission*) shall be sought from the Supervision Authority.

(2) In order to apply for permission, a written application and the following information shall be submitted to the Supervision Authority:

1) the name of the state in which the subsidiary or branch is to be founded or in which the investment firm in which a holding is to be acquired is registered;

2) the business name and address of the subsidiary or the name and address of the branch;

3) the annual reports for the past two financial years of the investment firm of a third country in which a holding is to be acquired, accompanied by a translation into Estonian signed by the person submitting the reports;

- 4) the business plan of the subsidiary or branch specified in clause 54 (1) 11) of this Act, accompanied by a description of the relationship with the founding investment firm;
- 5) the information specified in clause 54 (1) 5) of this Act on the members of the directing bodies of the subsidiary or the director of the branch;
- 6) the information specified in subsection 73 (2) of this Act on persons having a qualifying holding in the subsidiary.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 60. Processing of application for permission

(1) Unless otherwise provided in this Division, applications for permission and the processing thereof shall be subject to the provisions of §§ 51–53, 55 and 55¹ of this Act regulating activity licences and applications therefor.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The Supervision Authority shall inform the securities market supervisory agency of the relevant third country of the submission of an application for permission within two months as of the receipt of the application. If no co-operation agreement exists between the Supervision Authority and the securities market supervisory agency of the relevant third country, the Supervision Authority shall enter into an agreement with the agency regarding the exercise of supervision over the subsidiary or branch of the investment firm.

(3) The Supervision Authority shall make a decision regarding the grant of or refusal to grant permission within two months as of submission of all the necessary information and documents, but not later than within six months as of submission of the application. Upon refusal to grant permission, the decision shall contain the justification for refusal.

(4) The Supervision Authority shall immediately forward the decision regarding the grant of or refusal to grant permission to the applicant. The securities market supervisory agency of a relevant third country shall also be notified of the grant of permission.

(5) An investment firm registered in Estonia which has a subsidiary or branch in a third country is required to notify the Supervision Authority and the securities market supervisory agency of the relevant country at least one month in advance if it intends to amend the information specified in clauses 59 (2) 2), 4) and 5) of this Act.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 61. Refusal to grant permission

The Supervision Authority may refuse to grant permission if:

- 1) the information or documents submitted upon application for permission do not meet the requirements provided for in this Act or legislation established on the basis thereof or are inaccurate, misleading or incomplete;
- 2) the applicant fails, within the prescribed term, or refuses to submit the information and documents subject to submission upon application for a permit or as are requested by the Supervision Authority to the Supervision Authority;
- 3) the members of the directing bodies of the subsidiary or the director of the branch do not meet the requirements for members of the management board of an investment firm as established by this Act;
- 4) persons having a qualifying holding in the subsidiary in which a holding is being acquired do not meet the requirements provided for in § 72 of this Act;
- 5) the financial situation of the subsidiary or applicant is not sufficiently sound;
- 6) foundation of the subsidiary or branch or acquisition of the holding or implementation of the business plan submitted by the applicant may damage the interests of investors the financial situation of the investment firm or its reliable activities in Estonia or in the relevant third country;
- 7) no agreement specified in subsection 60 (2) of this Act has been entered into or the legislation of the relevant third country does not enable adequate supervision to be exercised and the data necessary therefor to be acquired.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 62. Revocation of permission

(1) The Supervision Authority may revoke a permission for the foundation of a branch granted to an investment firm in a third country if:

- 1) the investment firm or its branch does not meet the requirements in force with regard to the issue of permissions for the foundation of a branch;
- 2) the investment firm fails to submit reports on its branch as required;
- 3) upon application for a permission for the foundation of the branch, the investment firm has submitted misleading or inaccurate information or misleading or falsified documents or, in other cases, has submitted misleading or inaccurate information or misleading or falsified documents regarding the branch to the Supervision Authority;

- 4) the investment firm, its managers or the director of a branch has been punished for an economic offence, official misconduct, offence against property or offence against public trust and information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act;
- 5) the risks arising from the activities of the branch are significantly greater than risks arising from the activities of the investment firm;
- 6) the activity licence of the investment firm has been revoked;
- 7) the circumstances provided for in § 61 of this Act arise;
- 8) the investment firm has failed to implement a precept of the Supervision Authority within the term or to the extent prescribed.

(2) The Supervision Authority shall promptly inform the investment firm and the financial supervision authority of a third country of a decision to revoke a permission for the foundation of a branch.

(3) After becoming aware of revocation of a permission for the foundation of a branch, the investment firm shall terminate provision of its services through the branch registered in the third country specified in subsection (2) of this section not later than by the due date specified by the Supervision Authority.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 63. Opening of representative office abroad

(1) An investment firm shall notify the Supervision Authority of the opening of a representative office abroad at least ten days prior to the opening of the representative office.

(2) The list of information to be submitted in the event of the opening of a representative office and the procedure for the submission thereof shall be established by a regulation of the minister responsible for the area.

§ 64. Specifications for opening of branch of investment firm in Contracting State

(1) An investment firm which wishes to provide the investment services or ancillary services provided for in its activity licence and found its branch therefor in the territory of the specified other Contracting State shall notify the Supervision Authority of its intention and submit the following information and documents to the Supervision Authority:

- 1) the name of the Contracting State where the investment firm wishes to found a branch;
- 2) the business plan of the branch which shall contain information on all the investment services or ancillary services intended to be provided in the Contracting State and describe the organisational structure of the branch and the fact whether the branch intends to use investment agents and if the agent exists, the personal data of the agent;
- 3) the address of the branch;
- 4) the names of the managers of the branch.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) Documents specified in subsection (1) of this section shall be submitted in Estonian together with a translation made by a sworn translator or certified by a notary into the official language or one of the official languages of a Contracting State where the investment firm wishes to found a branch.

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

"(3) The Supervision Authority shall make a decision to forward or refuse to forward the information and documents specified in subsection (1) of this section to the securities market supervisory agency of the corresponding Contracting State on the bases provided for in subsection (5) of this section within two months after receipt of all the required information and documents, but not later than within three months after receipt of the corresponding application. The Supervision Authority shall immediately inform the investment firm of the decision to forward or refuse to forward the information and documents.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) The Supervision Authority may refuse to review the information and documents specified in subsection (1) of this section if:

- 1) the information or documents submitted for forwarding do not comply with the requirements provided for in this Act or legislation issued on the basis thereof;
- 2) the information or documents required by the Supervision Authority have not been submitted within the prescribed term.

(5) The Supervision Authority shall make a decision to refuse to forward the information and documents specified in subsection (1) of this section if:

[RT I 2007, 58, 380 - entry into force 19.11.2007]

- 1) the financial situation, organisational structure or other resources of the investment firm are insufficient for the provision of services specified in the business plan in a Contracting State;
- 2) the foundation of the branch or implementation of the business plan submitted by the investment firm may damage the interests of its clients, the financial situation or reliable activities of the investment firm;
- 3) the information or documents submitted for forwarding are incorrect, misleading or incomplete;
- 4) the investment firm wishes to provide only ancillary services.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(6) If the information and documents specified in subsection (1) of this section are forwarded, the Supervision Authority shall also submit information on the investor protection scheme applicable in Estonia to the securities market supervisory agency of the Contracting State.

(7) An investment firm may found a branch in a Contracting State pursuant to the provisions of legislation of the other Contracting State.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(8) An investment firm shall inform the Supervision Authority of changes in the information specified in subsection (1) of this section or changes in documents, if possible, at least one month before entry into force of the changes or immediately after entry into force of the changes. The Supervision Authority shall notify the securities market supervisory agency of the relevant Contracting State of the changes.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(9) The Supervision Authority shall inform the securities market supervisory agency of the Contracting State of any changes to the investor protection scheme applicable in Estonia, which have occurred in the corresponding Contracting State during the period when the investment firm has been operating through a branch, immediately after the changes occurred.

(10) The Supervision Authority may prohibit provision of services by an investment firm through the branch founded in another Contracting State if:

- 1) grounds provided for in subsection (5) of this section for refusal to forward information and documents exists;
 - 2) the securities market supervisory agency of the Contracting State has notified the Supervision Authority of a violation by the investment firm of legislation of a Contracting State.
- [RT I 2007, 58, 380 - entry into force 19.11.2007]

(11) The Supervision Authority shall immediately deliver the precept specified in subsection (10) of this section to the investment firm. The investment firm is required to terminate provision of its services through the branch founded in the Contracting State not later than by the due date specified by the Supervision Authority.

(12) If an investment firm wishes to use an investment agent founded in another Contracting State, the use of an investment agent is deemed equal to foundation of a branch and the provisions regulating the foundation and activities of branches provided by this Act shall apply.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 65. Provision of cross-border investment services

(1) An investment firm who wishes to provide investment services and ancillary services in a foreign state to the extent provided for in the activity licence without founding a branch therefor shall notify the Supervision Authority of its intention to start providing cross-border investment services and submit the following information and documents to the Supervision Authority:

- 1) the name of the state where it is intended to provide the investment and ancillary services;
- 2) a business plan together with a description of the planned investment and ancillary services.

(2) If an investment firm intends to provide cross-border services in a Contracting State, the information specified in (1) of this section shall be submitted together with a translation made by a sworn translator or certified by a notary into one or several official languages of the Contracting State.
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(3) If an investment firm intends to provide cross-border services in another Contracting State, the Supervision Authority shall make a decision to forward or refuse to forward the specified information to the securities market supervisory agency of the corresponding Contracting State. The Supervision Authority shall immediately inform the investment firm of the decision to forward or refuse to forward the information. If the Supervision Authority makes a decision to forward the information, the information shall be forwarded to the securities market supervisory agency of the corresponding Contracting State within one month after receipt thereof from the investment firm.

(4) The Supervision Authority shall make a decision to refuse to forward the information specified in subsection (1) of this section if:

- 1) the information or documents submitted do not meet the requirements provided for in this Act or are inaccurate, misleading or incomplete;
- 2) the investment firm wishes to provide only ancillary services.

(5) An investment firm may commence provision of cross-border services pursuant to the provisions of the legislation of another Contracting State.

(6) An investment firm shall notify the Supervision Authority of changes in the information and documents specified in subsection (1) of this section at least one month before entry into force of the changes. The Supervision Authority shall inform the securities market supervisory agency of the relevant Contracting State of the changes.

(7) The Supervision Authority may, by a precept, prohibit provision of cross-border services by an investment firm in a Contracting State if:

- 1) grounds provided for in subsection (4) of this section for refusal to forward the information exist;
- 2) the securities market supervisory agency of the Contracting State has notified the Supervision Authority of a violation by the investment firm of legislation of a Contracting State.

(8) The Supervision Authority shall immediately deliver the precept specified in subsection (7) of this section to the investment firm. The investment firm is required to terminate provision of cross-border services in the Contracting State not later than by the due date specified by the Supervision Authority.

(9) If an investment firm intends to use an investment agent in the territory of the Contracting State where the investment firm intends to provide its services, the investment firm shall submit the personal data of the investment agent to the Supervision Authority. On the basis of the corresponding application of the securities market supervisory agency of a Contracting State the Supervision Authority shall submit the specified information to the securities market supervisory agency of that Contracting State within a reasonable period of time.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 65¹. Provision of cross-border MTF operation services

(1) An investment firm intending to provide MTF operation services shall notify the Supervision Authority in which foreign state the investment firm intends to provide cross-border MTF operation services.

(2) The Supervision Authority shall submit the information specified in subsection (1) of this section to the securities market supervisory agency of the corresponding Contracting State within one month after receipt of the specified information and shall immediately notify the investment firm thereof. An investment firm may commence provision of cross-border MTF operation services pursuant to the provisions of the legislation of another Contracting State.

(3) An investment firm shall, upon the existence thereof, forward to the Supervision Authority also information on the participants and remote members of a MTF established in Estonia. On the basis of the corresponding application of the securities market supervisory agency of a Contracting State the Supervision Authority shall submit the corresponding information to the securities market supervisory agency of that Contracting State within a reasonable period of time.

(4) The provisions of § 65 of this Act do not apply to cross-border provision of investment services provided for in this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Division 3 Activities of Foreign Investment Firms in Estonia

§ 66. Application for permission to found branch of investment firm of a third country in Estonia

(1) In order to found a branch in Estonia, an investment firm registered in a third country shall apply for the relevant permission (hereinafter in this Division *permission*) from the Supervision Authority.

(2) The provisions of this Division shall not apply to the founding of a branch of a credit institution of a third country in Estonia which is providing investment services.

(3) Upon application for permission, a written application and the following information and documents shall be submitted to the Supervision Authority:

- 1) the name and address of the branch;
- 2) information on the director of the branch pursuant to the provisions of clauses 387 10) and 11) of the Commercial Code;
- 3) the information required in subsection 73 (2) of this Act on persons having a qualifying holding in the investment firm;
- 4) the information and documents provided for in clauses 386 (2) 1), 3), 4) and 5) of the Commercial Code;
- 5) the annual reports of the applicant for the past two financial years;
- 6) the business plan of the branch as referred to in clause 54 (1) 11) of this Act, together with a description of its relationship with the founding investment firm.

(4) In addition to the information specified in subsection (3) of this section, a third country investment firm shall submit the following to the Supervision Authority from the securities market supervisory agency of its home country:

- 1) permission to open a branch in Estonia;
- 2) confirmation to the effect that the investment holds a valid activity licence in its home country and that it pursues its activities in a correct manner and in accordance with good business practices;
- 3) information on the financial situation of the applicant, including the size of its own funds, capital adequacy and solvency, and on the investor protection scheme in its home country.

(5) The foreign language information and documents specified in this section shall be legalised by a third country investment firm pursuant to the procedure prescribed in the Consular Act and submitted together with a signed translation into Estonian.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 67. Processing of application for permission and revocation of permission

(1) Unless otherwise provided in this Division, applications for permission and the review, grant and revocation thereof shall be subject to the provisions of §§ 51-53, subsections 55 (1)–(4¹), §§ 55¹, 56 and 58 of this Act regulating the activity licences and applications therefor.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) In addition to the reasons provided for in § 56 of this Act, the Supervision Authority may refuse to grant permission if the legislation or the securities market supervisory agency of the home country of the applicant do not guarantee adequate supervision of the applicant or if no agreement specified in subsection 60 (2) of this Act has been entered into and co-operation between the Supervision Authority and the securities market supervisory agency of such country is insufficient.

(3) An investment firm which is registered in a third country and which has a branch in Estonia is required to notify the Supervision Authority and the securities market supervisory agency of the relevant country of its intention to change the information listed in clauses 66 (3) 1), 2), and 6) of this Act at least one month in advance.

(4) The Supervision Authority may revoke permission if circumstances provided for in § 58 of this Act or in subsection (2) of this section become evident.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 68. Representative office of foreign investment firm

(1) In the event that an investment firm registered in a foreign state intends to open a representative office in Estonia, it shall submit a relevant notice to the Supervision Authority together with the following information and documents:

- 1) confirmation from the securities market supervisory agency of its home country to the effect that the investment firm holds a valid activity licence;
- 2) an action plan for the representative office;
- 3) an authorisation document certifying the authorisation of the representative;
- 4) a document concerning the registration of the investment firm in its home country (an extract from the commercial register or a copy of the certificate of registration);
- 5) the articles of association of the investment firm;
- 6) the seat, address and telecommunications numbers of the representative office.

(2) The documents specified in subsection (1) of this section shall be submitted to the Supervision Authority together with a notarised translation into Estonian.

§ 69. Branch of investment firm of Contracting State in Estonia

(1) An investment firm of a Contracting State which wishes to found a branch in Estonia shall inform the securities market supervisory agency of the Contracting State thereof and submit the following information and documents thereto:

- 1) the business plan of the branch which shall contain information on all the investment services or ancillary services intended to be provided, the organisational structure of the branch and the fact whether the branch intends to use investment agents and if the agent exists, the personal data of the agent;
- 2) the address of the branch;
- 3) the names of the managers of the branch;
- 4) the description of the investor protection scheme applicable in the Contracting State.

(2) The information and documents specified in subsection (1) of this section which are in a foreign language shall be submitted together with a translation into Estonian made by a sworn translator or certified by a notary. With the consent of the Supervision Authority, the abovementioned information and documents may be submitted in English.

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(3) The Supervision Authority shall promptly inform the securities market supervisory agency of the Contracting State of receipt of the information and documents specified in subsection (1) of this section.

(4) An investment firm of a Contracting State may found a branch and commence activities after receipt of a notice specified in subsection (3) of this section or two months after the date on which the information and documents specified in subsection (1) of this section were received by the Supervision Authority.

(5) Confirmation from the Supervision Authority concerning receipt of the information specified in subsection (1) of this section shall be submitted upon the entry of a branch in the commercial register.

(6) A branch of an investment firm of a Contracting State shall perform the obligations provided for in clauses 85 1)–12), §§ 86–87⁶, 88¹–88¹², 89¹, 90 and 91 of this Act and legislation established in order to specify thereof with respect to services provided in the territory of Estonia.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 70. Provision of cross-border investment services in Estonia

(1) For the purposes of this section and § 70¹ of this Act, cross-border investment services are investment or ancillary services provided to persons residing or located in Estonia by a person who is not or whose branch is not registered in Estonia.
[RT I 2010, 7, 30 - entry into force 26.02.2010]

(2) An investment firm registered in a Contracting State may start providing cross-border investment services in Estonia after the Supervision Authority has received the information specified in subsection 65 (1) of this Act from the securities market supervisory agency of the corresponding Contracting State. The information and documents specified in this section which are in a foreign language shall be submitted together with translations into Estonian made by a sworn translator or certified by a notary. With the consent of the Supervision Authority, the abovementioned information and documents may be submitted in English.
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(3) Provision of cross-border MTF operation services may be commenced in Estonia after the Supervision Authority has received the relevant notice from the securities market supervisory agency of the corresponding Contracting State.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) The Supervision Authority may submit an application to the securities market supervisory agency of the Contracting State in order to obtain the personal data of the investment agents of the investment firm of the corresponding Contracting State providing cross-border investment services in Estonia and to obtain information on the members and participants of the MTF of the investment firm.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(5) The Supervision Authority has the right to disclose the personal data of the investment agents of an investment firm of a Contracting State providing cross-border investment services in Estonia.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 70¹. Provision of cross-border investment services in Estonia by investment firm of third country

(1) For provision of cross-border services in Estonia, an investment firm of third country is required to apply for permission from the Supervision Authority (hereinafter in this section *authorisation for the provision of cross-border services*) and submit an application to which the following information and documents are appended:

- 1) the name and address of the person;
- 2) the scope of the activity licence issued to the person and information concerning the agency which issued the activity licence;
- 3) the information and documents provided for in clauses 386 (2) 1), 3), 4) and 5) of the Commercial Code;
- 4) information specified in clause 54 (1) 5) of this Act concerning the managers of the investment firm.
- 5) the information and documents provided for in subsection 74 (1) of this Act relating to shareholders who have qualifying holdings in the investment firm;
- 6) the audited annual reports of the person for the past two financial years;
- 7) the business plan which meets the requirements provided for in clause 54 (1) 11) of this Act and sets out all services provided by the person in Estonia.

(2) In addition to the information specified in subsection (1) of this section, a third country investment firm shall submit the following to the Supervision Authority:

- 1) the permission of the financial supervision authority of the home state to provide cross-border services in Estonia;
- 2) the confirmation of the financial supervision authority of the home state to the effect that the person holds a valid activity licence in its home state and that it pursues its activities in a correct manner and in accordance with good practices;
- 3) information provided by the financial supervision authority of the home state on the financial situation of the applicant, including the amount of own funds, and the description of the investor protection scheme applicable to its clients in the home state;

4) description of prudential requirements applied to investment firm in the home state, including information regarding capital and liquidity requirements and the investments guarantee system of the home state, and the confirmation regarding the fact that the above requirements are equivalent to the requirements established in the legislation of the European Union.

(3) The information and documents specified in this section which are in a foreign language shall be submitted together with a translation into Estonian made by a sworn translator or certified by a notary. With the consent of the Financial Supervision Authority, the aforementioned information and documents may be submitted in another language.

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(4) Unless otherwise provided in this section, applications for authorisations, review of applications and the grant and revocation of authorisations shall be subject to the provisions of §§ 55-56 and 58 of this Act regulating the activity licences and applications therefor.

(5) In addition to refusal on the bases provided for in § 56 of this Act, the Supervision Authority may refuse to grant an authorisation for the provision of cross-border services if the financial supervision authority of a third country does not guarantee adequate supervision of the applicant or the financial supervision authority of a third country has no legal basis, possibilities or readiness for sufficient and efficient cooperation with the Supervision Authority.

(6) The Supervision Authority may revoke an authorisation for the provision of cross-border services if circumstances provided for in § 58 of this Act or in subsection (5) of this section become evident.

(7) A third country investment firm which wishes to provide services in Estonia which are not specified in the business plan submitted upon application for an authorisation for the provision of cross-border services shall submit an application for amendment of the authorisation for the provision of cross-border services to the Supervision Authority.

(8) In order to amend an authorisation for the provision of cross-border services, a person of a third country shall submit the information and documents specified in clauses (2) 1) 2) and 5) of this section to the Supervision Authority.

(9) The provisions of §§ 55-56 of this Act apply to the processing of applications for the amendment of authorisations for the provision of cross-border services, verification of information and deciding on amendment of the authorisations.

[RT I 2010, 7, 30 - entry into force 26.02.2010]

Chapter 9

REQUIREMENTS FOR SUPERVISION OVER, MANAGEMENT AND ORGANISATIONAL STRUCTURE OF INVESTMENT FIRMS

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 71. [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 72. Requirements for persons acquiring or having qualifying holding

Qualifying holdings in an investment firm may be acquired, held and increased and control over an investment firm may be gained, held and increased by every person (hereinafter in §§ 72–78 of this Act *person*):

1) who has impeccable business reputation and whose activities in connection with the acquisition comply with the principles of sound and prudent management of the investment firm;

2) who after the acquisition or increase of the holding shall elect, appoint or designate only such persons as managers of the investment firm which comply with the requirements provided for in § 79 of this Act;

3) whose financial situation is sufficiently secure to ensure regular and reliable operation of the investment firm, and in the case of a legal person if such financial statements exist, they allow for a correct assessment to be made of its financial situation;

4) who is able to ensure that the investment firm is able to meet the prudential requirements provided for in this Act, in the case of a legal person above all the requirement that the consolidation group, which part the investment firm will form, has a structure which enables exercise of efficient supervision, exchange of information and co-operation between the financial supervision authorities;

5) with regard to whom there is no justified reason to believe that the acquisition, holding or increase of a holding in or control over the investment firm is related to money laundering or terrorist financing or an attempt thereof or increases such risks.

§ 72¹. Conditions and special rules of designation of holding

(1) In designation of qualifying holding, in addition to the provisions of §§ 9 and 10 of this Act, the provisions of subsection 185⁴(1) and clauses 187¹(1) 1) and 2) and subsection (2) of the same section of this Act should also be taken into account.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) In designation of qualifying holding, there are not taken into account the voting rights related to the share capital which an investment firm or a credit institution may acquire or hold in relation with the provision of the service specified in clause 43 (1) 6) of this Act on the conditions that these rights shall not be exercised in any way to interfere in the management of this company and these rights shall be transferred within one year as of the acquisition.

(3) In calculation of qualifying holding, there shall not be totalled in case of a management company of a UCITS and a parent undertaking of a management company of a UCITS of a Contracting State the holdings specified in subsection 185 (1) of this Act with the holdings which the management company manages by itself, provided that the management company exercises its voting rights independently from the parent undertaking.

(4) In calculation of qualifying holding, there shall not be totalled in case of a parent undertaking of an investment firm of Estonia and a Contracting State the holdings specified in subsection 185 (1) of this Act with the holdings which this investment firm manages separately for each client, taking into account the terms and conditions provided for in subsection 187¹(7) of this Act.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

§ 73. Giving notification of acquisition of holding

(1) A person who intends to directly or indirectly acquire a qualifying holding in an investment firm or to increase such holding so that the proportion of the share capital of the investment firm or votes represented by shares exceeds 20, 30 or 50 per cent, or to conclude a transaction as a result of which the investment firm will become a company controlled thereby (hereinafter *acquirer*) shall notify the Supervision Authority of its intention beforehand and submit the information and documents provided for in subsection 74 (1) of this Act and the regulation established on the basis of subsection 74 (1¹) of this Act.

(2) The provisions of this Chapter also apply if a person acquires a qualifying holding in an investment firm or increases such holding so that the proportion of the share capital of the investment firm or votes represented by shares exceeds 20, 30 or 50 per cent due to any other event or as a result of any other transaction or, due to the event or as a result of the transaction, the investment firm becomes a company controlled by the person. In such case, the person shall give notification to the Supervision Authority promptly after becoming aware of the control gained over the investment firm or the acquisition or increase of qualifying holding in the investment firm.

(3) The Supervision Authority shall notify the acquirer in writing within two working days after receipt of the notice specified in subsection (1) or (2) of this section or the additional information and documents specified in subsection 74 (3) of this Act and the possible termination date of terms in proceedings provided for in § 74¹ of this Act.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

§ 74. Information submitted upon giving notification of acquisition of holding

(1) The Supervision Authority shall be notified of the name of the company in which a qualifying holding is acquired or increased or which becomes controllable by the acquirer and the size of the holding acquired in this company, and the following information and documents shall be submitted:

1) description of the company acquired which contains an extract of the share register, information on the type of shares and number of votes acquired or owned by the acquirer and other information if necessary;

2) a curriculum vitae of the acquirer who is a natural person which contains, inter alia the name, residence, education, work and service experience and personal identification code of the acquirer or date of birth in the absence of a personal identification code;

3) the name, registered office, registry code, authenticated copy of a registration certificate and a copy of the articles of association, if they exist, of the acquirer if the acquirer is a legal person or of the legal person administering the pool of assets;

4) a list of the owners or members of the acquirer if the acquirer is a legal person and information on the number of shares held by or the size of the holding and number of votes of each owner or member;

5) the information on the members of the management board and supervisory board of the acquirer if the acquirer is a legal person, including, for each person, the name and surname, personal identification code or date of birth in the absence of a personal identification code, education, work and service experience, and documents which prove the trustworthiness, experience, competence and impeccable reputation of such persons;

6) the confirmation that the persons becoming managers of the investment firm as a result of acquiring a holding have not been punished for an economic offence, official misconduct or offence against property or offence against public trust and information concerning the punishment has been expunged from the punishment

register pursuant to the Punishment Register Act. In the case of a citizen of a foreign state, a certificate of the punishment register or an equivalent document of a competent court or administrative authority of the country of origin of the person which has been issued less than three months earlier is accepted;

7) a description of the business activities of the acquirer and a description of the economic and non-economic interests of persons connected with the acquirer;

8) a confirmation that in the case of a person specified in clause 6 of this subsection no such circumstances have existed or exist which in accordance with law preclude his or her right to be a manager of an investment firm;

9) the last three annual reports of the acquirer, if they exist. If more than nine months have passed since the end of the previous financial year, an audited interim report for the first six months of the financial year shall be submitted. The sworn auditor's report shall be added to the reports if preparation of the report is prescribed by legislation;

[RT I 2010, 9, 41 - entry into force 08.03.2010]

10) if possible, the ratings required for assessing the financial situation of the acquirer who is a natural person and companies connected with the acquirer and reports intended for the public; in the case of the acquirer if the acquirer is a legal person the credit ratings issued to the acquirer and the consolidation group;

11) if the acquirer is a company belonging to a consolidation group, a description of the structure of the group, data relating to the sizes of the holdings of the companies belonging to the group, and the last three annual reports of the consolidation group together with sworn auditor's reports;

[RT I 2010, 9, 41 - entry into force 08.03.2010]

12) if the acquirer is a natural person, documents certifying the financial status of the person during the last three years;

13) information and documents concerning the sources of monetary or non-monetary resources for which it is intended to acquire a qualifying holding or increase it or gain control;

14) the circumstances related to the acquisition of holding pursuant to §§ 10 and 72¹ of this Act;

15) the size of the qualifying holding owned by the person after acquisition of the holding and the

circumstances related to the holding pursuant to §§ 10 and 72¹ of this Act;

16) upon gaining control over an investment firm, the business plan and other circumstances related to the acquisition and execution of control pursuant to § 10 of this Act;

17) a review of the strategy applied in the investment firm, provided the investment firm does not become a controlled company as a result of the acquisition.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(1¹) The minister responsible for the area may establish a regulation which specifies the information and documents to be submitted to the Supervision Authority and specified in subsection (1) of this section.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(1²) The information and documents submitted to the Supervision Authority shall be in Estonian. With the consent of the Supervision Authority, the above-mentioned information and documents may be submitted in another language.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(2) If a management company, investment firm, credit institution, insurance undertaking or investment fund of a third country or another person of a third country subject to financial supervision wishes to acquire a qualifying holding, confirmation from the relevant financial supervision authority of the third country to the effect that the person of the third country holds an activity licence and to the knowledge of the corresponding financial supervision authority observes the requirements established thereto shall also be submitted to the Supervision Authority in addition to the information and documents specified in subsection (1) of this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) The Supervision Authority may request in writing additional information or documents in order to specify or verify the documents specified in subsection (1) of this section. In such case it is specified which additional information shall be submitted to the Supervision Authority.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(4) The Supervision Authority may waive the demand for the information or documents specified in subsection (1) of this section in part or in full.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 74¹. Legislative proceeding and term in proceeding

(1) The Supervision Authority shall assess the compliance of the acquirer with the requirements provided for in § 44 of this Act and shall resolve on prohibition on acquisition of holding or granting authorisation for acquisition of holding within 60 working days (hereinafter *time-limits of proceedings*) as of submission of the notice provided for in subsection 45 (3) of this Act concerning receipt by the Supervision Authority of the information and documents required for the assessment.

(2) The Supervision Authority has the right to demand the additional information and documents specified in subsection 74 (3) of this Act within 50 working days as of the beginning of the time-limits of proceedings.

(3) The time-limits of proceedings shall suspend for the period between the first demand by the Supervision Authority of the additional information and documents specified in subsection (2) of this section and the receipt from the acquirer of the demanded additional information and documents. The suspension shall not last longer than 20 working days.

(4) The time-limits of proceedings shall not suspend if additional information and documents are demanded.

(5) If no financial supervision is exercised over the acquirer or a financial supervision authority of a third country exercises supervision over the acquirer, the Supervision Authority may extend the time-limits of proceedings specified in subsection (3) of this section to up to 30 working days.

(6) During the time-limits of proceedings specified in this section, the Supervision Authority shall cooperate with the competent supervision authority of another Contracting State if a management company, credit institution, investment firm, investment fund, insurance undertaking, another person subject to financial supervision or a person belonging to the same consolidation group with a specified person, if registered in the Contracting State, is the acquirer.

(7) The Supervisory Authority shall consult with the supervision authorities of other Contracting States in the framework of the co-operation specified in subsection (6) of this section. The Supervision Authority shall immediately forward to other financial supervision authorities all the information that is essential upon assessment of acquisition and increase of the qualifying holding and gaining control over the investment firm.

(8) If more than one person wish to acquire a qualifying holding simultaneously, the Supervision Authority shall treat them equally under equal circumstances.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

§ 75. Conditions for acquisition of holding

(1) The Supervision Authority has the right to specify a term for the acquirer during which the acquirer has the right to acquire or increase the qualifying holding or gain control over an investment firm. The Supervision Authority may extend the term prescribed but the term shall not exceed 12 months in total. The acquirer is required, within the specified term, to promptly give notification to the Supervision Authority of conclusion of a transaction or a decision not to conclude a transaction by which qualifying holding is acquired or increased or control is gained over an investment firm.

(2) A qualifying holding may be acquired or increased or the investment firm may be turned into a controlled company if the Supervision Authority does not prohibit, by a precept, acquisition or increase of a qualifying holding or turning of the investment firm into a controlled company based on the provisions of § 74¹ and subsection 76 (1) of this Act.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

§ 76. Bases for prohibition on acquisition of holding and decision on acquisition

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(1) The Supervision Authority may prohibit, by a precept, acquisition and increase of the qualifying holding and gaining control over the investment firm if:

- 1) the acquirer does not conform to the requirements provided for in § 72 of this Act;
- 2) the acquirer fails to submit the information or documents provided for in this Act or requested pursuant to this Act to the Supervision Authority;
- 3) The information or documents submitted to the Supervision Authority do not comply with the requirements provided by legislation or are incorrect, misleading or incomplete or based on the information and documents submitted the Supervision Authority cannot exclude reasonable doubt with respect to unsuitability of the acquisition and with respect to that the acquisition does not comply with the requirements provided for in this Act;
- 4) the investment firm would become a company controlled by a person residing or located in a third country and sufficient supervision is not exercised over the person in the country of residence or location of the person or the financial supervision authority of the third country has no legal basis or possibility to co-operate with the Supervision Authority.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(2) The Supervision Authority shall submit a decision to the acquirer concerning the authorisation to acquire the qualifying holding or a prohibiting precept within two working days after adoption of the corresponding decision but prior to the expiry of the time-limits of proceedings. If financial supervision over the acquirer is exercised by the financial supervision authority of another Contracting State, its assessment of the acquisition or increase of the qualifying holding or gaining control over the investment firm must be inter alia indicated in the decision.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(3) If the circumstances specified in subsection (1) of this section become evident after acquisition or increase of qualifying holding or gaining control over the investment firm, the Supervision Authority may issue a precept according to which acquisition of qualified holding or gaining control over the investment firm is deemed to be contrary to this Act.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(4) Each time, the Supervision Authority has the right to prohibit or restrict, by its precept, the acquirer or a person who holds a qualifying holding in an investment firm or who controls an investment firm to exercise voting rights or other rights enabling control regarding the investment firm if circumstances provided for in subsections (1) or (3) of this section exist. The Supervision Authority may issue a precept regardless of issue of a precept provided for in subsection (1) or (3) of this section. The Supervision Authority may publish the precept on its website, and the acquirer may also demand publication of the precept.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(5) If an acquirer or a person who holds a qualifying holding in an investment firm or who controls an investment firm is a credit institution, management company, investment fund, insurance undertaking, another person subject to financial supervision or a person belonging to the same consolidation group with a specified person, if registered in another Contracting State, the Supervision Authority shall inform the competent financial supervision authority of the Contracting State of issue of a precept specified in subsection (3) or (4) of this section.

(6) Compliance with a precept provided for in subsections (1), (3) and (4) of this section is also mandatory for an investment firm, the person maintaining its share register or another similar person who organises the exercise of voting rights.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 77. Consequences of illegal acquisition of holding

(1) As a result of a transaction by which a qualifying holding is acquired or increased, the person shall not acquire the voting rights determined by the shares, and the votes represented by the shares shall not be included in the quorum of the general meeting if:

- 1) the transaction is contrary to a precept issued by the Supervision Authority;
- 2) the Supervision Authority has issued a precept specified in subsection 76 (3) or (4) of this Act;
- 3) the Supervision Authority has not been informed of the transaction pursuant to the procedure provided for in §§ 73 and 74 of this Act;
- 4) the transaction is conducted after the expiry of the term specified in subsection 75 (1) of this Act or before acquisition of qualifying holding is permitted pursuant to this Act;

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(2) If any of the circumstances specified in subsection (1) of this section exist with regard to a transaction, the person who conducted the transaction does not have any rights arising from the transaction which would entitle the person to gain control over the investment firm.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

(3) If voting rights representing a qualifying holding acquired or increased by such a transaction, in the case of which any of the circumstances specified in subsection (1) of this section exist, are included in the quorum of the general meeting and influence the adoption of a resolution of the general meeting, the resolution of the general meeting shall be void. A court may declare the resolution of the general meeting invalid on the basis of a petition of the Supervision Authority, a shareholder or a member of the management board or supervisory board, if the petition is submitted within three months as of the adoption of the resolution of the general meeting.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(4) Upon exercise of the rights enabling control arising from a transaction by which an investment firm is turned into a company controlled by a person and in the case of which any of the circumstances specified in subsection (1) of this section exist, a court may declare the exercise of the rights null and void on the basis of a petition of the Supervision Authority, a shareholder or a member of the supervisory board or management board of the company, if the petition is submitted within three months as of the exercise of the rights.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

§ 78. Giving notification of changes in holding

(1) If a person intends to transfer shares in an amount which would result in the person losing a qualifying holding in an investment firm or if the person reduces the holding thereof such that it falls below one of the limits specified in subsection 73 (1) of this Act or foregoes control over the investment firm, the person is required to inform the Supervision Authority of the intention immediately and indicate the number of shares which the person owns and transfers and holds after the transaction.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

(2) The provisions of subsection (1) of this section also apply if a person loses control over an investment firm or qualifying holding in an investment firm due to any other event or as a result of any other transaction or if the holding of the person is reduced such that it falls below one of the limits specified in subsection 73 (1) of this Act. In such case, the person shall inform the Supervision Authority promptly after becoming aware of the loss of qualifying holding or control or the reduction of holding.

(3) Upon becoming aware of transactions specified in § 73 of this Act and subsections (1) and (2) of this section, an investment firm is required to promptly inform the Supervision Authority thereof.

(4) An investment firm shall, together with its annual financial report, submit to the Supervision Authority information concerning shareholders who have a qualifying holding in the investment firm as at the end of the financial year and shall set out the size of holding owned by the shareholders.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 78¹. Seat and place of business of investment firm

The seat and the principal place of business of an investment firm entered in the commercial register in Estonia shall be in Estonia.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 79. Managers of investment firms

(1) Only persons who have the education, experience and professional qualifications necessary to manage an investment firm and who have an impeccable reputation may be elected or appointed managers of investment firms.

(2) The management board of an investment firm shall consist of at least two members.

(3) Members of the management board of an investment firm shall have completed higher education or education equivalent thereto, and the experience necessary for managing an investment firm.

(4) The following shall not be managers of an investment firm:

1) persons whose act or omission has resulted in the bankruptcy or compulsory liquidation of a company or the revocation of the activity licence of a company;

2) persons whose activities have shown that they are not capable of organising the management of a company such that the interests of the shareholders, members, creditors and clients of the company are sufficiently protected;

3) bankrupts or persons who are subject to a prohibition on business or from whom the right to engage in economic activity has been taken away pursuant to law;

4) persons who have been punished for an economic offence, official misconduct or offence against property or offence against public trust and information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act.

(5) The managers and employees of an investment firm are required to act with the prudence and competence expected of them and according to the requirements for their positions and the interests of the investment firm and its clients.

(6) The managers of an investment firm shall guarantee that the organisational structure of the investment firm is transparent, the areas of responsibility are clearly delineated and procedures for the establishment, measurement, management, constant monitoring and reporting of risks have been established and that such procedures are sufficient and proportional taking into account the nature, extent and level of complexity of the operation of the investment firm.

(7) In order to keep themselves informed or familiarise themselves the managers of an investment firm shall review on a regular basis this Act and the regulations and other rules of procedure established for compliance with legislation issued on the basis thereof by evaluating the efficiency thereof and take appropriate measures to eliminate the deficiencies.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 79¹. Requirements for managers and employees of investment firm and principles of remuneration of management board members and employees

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

The managers and employees of investment firm, including their remuneration, shall be governed by the provisions of subsections 49 (1¹)–(1⁴), §§ 52, 55, 57¹–57⁴ and 58¹, subsections 59 (3) and (4³), § 62, clause 63 (2) 5¹) and subsection § 92²(4) of the Credit Institutions Act, if it is appropriate and proportionate, taking into account the nature, extent and level of complexity of the activity of the investment firm.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 80. Giving notification of officers and auditor

(1) Upon the election or appointment of a manager of an investment firm, the person to be elected or appointed shall present the following to the investment firm:

- 1) the information specified in clauses 54 (1) 5) and 6) of this Act;
- 2) confirmation that no circumstances exist which, according to this Act, would preclude the management of an investment firm.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) An investment firm is required to inform the Supervision Authority of the election or appointment of managers and an auditor, and of their resignation or the initiation of their removal before the expiry of their term of office within ten days as of the relevant decision being made or the relevant application being received.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) Upon the election or appointment of a manager, an investment firm shall submit to the Supervision Authority the information and manager's confirmation specified in subsection (1) of this section and upon the election or appointment of an auditor the auditor's name and confirmation concerning the absence of any circumstances regarding the manager or the auditor which preclude the right to be a manager or an auditor of an investment firm.

[RT I 2010, 2, 3 - entry into force 22.01.2010]

§ 81. Removal of manager

(1) The Supervision Authority may issue a precept to an investment firm to remove a manager if:

- 1) the manager does not meet the requirements provided for in this Act;
- 2) misleading, incomplete or incorrect information or documents have been submitted in connection with his or her election or appointment;
- 3) the activities of the manager of an investment firm have shown that he or she is not capable of sound and prudent management of the investment firm.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) If an investment firm fails to comply with a precept specified in subsection (1) of this section in full or within the prescribed term, the Supervision Authority has the right to demand the removal of the manager by a court.

§ 81¹. General organisational requirements

(1) An investment firm is required to:

- 1) establish the procedure for making decisions and establish an organisational structure which shall set out the reporting arrangements and professional or official functions and duties;
- 2) ensure that each relevant person is aware of the requirements which he or she shall observe for appropriate performance of his or her duties;
- 3) engage employees with adequate skills, expertise and competence for the performance of professional or official functions;
- 4) create, implement and store internal reporting and exchange of information of the investment firm at all the required levels of the investment firm;
- 5) store systematically information concerning its business activities and internal policies and other decisions concerning the management of the organisation;
- 6) ensure that the performance of several duties does not prevent and will not prevent reliable, honest and professional performance of any concrete duty by a relevant person.

(2) Upon the performance of the duties specified in subsection (1) of this section, an investment firm shall take into account the nature, extent and level of complexity of the business activities, including the investment services provided by and the investment operations of the investment firm.

(3) An investment firm shall establish, implement and maintain the rules and systems which ensure the security, integrity and confidentiality of information taking into account the nature and content of such information.

(4) An investment firm shall establish, implement and maintain legal, technical and organisational measures in order to ensure sustainable and regular provision of investment services. The objective of the abovementioned measures is to ensure in the case of an interruption to their systems and procedures, the preservation of essential data and functions, and the maintenance of investment services and activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of the investment services and activities.

(5) An investment firm shall monitor and, on a regular basis, evaluate the adequacy and effectiveness of the procedures and systems established and implemented in accordance with subsections (1) – (4) of this section. If deficiencies become evident, an investment firm shall eliminate them.

(6) Written reports concerning the areas provided for in §§ 83–83² of this Act shall be submitted to the managers of an investment firm on a regular basis but not less frequently than once a year.

(7) It shall become evident from a report specified in subsection (6) of this section whether, upon the existence of deficiencies, appropriate measures have been taken to eliminate the deficiencies in the area covered in the report.

(8) For the purposes of this Act, relevant person is:

- 1) manager of an investment firm and its investment agent;
- 2) manager of an investment agent of an investment firm;
- 3) an employee of an investment firm and its investment agent who is involved in the provision of investment or ancillary services or performance of investment operations;
- 4) a natural person who is involved in the provision of investment services by the investment firm and whose services are placed at the disposal and under the control of the investment firm or its investment agent;
- 5) a natural person who provides the relevant services to an investment firm or its investment agent under a contract for transfer of operations.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82. Policies and procedures

(1) An investment firm shall establish and apply rules of procedure regulating the activities of the investment firm and its managers and employees (hereinafter in this Chapter and Chapters 10 and 11 *internal policies*), which ensure that legislation regulating the activities of the investment firm is complied with and that decisions taken by the directing bodies thereof are duly observed.

(2) The internal policies established and implemented by an investment firm shall ensure legitimate and regular provision of investment services. An investment firm shall regularly assess the effectiveness correspondence to reality of the internal policies and adjust the internal policies such that the best protection of interests of clients is ensured.

(3) Among other matters, the internal policies shall determine:

- 1) the procedure for the communication of information and movement of documents within the investment firm, including requirements for submission and forwarding of information;
- 2) the procedure for the provision of investment services and ancillary services, including a plan for determination of a risk of interruption of business, for managing or prevention of the risk thereof;
- 3) criteria for selection of employees, professional or official functions, relationships of subordination, reporting lines, the procedure for reporting and the delegation of rights, and shall provide the separation of functions upon assumption of obligations in the name of the investment firm, the recording of services for accounting and reporting purposes and the assessment of risks;
- 4) the procedure for maintaining databases and processing of data;
- 5) internal rules of procedure for imposing international sanctions established on the basis of the International Sanctions Act and application of the Money Laundering and Terrorist Financing Prevention Act, and the code of conduct for verification of compliance therewith;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82¹. Risk management

(1) An investment firm is required to:

- 1) establish, implement and maintain the procedure for risk management policy and implementation thereof for identifying the risks related to its activities, the applied processes and systems and to determine the risk tolerance level of the investment firm in the relevant area by the internal policies;
- 2) establish and implement legal, technical and organisational measures by internal policies in order to ensure sustainable and regular provision of investment services for the management of the risk of interruption of business by the internal policies;
- 3) manage the risks related to its activities, the applied processes and systems proceeding from the determined risk tolerance level.

(2) An investment firm is required to verify:

- 1) the adequacy and effectiveness of the risk management policy and the implementation thereof;
- 2) compliance of the investment firm and its related persons with the policies and procedure established and applied pursuant to clauses (1) 1) and 2) of this section;
- 3) the adequacy and effectiveness of the policy, implementation of the policy, processes and systems and the measures taken to address any deficiencies in the application thereof, including the adequacy and effectiveness of the measures taken for disregarding the policy, implementation of the policy, processes or systems or failure to perform thereof in any other way by a relevant person.

(3) If it is appropriate and proportionate proceeding from the nature, extent and complexity of the business activities, including the provided investment services and investment operations of the investment firm, the investment firm shall establish an independent risk management function which shall perform the following functions:

- 1) application of the policy and implementation procedure specified in subsections (1) and (2) of this section;

2) advising of managers and submission of reports to them pursuant to subsection 81¹(6) of this Act.

(4) If an investment firm has not established an independent risk management function specified in subsection (3) of this section, the investment firm shall be able to prove that the policy established pursuant to subsections (1) and (2) of this section and the implementation thereof comply with the requirements provided for in this section and that they are applied regularly and efficiently.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82². Ensurance of capital adequacy

(1) All the essential risks of an investment firm including the risks not mentioned in subsection 103 (2) of this Act must at all times be adequately covered by own funds.

(2) An investment firm must have reliable, effective and all-inclusive strategies and corresponding procedures established by internal policies in order to continuously maintain an adequate level and structure of own funds, and an adequate division of the own funds between structural units and activities based on the level of the risks assumed by the investment firm or of potential risks.

(3) The corresponding strategies and procedures must be regularly updated in order to guarantee that they continue to be proportional to the nature, extent and level of complexity of the operation of the investment firm.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82³. Personal transaction by manager, employee or other connected persons of investment firm

(1) An investment firm shall set out by internal policies the procedure for conclusion of personal securities transactions of the persons associated with the investment firm and ensure the protection of the interests of clients and lawful and regular operation of the market.

(2) A relevant person, and the spouse, a dependent child, stepchild, foster-child and a person who has shared the same household as that relevant person for at least one year on the date of the transaction concerned (hereinafter in this section *the person close*) is deemed to be a connected person specified in subsection (1) of this section.

(3) The conclusion of a personal securities transaction specified in subsection (1) of this section means the conclusion of a securities transaction by or for a relevant person if:

- 1) upon entry into a transaction the relevant person acts outside his or her normal duties or authority;
- 2) a transaction is entered into on account of the relevant person or a person close to the relevant person;
- 3) a transaction is entered into on account of a person, who has close links with the relevant person;
- 4) a transaction is entered into on account of a person whose contractual relationship with the relevant person is such that the relevant person has material interests in the outcome of entry into the transaction, other than a fee or commission for the execution of the trade.

(4) An investment firm shall establish a procedure by internal policies aimed at preventing the following activities in the case of any relevant person who is involved in activities that may give rise to a conflict of interest, or who has access to inside information to other confidential information relating to clients:

1) entering into a personal transaction if it is prohibited pursuant to § 188⁶ of this Act or the transaction involves misuse of confidential information or the transaction conflicts or is likely to conflict with this Act;

2) if entry into a personal transaction is accompanied by providing recommendations to a third person for the conclusion of a securities transaction not related to the performance of the normal duties of or provision of investment services by the relevant person and if such activity would be covered by the provisions of clause 82⁵(5) 1) and subsection 87⁵(6) of this Act;

3) taking into account the provisions of clause 188⁶(1) 2) of this Act, if the relevant person discloses information to a third person in the course of activities not related to the performance of his or her normal duties or the provision of investment services and if the relevant person knows, or reasonably ought to know, that as a result of that disclosure that third person will enter into a securities transaction which would be covered by the provisions of subsection (1) of this section, clause 82⁵(5) 1) or 2) or subsection 87⁵(6) of this Act or advises or procures a third person to enter into such a transaction.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(5) An investment firm is required to take appropriate measures to ensure that:

- 1) each relevant person is aware of the procedure established on the basis of subsection (4) of this section and the restrictions contained therein and obligation of disclosure upon entry into personal transactions;
- 2) a system is applied on the basis of which the investment firm is informed promptly of any personal transaction entered into by a relevant person or which enables the investment firm to identify such transactions. Upon transfer of operations related to investment services to a third person, an investment firm shall ensure that the third person stores information on personal transactions entered into by relevant persons and provides that information to the investment firm promptly on request;

3) all information on personal transactions, including any authorisation or prohibition of the transactions, is stored. A separate record shall be kept of the above-mentioned information.

(6) Subsections (4) and (5) of this section shall not apply to the following personal transactions:

1) personal transactions effected under the provision of a securities portfolio management service where there is no prior communication in connection with the transaction between the investment firm and the relevant person or other person for whose account the transaction is executed;

2) personal transactions in units or shares of UCITS provided for in the Investment Funds Act or units or shares of other investment funds if the Supervision Authority or a financial supervision authority of another Contracting State exercises supervision over the investment fund and requirements for risk spreading in the investment of their assets equivalent to UCITS are applied and the relevant person and any other person for whose account the transactions are effected are not involved in the management of that investment fund.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82⁴. Managing and avoiding conflicts of interests

(1) An investment firm shall establish and implement legal, technical and organisational measures to identify, manage or prevent conflicts of interests in the investment firm upon the provision of investment and ancillary services, a conflict of interests of a person having a control relationship with the investment firm, conflicts of interests between the investment firm and a client or between clients and the adverse effect thereof on the interests of its clients. The abovementioned measures shall take into account the size and structure of the investment firm and the nature, scale and complexity of the business of the investment firm. An investment firm shall specify the abovementioned procedure by internal policies.

(2) The measures provided for in subsection (1) of this section shall include at least relevant persons in case of a conflict of interests in the investment firm and if the investment firm belongs to a consolidation group, any circumstances shall be taken into account of which the investment firm is or should be aware and which may give rise to a conflict of interests arising as a result of the structure and business activities of other members of the consolidation group.

(3) For the purposes of identifying the types of conflicts of interests that arise in the course of providing investment and ancillary services and whose existence may damage the interests of a client, investment firms shall take into account, by way of minimum criteria, the question of whether a relevant person or the investment firm, or a person who is in a control relationship with the firm, is in any of the following situations, whether as a result of providing investment or ancillary services or otherwise:

1) the investment firm or that person is likely to make a financial gain, or avoid a financial loss, at the expense of the client;

2) the investment firm or that person has an interest in the outcome of a service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client's interest in that outcome;

3) the investment firm or that person has a financial or other incentive to favour the interest of another client or group of clients over the interests of the client;

4) the investment firm or that person carries on the same business as the client;

5) the investment firm or that person receives or will receive from a person other than the client a benefit in relation to a service provided to the client, in the form of money, commodity or service, other than the standard commission or fee for that service and which is not permitted pursuant to § 85² of this Act.

(4) An investment firm shall notify a client of the general nature or source of conflicts of interest before the provision of investment or ancillary services if the measures taken by the investment firm specified in subsection (1) of this section do not guarantee avoiding damage to the interests of clients.

(5) The procedure for avoiding conflicts of interests established pursuant to subsection (1) of this section shall define:

1) the circumstances related to the specific investment services and ancillary services carried out by or on behalf of the investment firm, which constitute or may give rise to a conflict of interest entailing a material risk of damage to the interests of one or more clients;

2) specified rules to be followed and processes and measures to be applied in order to resolve conflicts of interests.

(6) The rules and measures specified in clause (5) 2) of this section shall ensure that the persons engaged in business activities involving a conflict of interests specified in clause (5) 1) of this section carry on those business activities in a way which manages the risk of damage to the interests of clients to the maximum possible extent. If an investment firm belongs to a consolidation group, the abovementioned rules and measures shall take into account the size and the extent of the activities of the consolidation group.

(7) The rules and measures specified in clause (5) 2) of this section shall include such of the following as are necessary and appropriate for the firm to ensure the requisite degree of independence of the investment firm:

1) procedures to prevent or control the exchange of information between relevant persons engaged in activities involving a risk of a conflict of interests where the exchange of that information may harm the interests of its clients;

2) the separate control of persons whose principal functions involve acting on behalf of, or providing services to clients whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the investment firm;

- 3) the removal of any direct link between the remuneration of relevant persons engaged in different activities or the revenues generated by them, where a conflict of interest may arise in relation to those activities;
- 4) procedures to prevent or limit any person from exercising inappropriate influence over the way in which a relevant person provides or carries out investment or ancillary services;
- 5) procedures to prevent or control the simultaneous or sequential involvement of a relevant person in separate investment or ancillary services where such involvement may impair the proper management of conflicts of interests.

(8) The notification of clients provided for in subsection (4) of this section shall be made in a durable medium and include sufficient detail, taking into account the type of the client.

(9) "Durable medium" means any instrument which enables a client to store information addressed personally to that client in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

(10) An investment firm shall keep and regularly update a record of the kinds of investment or ancillary services carried out or provided through the investment firm in which a conflict of interest entailing a material risk of damage to the interests of one or more clients has arisen or may arise.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82⁵. Additional organisational requirements to investment firms producing and disseminating investment research

(1) For the purposes of this Act, "investment research" means research or other information intended for distribution channels or for the public concerning the present or future value or price of securities recommending or suggesting an investment strategy concerning a security or the issuer of securities on the following conditions:

- 1) the information is labelled or described as investment research or in similar terms, or is otherwise presented as an objective or independent explanation;
- 2) if a certain recommendation is made by an investment firm to a client, it does not constitute the provision of investment advice for the purposes of clause 43 (1) 5) of this Act.

(2) The investment research provided for in this section is a type of investment recommendations provided for in § 188¹⁸ of this Act.

(3) In addition to investment research, the provisions of §§ 188¹⁸–188²⁷ of this Act shall be applied, unless otherwise provided in this section or § 82⁴ of this Act.

(4) An investment firm which produces, or arranges for the production of investment research that is intended to be disseminated to clients of the investment firm or to the public shall ensure the implementation of the measures and procedure provided for in subsections 82⁴(7) and (8) of this Act in relation to the persons involved in the production of the investment research (hereinafter *financial analysts*) and other connected persons whose responsibilities or business interests may conflict with the interests of the persons to whom the investment research is disseminated.

(5) Investment firms covered by subsection (4) of this section shall implement a procedure the aim of which is to ensure that the following conditions are satisfied:

- 1) financial analysts and other relevant persons must not undertake personal transactions or trade on behalf of any other person, including the investment firm, in securities to which investment research relates, or in any related securities, with knowledge of the likely timing or content of that investment research which is not publicly available or available to clients and cannot readily be inferred from information that is so available, until the recipients of the investment research have had a reasonable opportunity to act on it;
- 2) persons involved in the production of investment research must not undertake personal transactions in securities to which the investment research relates, or in any related securities, contrary to current recommendations, except in exceptional circumstances and with the prior approval of the person performing the conformity inspection function of the investment firm;
- 3) persons involved in the production of the investment research must not accept benefits in cash or in kind from those with a material interest in the subject-matter of the investment research;
- 4) persons involved in the production of the investment research must not promise issuers research coverage which is more favourable than the real terms;
- 5) issuers and any other persons other than financial analysts, are not, before the dissemination of investment research, permitted to review a draft of the investment research for the purpose of verifying the accuracy of factual statements made in that research, or for any other purpose other than verifying compliance with the investment firm's legal obligations, if the draft includes a recommendation or a target price.

(6) The provisions of clause (5) 1) of this section shall not be applied if a financial analyst or any other connected person undertakes transactions as a market maker acting in good faith and in the ordinary course of market making or in the execution of an unsolicited client order.

(7) For the purposes of subsection (5) of this section, "related security" means a security which price is closely affected by the price or price changes of another security which is the subject of investment research, and includes a derivative on that other security.

(8) If an investment firm disseminates investment research produced by a third person to the public or to its clients, the investment firm shall be exempt from complying with the requirements provided for in subsection (4) of this section if the following criteria are met:

- 1) the person that produces the investment research is not a member of the consolidation group to which the investment firm belongs;
- 2) the investment firm does not substantially alter the recommendations within the investment research;
- 3) the investment firm does not present the investment research as having been produced by it;
- 4) the investment firm verifies that the producer of the research is subject to requirements equivalent to the requirements under this Act in relation to the production of that research, or has established a policy setting such requirements.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82⁶. Outsourcing of operations related to investment services

(1) For the better performance of its duties, an investment firm has the right to outsource operations related to investment services to third parties (hereinafter in this section *outsourcing*).

(2) An investment firm shall establish the outsourcing procedure by internal policies and the outsourcing shall meet the following conditions:

- 1) it must not damage the interests of the clients of the investment firm or the investment firm;
- 2) it must not prevent the activities of the investment firm or sufficient supervision over the investment firm;
- 3) the outsourcing must not result in the delegation by the managers of the investment firm of its responsibility;
- 4) the relationship and obligations of the investment firm towards its clients must not be altered due to such outsourcing;
- 5) the third party to whom the operations are outsourced has the necessary qualifications and the ability to perform the functions assumed thereby and the investment firm has the right to supervise the operations of the third person which are related to the provision of investment services;
- 6) the outsourcing must not undermine the conditions with which the investment firm must comply in order to be authorised in accordance with this Act and to remain so;
- 7) the outsourcing must not remove or modify any other conditions subject to which the authorisation was granted to the investment firm;
- 8) other requirements arising from and established on the basis of this Act are met.

(3) Upon outsourcing of operational functions or any other operations related to investment services an investment firm shall remain fully responsible for the performance of an outsourced function or the compliance of the outsourced activities under this Act and legislation established on the basis thereof.

(4) An important operational function or operation is an operation the failure to perform or inadequate performance of which would materially impair the compliance of the investment firm with the requirements prescribed by this Act, the requirements of legislation issued on the basis thereof or with the conditions and obligations of its authorisation, or its financial performance, or the soundness or the continuity of its investment services.

(5) The following functions or operations shall not be considered as important:

- 1) the provision to the investment firm of advisory services, and other services which do not form part of the investment business of the investment firm, including the provision of legal advice to the investment firm, the training of personnel of the investment firm, submitting and handling bills and the security of the firm's premises and personnel;
- 2) the purchase of standardised services, including market information services and the provision of price feeds.

(6) An investment firm shall exercise due skill, care and diligence when entering into, performing or terminating any contract for outsourcing of operations related to important functions or investment services.

(7) An investment firm shall take measures for outsourcing to ensure that the following conditions are satisfied:

- 1) the provider of the outsourced service (hereinafter *service provider*) must have the ability, capacity and any authorisation required by legislation to perform the functions, provide the services or perform the activities reliably and professionally;
- 2) the service provider shall carry out the services effectively, and the investment firm shall establish methods for assessing the standard of performance of the service provider and measure the performance of the service provider on the basis of it;
- 3) the service provider shall sufficiently supervise the provision of the outsourced services, and adequately manage the risks associated with the activities;

- 4) the investment firm shall take appropriate measures for proper performance of the outsourced operations, if the service provider does not perform its functions as required;
- 5) the investment firm must retain the necessary expertise to supervise the outsourced services effectively and manage the risks associated with the service provider and the investment firm shall supervise those services and manage those risks;
- 6) the service provider shall notify the investment firm of any circumstances that may have a material impact on its ability to carry out the outsourced functions effectively and in compliance with the requirements;
- 7) the investment firm has the right to terminate the contract for outsourcing where necessary giving reasonable advance notice, without detriment to the continuity and quality of its provision of services to clients;
- 8) the service provider shall cooperate with the Supervision Authority or a securities market supervisory agency of another state in connection with the provision of services, if necessary;
- 9) the investment firm, its auditors and the Supervision Authority or a securities market supervisory agency of another state shall have access to data related to the outsourced operations, as well as to the business premises of the service provider; and the Supervision Authority or a securities market supervisory agency of another state shall be able to exercise those rights of access;
- 10) the service provider shall protect any confidential information relating to the investment firm and its clients;
- 11) the investment firm and the service provider shall implement legal, technical and organisational measures to ensure continuity and regularity in provision of investment services by taking into account the nature of the outsourced operations, establish, implement and maintain a business continuity plan prescribing periodic testing of backup processes and systems.

(8) Upon outsourcing of operations to an undertaking belonging to the same consolidation group, the investment firm may, for the purposes of complying with the requirements of this section, take into account the extent to which the investment firm controls the service provider or has the ability to influence its actions.

(9) If an investment firm wishes to outsource the provision of securities portfolio management services provided to retail clients to a service provider of a third country, the investment firm shall ensure that, in addition to the requirements set out in this section, the following conditions are satisfied upon outsourcing:

- 1) the service provider shall be authorised or registered in its home country to provide that outsourced service and shall be subject to sufficient prudential supervision;
- 2) a cooperation agreement is entered between the Supervision Authority and the third country supervisory authority of the service provider.

(10) If the conditions mentioned subsection (9) of this section are not satisfied, an investment firm may outsource the provision of investment services to a service provider located in a third country only if the investment firm gives prior notification to the Supervision Authority about the outsourcing arrangement and the entry into contract and the Supervisory Authority does not object to that arrangement within 30 days following receipt of that notification.

(11) The Supervision Authority shall publish on its website a list of the supervisory authorities in third countries with which they have cooperation agreements enabling sufficient supervision over the service provider.

(12) The Supervision Authority has the right to issue a precept in order to demand termination of the outsourcing of operations related to investment services to a specific person, or to demand termination of all contracts entered into between the investment firm and third parties for the outsourcing of operations.

(13) The Supervision Authority may issue the precept specified in subsection (12) of this section, if:

- 1) the third party lacks the qualifications needed for the conduct of the operations related to the activities of the investment firm;
- 2) the legitimate interests of clients of the investment firm are violated or there is a danger of such violation;
- 3) the securities market supervisory agency of a third country which exercises supervision over a person of a third country has no legal basis or possibilities for cooperation with the Supervision Authority;
- 4) a third party to which the operations of the investment firm are outsourced does not comply with the requirements necessary for the performance of the operations outsourced thereto;
- 5) other conditions specified in this section are violated.

(14) The Supervision Authority shall publish guidelines providing the principles of permissible service outsourcing practices on the basis of subsection (10) of this section which shall set out examples of cases where the Supervision Authority does not object to such outsourcing. The guidelines shall include an explanation of why outsourcing in such cases does not impair the ability of the investment firm to perform the obligations provided for in this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82⁷. Settlement of client complaints

An investment firm shall establish a well functioning and transparent procedure for reasonable and expeditious settlement of complaints received from retail clients and potential retail clients, and register and store the complaints and the information concerning the action taken for the settlement of the complaints.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 82⁸. General conditions for submission of information to clients and procedure for communication of information

(1) If pursuant to this Act an investment firm is required to provide information in a durable medium, the information shall be submitted on paper, unless:

- 1) the provision of information in another medium is appropriate taking into account the context of business between the investment firm and the client and the provision of investment and ancillary services;
- 2) the client chooses the provision of information in a data medium other than on paper.

(2) Submission of information in a format which can be reproduced in writing is considered appropriate if the investment firm can assume that the client has regular access to the Internet. An investment firm can assume that the client has regular access to the Internet, if before the provision of investment or ancillary services or at the time of entry into the relevant contract the client provides the investment firm with his or her e-mail address.

(3) If an investment firm submits information to the client provided for in subsection 87⁴(7) of this Act by means of a website and the information is addressed to the general public, the following requirements shall be met:

- 1) the provision of information on a website shall comply with the business between the client and the investment firm and the provision of investment and ancillary services;
- 2) the client shall consent to the provision of the relevant information only on a website;
- 3) the client shall be notified of the address of the website in a format which can be reproduced in writing;
- 4) the information shall be up to date;
- 5) the information concerning the best compliance with earlier and valid client orders shall be accessible continuously by means of that website for such period of time as the client may reasonably need to inspect it.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 83. Internal control mechanisms

An investment firm shall have in place adequate internal control mechanisms which aim is to ensure the compliance of its activities with applicable rules and adopted resolutions at all the management and operation levels of the investment firm. The internal control mechanisms shall include at least the conformity inspection function and, if it exists, the activities of an internal audit unit.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 83¹. Conformity inspection function

(1) An investment firm shall establish and implement legal, technical and organisational measures in order to carry out independent conformity inspection in connection with the investment operations and the provision of investment services.

(2) In order to carry out conformity inspection, an investment firm shall establish principles of action and rules for identifying, managing or prevention of the legal risks of failure to perform obligations arising from this Act and legislation issued on the basis thereof and other risks related thereto in connection with investment operations and provision of investment services. The nature, scale and complexity of the business of the investment firm and the extent and nature of the provided investment services shall be taken into account upon the establishment of the abovementioned principles of action and rules.

(3) The principles of action and rules specified in subsection (2) of this section shall enable the Supervision Authority to perform efficiently the functions of supervisory control provided for in this Act.

(4) An investment firm shall prescribe the conformity inspection function which shall be performed consistently and effectively by an independent conformity inspection body who shall:

- 1) monitor and evaluate regularly the appropriateness and efficiency of the measures taken for elimination of deficiencies upon the implementation of the principles of action and rules established pursuant to subsection (2) of this section and the performance of the obligations of the investment firm;
- 2) advise the relevant persons responsible for the provision of investment services and investment operations in the issues related to the performance of the obligations provided for in this Act;
- 3) submit reports pursuant to subsection 81¹(6) of this Act.

(5) The management board of an investment firm shall ensure that the conformity inspection body has the rights and working conditions necessary to perform its duties and access to the information required for the performance of the conformity inspection function, including the right to obtain explanations and information from the managers of the investment firm and to observe the elimination of any deficiencies discovered and compliance with any precepts issued.

(6) A conformity inspection body is required to forward any information concerning the investment firm which becomes known to it and which indicates a violation of law or damage to the interests of clients to the managers of the investment firm and to the Supervisory Authority.

(7) A conformity inspection body shall not provide services or perform operations, over which the conformity inspection body exercises supervision and the bases and procedure for the remuneration of the conformity inspection body shall not compromise its objectivity.

(8) The obligations provided for in subsection (7) of this section need not be complied with if the investment firm can prove that the above-mentioned obligation is not proportional taking into account the nature, scale and level of complexity of its business and the nature and scale of the investment services and operations and that the performance of the conformity inspection functions of the investment firm is effective in practice without the performance of the relevant obligation.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 83². Internal audit unit

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(1) An investment firm shall establish legal, technical and organisational measures for carrying out the duties of the internal audit unit and implement these, if it is necessary and proportionate taking into account the nature, extent and complexity of the activities of the investment firm. An investment firm shall determine by the internal rules for internal auditing the procedure for carrying out the duties of the internal audit unit.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(2) The person carrying out the duties of the internal audit unit and the conditions of the contract to be entered into with such person shall be specified by the supervisory board of the investment firm. The person carrying out the duties of the internal audit unit shall be governed by the requirements and the legal bases for the activities established for a certified internal auditor internal in the Auditors Activities Act.

[RT I 2010, 9, 41 - entry into force 01.01.2015 (entry into force amended RT I, 23.12.2013, 4)]

(3) The primary duty of the person carrying out the duties of the internal audit unit is to:

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

1) establish and implement an internal audit programme for the examination and assessment of the appropriateness and efficiency of the processes and systems of the investment firm, including the internal audit system;

2) give recommendations based on the results of the work performed pursuant to clause 1) of this subsection and observe compliance with the recommendations;

3) submit reports to the managers of the investment firm pursuant to subsection 81¹(6) of this Act.

(4) The management board of an investment firm shall ensure that the person carrying out the duties of the internal audit unit has the rights and working conditions necessary to perform his or her duties, including the right to obtain explanations and information from the managers of the investment firm and the right to observe the elimination of any deficiencies discovered and compliance with any precepts issued.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(5) The person carrying out the duties of the internal audit unit is required to forward any information concerning the investment firm which becomes known to him or her and which indicates a violation of law or damage to the interests of clients to the managers of the investment firm and the Supervision Authority.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

Chapter 10 REQUIREMENTS FOR ACTIVITIES OF INVESTMENT FIRMS

§ 84. Application of this Chapter

(1) The requirements for investment firms established in this Chapter also apply to investment firms registered in a foreign state which provide investment services to persons whose place of residence or location is in Estonia unless otherwise provided for in this Act concerning investment firms registered in a Contracting State.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The requirements for investment firms established in this Chapter do not apply to investment firms registered in a Contracting State specified in subsection (1) of this section who provide investment services solely in a foreign state and whose investment services are not offered to persons in Estonia.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) Investment services are deemed as being offered to persons in Estonia if the services are advertised in Estonia or if the manner of the offer or the contents thereof, including the language of the offer, enable the conclusion to be made that the offer is aimed at persons whose residence or location is in Estonia.

§ 85. General obligations of investment firms

(1) Upon the provision of investment services and ancillary services, an investment firm is required to:

- 1) provide services lawfully with due professionalism, precision and care, proceeding primarily from the best interests of the client;
- 2) to take the reliable and regular operation of the securities market into consideration when pursuing its activities;
- 3) comply with the provisions of his Act and legislation established on the basis thereof and its internal policies;
- 4) determine the client's experience for operating in securities market and knowledge of financial market and the intended investment services by classifying clients on the basis of the provisions of §§ 46 and 46¹ of this Act;
- 5) inform the client sufficiently of the nature of the investment services and the risks relating thereto;
- 6) assess the suitability and appropriateness of the client to consume the desired investment service;
- 7) execute the client's order in the best manner and handle the client's order pursuant to the provisions of this Act and legislation established on the basis thereof;
- 8) hold and protect the client's money and securities deposited with or placed at the disposal of the investment firm;
- 9) regularly provide information to the client concerning the provision of investment services;
- 10) register and store the information collected upon the provision of investment services and required to be registered and stored by this Act and legislation established on the basis thereof and by Commission Regulation 1287/2006/EC;
- 11) settle the client's complaints concerning the provision of investment services as expeditiously and transparently as possible;
- 12) ensure the continuous existence of financial resources necessary for the activities of the investment firm;
- 13) apply effective organisational and administrative measures in order to avoid a conflict of interests in connection with production and dissemination of investment recommendations, including investment research, and publish these on its website;
- 14) publish on its website, each quarter, the proportion of the recommendations for acquisition, transfer and custody of securities and other similar investment recommendations separately in all investment recommendations provided during the same period, and the proportion of issuers to whom the investment firm has, to a material extent, provided investment services or ancillary services specified in clauses 43 (1) 6) and 7) and 44 3)-6) of this Act (hereinafter *investment banking services*) during the last twelve months in each aforementioned category of investment recommendations.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(2) If an investment firm provides recommendations in the framework of investment advice regarding a unit-linked life insurance contract, investment deposit or units of voluntary pension fund or if an investment firm operates in offering a unit-linked life insurance contract, investment deposit or units of voluntary pension fund as insurance intermediary or on behalf of a credit institution, management company or account administrator, the investment firm shall provide the necessary information and assess the suitability of the contract, deposit or aforementioned units for the client and potential client pursuant to the provisions of the Insurance Activities Act, the Credit Institutions Act or the Funded Pensions Act.

[RT I, 24.03.2011, 1 - entry into force 01.08.2011]

§ 85¹. Provision of investment services through the medium of another investment firm

An investment firm may rely on the recommendations and advice provided to the client by another investment firm in respect of a service or transaction if the other investment firm has authorised the investment firm to provide investment or ancillary services to a client or on behalf of a client. The investment firm which provides information to the client shall be responsible to the client for the accuracy, precision and completeness of the information and the appropriateness and correctness of the recommendations or advice, except for the accuracy and precision of information and the appropriateness and correctness of the recommendations or advice provided to him or her by the other investment firm.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 85². Payment for investment services

(1) An investment firm shall not provide investment services to a client in such a manner that the investment firm pays or receives monetary or non-monetary remuneration upon the provision of investment or ancillary services:

- 1) otherwise than directly from the client or the client's representative;
- 2) other than those strictly necessary for the provision of the investment services;
- 3) which by their nature or proceeding from their functions creates a conflict of interests between the investment firm and the client.

(2) An investment firm has the right to pay remuneration to or receive remuneration from a third person or the representative of a third person in connection with the provision of investment or ancillary services to a client in the case specified in clause (1) 1) of this section if:

- 1) the investment firm informs the client of the existence, nature and amount of or, if the amount is not specified, the methods for calculation of the remuneration, in an understandable, correct, precise and complete manner before the provision of the relevant investment or ancillary service;
- 2) such a remuneration improves the quality of the service provided to the client and does not damage the client's interests.

(3) Fees which enable to provide investment services or which are required for the provision of investment services, in particular, fees related to the safekeeping and administration of securities, settlement and transfer fees, fees related to regulated market, supervision fees, state fees, legal fees and other fees similar to those specified which proceeding from their nature do not cause a conflict of interests between the client and the investment firm upon honest, professional provision of investment services proceeding from the best interests of the client shall not be deemed to be remuneration provided for in subsection (1) of this section.

(4) The information provided for in clause (2) 1) of this section may be presented to a client as a summary. At the request of a client, an investment firm is required to disclose also further details of the remuneration.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 85³. Retail client agreement

(1) Upon the provision of investment or ancillary services to a retail client, except in the case of provision of investment advice, an investment firm shall enter into an agreement with a retail client in writing or in a format which can be reproduced in writing (hereinafter *retail client agreement*). The retail client agreement shall provide the general principles for relationship between the investment firm and the client, the procedure for communication between the investment firm and the client and general conditions for transactions and operations between the investment firm and the client. The retail client agreement shall prescribe, among other matters, the procedure for and terms of resolution of disputes between the investment firm and its client and the contact details of competent supervision authority, to which the client may file a complaint regarding the activity of the investment firm. The rights and obligations of the parties may be incorporated in the retail client agreement by reference to other documents or provisions of legal acts.
[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(2) A retail client agreement shall also be entered into if a professional client or an eligible counterparty is treated as a retail client.

(3) Failure to comply with a formal requirement provided for in subsection (1) of this section shall not render the agreement void.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 86. Notifying client

(1) A client of an investment firm has the right to access all information subject to mandatory disclosure and the investment firm is required to present such information to the client at the request thereof.

(2) The information presented to a client and potential client by an investment firm shall be understandable, timely, precise and complete.

(3) Information concerning the investment service provided and the nature and risks of the securities related to it shall be presented in a form enabling a client or potential client to make a carefully considered investment decision, whereas it is not permitted to emphasise any potential benefits of an investment service or security without clear indication of any risks related to that investment service or security. Upon the presentation of information, a client or potential client shall be allowed sufficient time for the examination of the information.

(4) An investment firm shall provide the relevant information in a durable medium.

(5) At the request of a client or potential client, an investment firm is required to provide information to the client:

- 1) on shareholders having a qualifying holding in the investment firm (with regard to legal persons at least the business name and the registry code if applicable; with regard to natural persons at least the given name and surname, and personal identification code or date of birth in the absence of a personal identification code) and the size of their holding in the share capital of the investment firm;
- 2) on the legal form, organisational structure and accessibility of the annual financial report of the investment firm;
- 3) on managers of the investment firm (given name and surname, personal identification code or date of birth in the absence of a personal identification code, educational background, and a complete list of places of employment and positions held during the last five years);

- 4) on the functions of the members of the management board of the investment firm;
- 5) on the investment and ancillary services provided.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 87. Notification upon provision of services

Upon the provision of services, an investment firm is required:

- 1) to inform the client or potential client of belonging to a certain type of clients and request information from its clients or potential clients regarding their knowledge of or experience in investment services and ancillary services, and regarding the goals and circumstances related to these services;
- 2) to submit to its clients or potential clients all relevant information pertaining to transactions which are being contemplated and risks related thereto, taking into account the interests and expertise of the client or potential client and the type and volume of the transactions which are being contemplated without hiding or reducing the important components, confirmations and warnings of the information;
- 3) to submit to its clients or potential clients information on the securities and the proposed investment strategy related to the provision of investment and ancillary services, including guidance on and warnings of the risks;
- 4) to submit to its clients or potential clients information on execution venues of orders;
- 5) to submit to its clients or potential clients information on costs and charges associated with the service;
- 6) to notify the client or potential client of the investor protection scheme applicable;
- 7) to inform the client of any situation where the client is the other party to a transaction conducted on the basis of the client's transaction order, unless the investment firm and the client have expressly agreed otherwise in writing;
- 8) upon the request of the client, to provide the client at least once every three months with information regarding the transactions conducted with the assets of the client when managing the securities portfolio, and regarding the value of the assets, the composition of the securities portfolio and other circumstances related to the provision of services.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 87¹. Assessment of suitability and appropriateness of investment services

(1) An investment firm shall assess the suitability and appropriateness of the relevant service and security to a client or a potential client before the provision of investment services.

(2) In order to recommend an investment service or security suitable for the client or potential client upon provision of investment advice or securities portfolio management, an investment firm shall obtain necessary information concerning the knowledge and experience of the person in connection with the specific type of service and security and the financial situation and investment objectives of the person before providing the service. The information is necessary for an investment firm to understand the specifications arising from the classification of a client and to have a reasonable basis for believing, giving due consideration to the nature and extent of the investment service provided, that the specific transaction to be recommended, or entered into in the course of providing a securities portfolio management service, satisfies the following criteria:

- 1) the client has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his or her securities portfolio;
- 2) the client's financial capability complies with the investment objectives and investment risks related to the transaction;
- 3) the transaction meets the investment objectives of the client.

(3) Upon the provision of investment services other than provision of investment advice or securities portfolio management an investment firm when assessing the appropriateness is required to determine whether the client has the necessary experience and knowledge in order to understand the risks involved in relation to the product or investment service offered or demanded by the client. In order to assess it, an investment firm shall request the client or potential client to submit information regarding the client's or potential client's knowledge and experience in the investment field related to the specific type of investment services offered or demanded.

(4) Pursuant to the provisions of clause (2) 1) and subsection (3) of this section, the information received by an investment firm regarding the client's or potential client's knowledge and experience in the investment field shall comprise information on the type of the client, the nature and extent of the investment service to be provided, the type of product or transaction envisaged including their complexity and the risks involved and include the following:

- 1) the types of services, transactions and securities with which the client is sufficiently familiar;
- 2) the nature, volume, and frequency of the client's earlier transactions in securities and the period over which they have been carried out;
- 3) the level of education, and profession or relevant former profession of the client or potential client.

(5) Pursuant to the provisions of clause (2) 2) of this section, the information regarding the financial capability of the client or potential client shall include, where possible, primarily information on the source and amount of his or her regular income, his or her assets, including liquid assets, investments and real property, and his regular financial commitments.

(6) Pursuant to the provisions of clause (2) 3) of this section, the information required for determining the investment objectives of the client or potential client shall include, where possible, primarily information on the

length of time for which the client wishes to hold the investment, his or her preferences regarding risk tolerance, his or her risk profile, and the purposes of the investment.

(7) Where an investment firm provides an investment advice or securities portfolio management service to a professional client it shall be entitled to assume that, in relation to the products, transactions and services for which it is so classified, the client has the necessary level of experience and knowledge specified in clause (2) 1) of this section.

(8) Where that investment service consists in the provision of investment advice to a professional client, the investment firm shall be entitled to assume for the purposes of clause (2) 2) of this section that the client is able financially to bear any risks related to investment services consistent with the investment objectives of that client.

(9) Upon the assessment of the appropriateness of investment services other than provision of investment advice or securities portfolio management service the investment firm shall be entitled to assume that a professional client has the necessary experience and knowledge in order to understand the risks involved in relation to those particular investment services or transactions, or types of transaction or product, for which the client is classified as a professional client.

(10) An investment firm shall not recommend investment services or securities to a client or potential client if upon the provision of investment advice or securities portfolio management service the investment firm does not receive information from the client or potential client concerning the following circumstances which would enable the investment firm to recommend to the client or potential client the investment services and securities suitable for him or her:

- 1) the client's or potential client's knowledge and experience related to the specific type of product or service;
- 2) the financial capability of the client or potential client;
- 3) the investment objectives of the client or potential client.

(11) An investment firm shall warn the client of the unsuitability of an investment service or security if the investment firm finds on the basis of the received information that the product or service is not appropriate for the client.

(12) An investment firm shall warn the client in case of failure to submit or submission of incomplete information of the difficulty or impossibility of the investment firm to determine whether a proposed investment service or security is appropriate for the client.

(13) An investment firm shall not encourage a client or potential client not to provide information required for the assessment of the suitability or appropriateness of an investment service or security or favour such failure to submit the information.

(14) An investment firm shall be entitled to rely on the information provided by its clients or potential clients upon the assessment of the suitability or appropriateness of an investment service or security unless the investment firm is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 87². Failure to assess the suitability and appropriateness in case of certain investment services

(1) An investment firm need not perform the duties provided for in § 87¹ of this Act upon the provision of investment services provided for in clause 43 (1) 1) or 2) of this Act together with or without the provision of ancillary services, if all the following conditions are complied with:

- 1) the provision of investment or ancillary services is connected with money market instruments, bonds not embedding derivatives or other forms of securitised debt, UCITS units or shares, shares admitted to trading on a regulated market or on an equivalent third country market and other non-complex securities;
- 2) the investment or ancillary service is provided at the initiative of the client or potential client;
- 3) an investment firm has clearly informed the client or potential client that in the provision of the investment service the investment firm is not required to assess the suitability of the security or investment or ancillary service provided or offered and that therefore the interests of the client may be less protected.

(2) A regulated third country market specified in clause (1) 1) of this Act is a market which complies with requirements equivalent to those established under Part IV of this Act.

(3) A non-complex security specified in clause (1) 1) of this section is a security which meets the following conditions:

- 1) it is a security, except a convertible security, not provided for in clauses 2 (1) 3) and 6) of this Act;

- 2) the security may be transferred, redeemed or otherwise realised within a sufficiently short period of time at the market price publicly available to market participants or at the price made available by the valuation systems independent of the issuer of securities;
 - 3) the security does not involve any liability for the client which value exceeds the price of the security at the moment of acquiring the security;
 - 4) comprehensive information on the characteristics of the security is publicly available and is readily understood so as to enable the average retail client to make a carefully considered judgment as to whether to enter into a transaction in that security.
- [RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 87³. Best execution of client orders

(1) An investment firm shall establish and implement legal, technical and organisational measures for best execution of client orders. An investment firm shall determine the procedure and rules for best execution of client orders by internal policies.

(2) An investment firm shall execute a client order in the best possible manner for the client pursuant to rules for best execution of client orders applied in the investment firm by taking into account the price, costs, speed, likelihood of execution and settlement, size, nature or any other circumstances relevant to the execution of the order. If there is a specific instruction from the client the investment firm shall execute the order following the specific instruction.

(3) At the request of a client, an investment firm is required to prove to the client that the investment firm has executed the client's order in compliance with the rules for best execution of client orders applied in the investment firm.

(4) When executing client orders, an investment firm shall take into account the following information for determining the importance of the factors referred to in subsection (2) of this section:

- 1) the characteristics of the client including the categorisation of the client as retail or professional;
- 2) the characteristics of the client order;
- 3) the characteristics of securities that are the subject of that order;
- 4) the characteristics of the execution venues to which that order can be directed.

(5) For the purposes of this Act, "execution venue" means a regulated market, an MTF, a systematic internaliser, or a market maker or other liquidity provider or a third country person that performs a similar duty or function to the duties or functions performed by any of the foregoing persons.

(6) An investment firm shall perform its obligation under subsection (2) of this section by taking all reasonable steps to obtain the best possible result for a client upon execution of an order or a specific aspect of an order by following specific instructions from the client relating to the order or the specific aspect of the order.

(7) Where an investment firm 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 security and the costs related to execution, which shall include all expenses incurred by the client which are directly related to the execution of the order, including execution venue fees, settlement fees and any other fees paid to third parties involved in the execution of the order.

(8) If there are several competing venues to execute an order, the investment firm shall compare and assess the results for the client that would be achieved on each of the execution venues listed in the investment firm's rules for best execution of client orders that is capable of executing that order. Upon the comparison and assessment of execution venues an investment firm shall take into account the firm's own commissions and costs for executing the order on each of the execution venues.

(9) It is not permitted for an investment firm to group or structure or charge their commissions in such a way as to discriminate unfairly between execution venues.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 87⁴. Rules for best execution of client orders

(1) The rules for best execution of client orders shall include, in respect of each class of securities information on the different regulated markets and other execution venues where the investment firm executes its client orders and the circumstances determining the choice of execution venue.

(2) An investment firm shall disclose the rules for best execution of client orders to the client or potential client. An investment firm shall notify a client of any material changes in the rules for best execution of client orders.

(3) An investment firm shall inform clearly its clients about the possibility to execute client orders outside a regulated market or an MTF if the rules for best execution of client orders provide for such a possibility.

(4) An investment firm may accept a client's order for execution only after obtaining of consent from the client with respect to the rules for best execution of client orders.

(5) The client's consent specified in subsection (4) of this section may be obtained each time before the execution of an order or be included in the contract entered into with the client.

(6) An investment firm shall review the rules for best execution of client orders at least once a year and amend and update them if deficiencies become evident. In addition, these shall be reviewed each time a substantial change takes place which damages the ability of the investment firm to achieve the best possible results upon the execution of client orders by using the execution venues prescribed by the procedure for execution of orders. Upon reviewing and determination of the need therefor the quality with which the persons provided in the rules perform their functions shall also be assessed.

(7) An investment firm shall provide retail clients with the following data and information on the rules for best execution of client orders within a reasonable period of time prior to the provision of the service:

1) an account of the relative importance the investment firm assigns, in accordance with the criteria specified in subsection 87³(4) of this Act, to the factors referred to in subsection 87³(2) of this Act, or the process by which the firm determines the relative importance of those factors;

2) a list of the execution venues on which the firm places significant reliance in meeting its obligation to take all reasonable steps to obtain on a consistent basis the best possible result for the execution of client orders;

3) a clear and prominent warning that any specific instructions from a client may prevent the investment firm from taking the steps that it has designed and implemented in its rules for best execution of client orders to obtain the best possible result for the execution of those orders in respect of the elements covered by those instructions.

(8) The information specified in subsection (7) of this section shall be provided in a durable medium, or by means of a website.

(9) An investment firm is required, taking account of the provisions of §§ 86–87² and 89¹ and subsection 90 (1) of this Act, to act in compliance with the best interests of the client when transmitting orders with third persons for execution if the investment firm provides an investment service of reception and transmission of an order related to securities or if an order is placed for execution upon the provision of securities portfolio management service and on the basis of the decision to perform a transaction with securities on behalf of the client.

(10) Upon compliance with the provisions of subsection (9) of this section, an investment firm shall establish and implement the measures provided for in subsections (12) – (14) of this section.

(11) An investment firm shall take all reasonable steps to obtain the best possible result for its clients taking into account the factors referred to in subsection 87³(2) of this Act. The relative importance of these factors shall be determined by reference to the criteria set out in subsection 87³(4) of this Act and, for retail clients, to the requirements under subsections 87³(7) and (8) of this Act.

(12) An investment firm is not required to take and implement the steps mentioned in subsection (11) of this paragraph when it follows specific instructions from its client when placing an order with, or transmitting an order to, a third person for execution.

(13) The rules for best execution of client orders shall enable the investment firm to comply with the obligations provided for in subsection (11) of this section. The rules shall identify, in respect of each class of securities, the persons with whom the orders are placed or to whom the investment firm transmits orders for execution. The persons identified must have execution arrangements that enable the investment firm to comply with its obligations under this section when it places or transmits orders to that entity for execution.

(14) The provisions of subsections (9) – (13) of this section shall not apply when the investment firm that provides the service of securities portfolio management or reception and transmission of orders itself executes the orders received from the client upon the provision of the above-mentioned investment services. In those cases, the provisions of § 87³ of this Act apply.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 87⁵. Handling client orders

(1) An investment firm shall establish and implement legal, technical and organisational measures for expeditious and impartial execution of client orders as compared to other client orders or the trading interests of the investment firm. An investment firm shall establish the procedure for ensuring it by internal policies.

(2) An investment firm shall execute otherwise comparable client orders in accordance with the time of their reception for execution by the investment firm.

(3) An investment firm shall apply increased care for managing the risks of damage to the interests of clients upon aggregation and allocation of client orders.

(4) An investment firm shall satisfy the following conditions when carrying out client orders:

- 1) it must ensure that orders executed on behalf of clients are promptly and accurately recorded and allocated;
- 2) it must carry out otherwise comparable client orders sequentially and promptly unless the characteristics of the order or prevailing market conditions make this impracticable, or the interests of the client require otherwise;
- 3) it must promptly inform a retail client about any material difficulty relevant to the proper carrying out of orders.

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

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

(7) An investment firm is not permitted to carry out a client order or a transaction for own account in aggregation with another client order unless the following conditions are met:

- 1) it is unlikely that the aggregation of orders and transactions will work overall to the disadvantage of any client whose order is to be aggregated;
- 2) it must be disclosed to each client whose order is to be aggregated that the effect of aggregation may work to its disadvantage in relation to a particular order;
- 3) an investment firm shall establish and implement order allocation principles, providing in sufficiently precise terms for the fair allocation of aggregated orders and transactions, including how the volume and price of orders determines allocations and partial executions.

(8) Where an investment firm aggregates an order with one or more other client orders and the aggregated order is partially executed, it allocates the related trades in accordance with its order allocation principles.

(9) Investment firms which have aggregated transactions for own account with one or more client orders shall not allocate the related trades in a way that is detrimental to a client.

(10) Where an investment firm aggregates a client order with a transaction for own account and the aggregated order is partially executed, it allocates the related trades to the client in priority to the investment firm.

(11) If the investment firm is able to demonstrate that without the combination it would not have been able to carry out the order on such advantageous terms, or at all, it may allocate the transaction for own account proportionally, in accordance with its order allocation principles referred to in clause (7) 3) of this section.

(12) An investment firm shall, as part of the order allocation principles referred to in clause (7) 3) of this section establish rules designed to prevent the reallocation, in a way that is detrimental to the client, of transactions for own account which are executed in combination with client orders.

(13) An investment firm is required to retain the records which set out the respective rights and obligations of the investment firm and the client under a contract to provide investment or ancillary services, or the terms on which the investment firm provides the services to the client for at least the duration of the contractual relationship or other legal relationship related to the provision of investment or ancillary services with the client. [RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 87⁶. Disclosure of limit orders

(1) An investment firm shall promptly disclose to other market participants client limit orders in respect of each share that is admitted to trading on a regulated market that are not immediately executable under existing market conditions unless the client provides other instructions.

(2) Articles 31 and 32 of Commission Regulation (EC) No 1287/2006 apply to disclosure of information regarding the part not regulated by subsection (1) of this section.

(3) The Supervision Authority has the right to exempt an investment firm from the obligation provided for in subsection (1) of this section for one or several times or permanently if pursuant to Articles 20 and 33 of Commission Regulation (EC) No 1287/2006 and in the opinion of the Supervision Authority, the limited order is large in scale for the market as compared to normal order.

(4) A limited order is an order for purchasing or selling securities where the volume and price of the securities or the minimum accepted price is determined by concrete numerical indices. [RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88. General requirements for maintenance and protection of assets of client

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1) An investment firm is required to keep the assets of the client entrusted to it separate from its own assets and those of other clients of the investment firm, unless the investment firm and the client have expressly agreed

otherwise in writing. The express written agreement of the client is also necessary to hold the securities of the client in a nominee account.

(2) An investment firm is required to take adequate measures to protect assets belonging to the client and the rights of the client and to ensure that the assets of the client are maintained and invested in accordance with the agreed conditions.

(3) An investment firm is not permitted to use securities belonging to a client in its own interests, excluding the case when the client has expressly agreed to this in writing. The client's money may be used in own interests exclusively for the account and in the name of a credit institution in accordance with the provisions of subsections 4 (1) and (2) of the Credit Institutions Act.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(4) An investment firm may pledge assets of a client in its own name only with the express written agreement of the client.

(5) An investment firm which keeps the assets of clients in a nominee account or in a securities account or bank account opened in the name of the investment firm is required to keep separate account of the assets of each client.

(6) Assets of clients managed and maintained by an investment firm, including assets of clients maintained in the name of the investment firm as well as assets acquired on account of such assets, belong to the respective clients and shall not be included in the bankruptcy estate of the investment firm, nor shall the claims of the creditors of the investment firm be satisfied on account of such assets.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(7) An investment firm shall establish the principles for the maintenance and protection of the assets of client by internal policies. An investment firm shall submit its auditor's report regarding the functioning of the above-mentioned principles in the investment firm to the Supervision Authority at least once a year.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88¹. Safeguarding of client's securities and funds

For the purposes of safeguarding clients' interests in relation to securities and funds belonging to them, an investment firm is required to:

1) preserve information, keep such records and accounts as are necessary to enable it at any time and without delay to distinguish assets held for one client from assets held for any other client, and from its own assets;

2) preserve information, maintain their records and accounts in a way that ensures their accuracy and their correspondence to the securities and funds held for clients;

3) conduct, on a regular basis, reconciliations between their internal accounts, information and records and those of any third parties by whom those assets are held;

4) ensure that any client securities deposited with a third party, are identifiable separately from the securities belonging to the investment firm and from the securities belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection;

5) take the necessary steps to ensure that client funds are held in an account or accounts identified separately from any accounts used to hold funds belonging to the investment firm;

6) take adequate organisational measures to manage the risk of the loss or diminution of client assets, or of rights in connection with those assets, as a result of misuse of the assets, fraud, poor administration, inadequate record-keeping or negligence.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88². Depositing client securities

(1) An investment firm is permitted to deposit securities on behalf of their clients into an account or accounts opened with a third party provided that the investment firm exercises all due skill, prudence and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding of those securities. An investment firm shall take into account the expertise and reputation of the third party as well as any legal requirements or market practices related to the holding of those securities that could adversely affect clients' rights.

(2) If the safekeeping of financial instruments for the account of another person is subject to specific requirements and supervision in a jurisdiction where an investment firm proposes to deposit client securities with a third party, the investment firm is not permitted to deposit those securities in that jurisdiction with a third party which is not subject to such requirements and supervision.

(3) It is prohibited for an investment firm to deposit securities held on behalf of clients with a third party in a third country that does not regulate the holding and safekeeping of securities for the account of another person unless one of the following conditions is met:

- 1) the nature of the securities or of the investment services connected with those securities requires them to be deposited with a third party in that third country;
 - 2) where the securities are held on behalf of a professional client and that client provides the investment firm with a written consent to deposit them with a third party in that third country.
- [RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88³. Depositing client funds

(1) An investment firm is required, upon receiving any client's money, to promptly transfer the money to one or more accounts opened with a credit institution that has been granted an authorisation in a central bank or a Contracting State or a third country or, based on agreement with the client, to invest the money in the shares or units of the relevant money market fund.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) The money market fund provided for in subsection (1) of this section shall comply with the requirements of the Investment Funds Act or other equivalent requirements of legislation of a Contracting State on the basis of which supervision is exercised over the money market fund and it shall comply with the following requirements:

- 1) the primary investment objective of the fund must be to maintain the value of its assets;
- 2) in order to achieve the investment objective specified in clause 1) of this subsection, the assets of the fund must be invested exclusively in deposits with credit institutions or high quality money market instruments with the redemption or maturity date of up to 397 days, and with the weighted average maturity date of the securities and deposits belonging to the assets of the fund of 60 days;
- 3) the fund must provide liquidity through same day or next day settlement.

(3) For the purposes of clause (2) 2) of this section, a money market instrument shall be considered to be of high quality if it has been awarded the highest available credit rating by at least one rating agency which has rated that instrument. If a money market instrument has been rated by several rating agencies, a money market instrument shall be considered to be of high quality if it has been awarded the highest available credit rating by each rating agency.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(4) If an investment firm does not deposit client funds with a central bank, it must exercise all due skill, care and diligence in the selection and periodic review of the credit institution or money market fund where the funds are placed and the arrangements for the holding of those funds. Investment firms shall take into account the expertise and reputation of such credit institutions or money market funds or management companies managing thereof with a view to ensuring the protection of clients' rights, as well as avoiding any legal requirements or market practices related to the holding of client funds that could adversely affect clients' rights.

(5) Clients have the right to prohibit the placement of their funds in the units or shares of a money market fund.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88⁴. Use and disposal of client securities

(1) It is prohibited for an investment firm to conclude securities financing transactions with securities held by it on behalf of a client, or otherwise use such securities for their own account or the account of another client of the investment firm. An investment firm may use the securities specified above only if the following conditions are met:

- 1) the client must have given his or her prior consent to the use of the securities on specified terms, whereas a retail client shall give his or her consent in writing and such a consent may be contained in the contract for provision of services entered into with the retail client;
- 2) the use of that client's securities must be restricted to the specified terms.

(2) It is prohibited for an investment firm to conclude securities financing transactions with securities which are held on behalf of a client in an omnibus account of a third party or any other equivalent account, or otherwise use or dispose of the client's securities held in such an account for their own account or for the account of another client of the investment firm except in all the cases specified if, in addition to the conditions set out in subsection (1) of this section, at least one of the following conditions is met:

- 1) each client whose securities are held together in an omnibus account or an equivalent account must have given prior consent in accordance with clause (1) 1) of this section;
- 2) the investment firm must have in place systems and controls which ensure that only securities belonging to clients who have given prior consent in accordance with clause (1) 1) of this section are so used.

(3) An investment firm must keep records of the details of the clients on whose instructions the use of the securities has been effected, as well as the number of securities used belonging to each client who has given his or her consent, so as to enable the correct allocation of any loss.

(4) Securities financing transaction means the transaction provided for in paragraph (10) of Article 2 of Commission Regulation (EC) No 1287/2006.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88⁵. Obligation to disclose trading information

(1) An investment firm which, either on own account or on account or on behalf of clients, conclude transactions in shares admitted to trading on a regulated market outside a regulated market or MTF, shall disclose the volume and price of those transactions and the time at which they were concluded in a manner which is easily accessible to other market participants. An investment firm has the right to receive a reasonable fee from other market participants for disclosure of that information.

(2) Articles 27-30 and 32-34 of Commission Regulation (EC) No 1287/2006 apply to disclosure of information regarding the part not regulated by subsection (1) of this section.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88⁶. Application of obligations of systematic internalisers of client orders

(1) The provisions of §§ 88⁷–88¹² of this Act apply to systematic internalisers of client orders upon the conclusion of transactions up to standard market size.

(2) Standard market sizes are specified in table 3 of Annex II to Commission Regulation (EC) No 1287/2006.

(3) "Systematic internaliser of client orders" (hereinafter *systematic internaliser*) means an investment firm which, on a regular and systematic basis, executes client orders outside a regulated market or an MTF by concluding transactions with the client on own account.

(4) For the purposes of §§ 88⁷–88¹² of this Act, "price quotation" means a firm quote for purchasing or selling of a certain amount of shares.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88⁷. Obligation of systematic internaliser to disclose price quotations

(1) A systematic internaliser shall disclose a firm quote in those shares admitted to trading on a regulated market for which there is a liquid market and for which the investment firm is a systematic internaliser.

(2) In the case of shares for which there is not a liquid market, a systematic internaliser shall disclose a quote to its client on request.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88⁸. Manner of disclosure of price quotations

(1) A systematic internaliser shall disclose its price quotations on a regular and continuous basis during normal trading hours.

(2) A systematic internaliser has the right to receive a reasonable fee for disclosure.

(3) A systematic internaliser has the right to decide based on transparent grounds and in a uniform manner pursuant to its internal rules who has access to its price quotation. A systematic internaliser shall apply uniform treatment to the same type of clients.

(4) A systematic internaliser has the right to refuse to provide access of third persons to the price quotation at any time if the third person is not sufficiently solvent or on other similar commercial purposes.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88⁹. Content of price quotations

(1) A systematic internaliser has the right to determine the number of shares upon the acquisition or transfer of which its price quotation is applied.

(2) A price quotation of shares contains a mandatory price for an investment firm in the case of transactions which do not exceed the standard market size for the class of shares. The share price shall reflect the prevailing market conditions for that share.

(3) Share classes shall be formed and grouped on the basis of the arithmetic average value of the orders executed in the market for that share. The standard market size for each class of shares shall be a size representative of the arithmetic average value of the orders executed in the market for the shares included in each class of shares.

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

(5) The Supervision Authority shall determine at least annually the class of shares to which each share traded on the market under its supervision belongs. The Supervision Authority shall make the abovementioned decision on the basis of liquidity specified in § 91 of this Act and the Commission Regulation (EC) No 1287/2006 which shall be determined on the basis of the arithmetic average value of the orders executed in the market. The Supervision Authority shall publish this information on its website and submit the information to the European Securities and Markets Authority.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

§ 88¹⁰. Changing price quotations

(1) A systematic internaliser has the right to change its price quotations before the acceptance of the quotations.

(2) A systematic internaliser has the right, under exceptional market conditions, to withdraw its price quotations before the acceptance of the quotations.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88¹¹. Execution of orders related to price quotations

(1) Systematic internalisers shall execute the orders they receive from their clients in relation to the shares at the quoted prices at the time of reception of the order.

(2) Systematic internalisers shall, while complying with subsection (1) of this section with respect to retail clients, take into consideration the provisions of §§ 87³ and 87⁴ of this Act.

(3) Systematic internalisers may execute orders they receive from professional clients at a better price than the one quoted if the following conditions are met:

- 1) this price falls within a public range close to market conditions;
- 2) the order is of a size bigger than the size customarily undertaken by a retail client or investor.

(4) Systematic internalisers may execute orders they receive from their professional clients at prices different than their quoted ones without having to comply with the requirements of subsection (3) of this section if:

- 1) the order is part of transactions with several securities;
- 2) the order is subject to conditions other than the market price.

(5) Where a systematic internaliser who quotes only one price quotation or whose highest price quotation is lower than the standard market size receives an order from a client of a size bigger than its quotation size, but lower than the standard market size, it may decide to execute that part of the order which exceeds its quotation size, provided that it is executed at the quoted price, except where otherwise permitted under subsections (3) or (4) of this section.

(6) Where the systematic internaliser is quoting in different sizes and receives an order between those sizes, it has the right to execute the order at one of the quoted prices in compliance with the provisions of §§ 87⁵ and 87⁶ of this Act, except where otherwise permitted under subsections (3) or (4) of this section.

(7) In order to manage the risks related to a client, a systematic internaliser has the right to limit in a uniform way the number of transactions from the same client which they undertake to enter on the basis of the price quotations.

(8) A systematic internaliser has the right, in a uniform way, to limit the total number of transactions from different clients at the same time provided that the number or volume of orders sought by clients differs considerably from the norm. Upon exercising its rights systematic internaliser shall comply with the provisions of §§ 87⁵ and 87⁶ of this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88¹². Activities of Supervision Authority related to price quotations

The Supervision Authority shall exercise supervision over:

1) regular disclosure of price quotations by an investment firm specified in § 88⁷ of this Act and compliance of the specified immediate change of price quotations to the prevailing conditions of the market;

2) compliance of an investment firm with the requirements of subsection 88¹¹(3).

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 88¹³. Requirements for personal recommendations

A personal recommendation specified in subsections 43 (5) and (6) of this Act shall comply with the following requirements:

- 1) it shall be suitable for a person specified in subsection 43 (6) of this Act or be based on the circumstances related to that person;
- 2) it shall contain a recommendation for purchasing, selling, subscription, conversion, depositing, redemption or securing a concrete security or for exercising or not exercising the rights arising from a security.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 89. Prohibited activities upon conducting transactions

- (1) It is prohibited for an investment firm and a company associated therewith to:
 - 1) recommend transactions with securities to a client of the investment firm if such recommendations are not in the interests of the client of which the investment firm is aware or if the purpose of the transaction is to manipulate the market in the meaning of this Act;
 - 2) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]
- (2) It is prohibited for an investment firm, the managers and employees thereof and other persons who are entrusted with the task of conducting securities transactions, carrying out securities analyses or providing investment consultations to manipulate the market in the meaning of this Act, including:
 - 1) conducting a securities transaction for a client of the investment firm or providing recommendations for the conduct of a transaction, with the objective of creating a misleading impression of the price of a security or the volume of transactions or of influencing securities prices in a specific direction;
 - 2) disclosing unfounded or misleading information, failing to disclose information which is subject to disclosure or unfounded delay in the disclosure thereof if such information and the disclosure thereof may have a significant impact on the price of a security or the volume of transactions;
 - 3) any activity which may create a wrong or misleading impression of the demand for a security in the market, its price or the accompanying rights or which may induce another person to conduct a transaction with such security or refrain from doing so or induce a person to use the rights accompanying the security or refrain from using such rights.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 89¹. Reports on services provided to clients

- (1) An investment firm shall submit to its client a clear and appropriate report on the services provided to the client. The report shall include the costs associated with the transactions and services undertaken on behalf of the client.
- (2) An investment firm shall submit to its client a report on at least the execution of securities orders and securities portfolio management operations and on the safekeeping of the money and securities of the client.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 90. Record-keeping and retention obligation

- (1) An investment firm and a branch of a foreign investment firm entered in the Estonian commercial register shall keep records of the services provided and the transactions concluded and the communication between the client and the investment firm and retain the records.
- (2) The records specified in subsection (1) of this section shall enable the Supervision Authority to assess the compliance of the activities of the investment firm and the branch of a foreign investment firm with this Act and also to determine the rights and obligations of the investment firm and the branch of a foreign investment firm and the client.
- (3) The records shall be retained in a durable medium in a way accessible for future reference by the Supervision Authority, and in such a form and manner that the following conditions are met:
 - 1) the Supervision Authority must be able to access the records readily and to reconstitute each key stage of the processing of each transaction;
 - 2) it must be possible for the Supervision Authority to ascertain easily any amendments, and the contents of the records prior to such amendments;
 - 3) it must not be possible for the records to be altered otherwise.
- (4) An investment firm and a branch of a foreign investment firm shall retain the records specified in subsection (1) of this section unaltered and available to the Supervision Authority for a period of at least five years unless the Supervision Authority has established a different term or a longer term is provided by law. An investment firm and a branch of a foreign investment firm shall retain the records which set out the respective rights and obligations of the investment firm and the client under a contract to provide services, or the terms on which the firm provides the services to the client for at least the duration of the legal relationship related to the provision of investment or ancillary services with the client unless a longer term is provided by this Act or other legislation.
- (5) The Supervision Authority has the right to require investment firms to retain the records specified in subsection (1) of this section for such longer period than the one specified in subsection (4) of this section as is

justified by the nature of the security or transaction, if that is necessary to enable the Supervision Authority to exercise its supervisory functions under this Act.

(6) Following the termination of the authorisation of an investment firm, the Supervision Authority has the right to require the firm to retain records for the outstanding term of the five year period required under subsection (4) of this section.

(7) A more precise procedure for keeping records and a list of information subject to registration is provided in Articles 7 and 8 of the Commission Regulation (EC) No 1287/2006.

(8) The Supervision Authority shall draw up a list of the records investment firms are required to keep.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 91. Transaction reporting

(1) An investment firm and a branch of an investment firm of a Contracting State entered in the Estonian commercial register shall notify the Supervision Authority of each transaction with securities admitted to trading on the regulated market of Estonia or another Contracting State. The specified obligation also applies to a branch of a third country investment firm entered in the Estonian commercial register.

(2) A person specified in subsection (1) of this section (hereinafter in this section *notifier*) shall notify the Supervision Authority of each transaction specified in subsection (1) of this section (hereinafter in this Chapter *transaction*) not later than on the working day following the transaction.

(3) A notifier has the right to notify the Supervision Authority by itself, through a representative, through a regulated market or MTF which enabled the conclusion of the transaction or through a securities settlement system or reporting system accepted by the Supervision Authority.

(4) A report shall include details of the names and numbers of the securities bought or sold, the quantity, the dates and times of execution and the transaction prices and means of identifying the investment firms related to the transaction.

(5) An investment firm shall implement legal, technical and organisational measures in order to ensure that the supervisory agency of a Contracting State exercising supervision over the most relevant market in terms of liquidity for the securities specified in subsection (1) of this section can notify the Supervision Authority of the relevant details pursuant to subsection (1) of this section.

(6) The Supervision Authority shall transmit the information received from a branch of an investment firm of a Contracting State pursuant to subsection (1) of this section to the competent supervisory agency of the corresponding Contracting State. If the above-mentioned competent supervisory agency collects the information from the investment firm of a Contracting State by itself and therefore does not want to receive this information on regular basis, the Supervision Authority has the right to relieve the branch of an investment firm of a Contracting State of the obligation provided for in subsection (1) of this section.

(7) The Supervision Authority may transfer the technical organisation of giving notification of transactions fully or partly to third parties on the condition that competition is not prejudiced thereby and the regular and lawful operation of the securities market is ensured. The notifier is required to use the technical solution determined by the Supervision Authority on the basis of paragraph (1) of Article 12 of the Commission Regulation (EC) No 1287/2006 in order to give notification of transactions.

(8) The minister responsible for the area shall establish, by a regulation, the specific methods and technical procedure concerning notification of transactions, the permitted data carriers and methods of transmission and regarding the correction of data submitted concerning the conduct of transactions. The Supervision Authority has the right to decide on the application of exceptions within the scope prescribed in the regulation specified above.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 92. Specification of requirements

The minister responsible for the area shall establish, by a regulation, the specific procedure and methods for:

1) the implementation of §§ 86 and 87 of this Act, including the submission, clarity, correctness, preciseness and completeness of information, information related to the classification of clients, information to be submitted with respect to an investment firm and its services, information on the securities, fees and costs, information with respect to holding and safekeeping of the money and securities of a client and requirements for the channels and form of the submission of information, taking into account the provisions of the Investment Funds Act concerning publication of information;

2) the implementation of § 89¹ of this Act, by specifying the rules for executing client orders, the requirements for the form and content of the reports to be submitted on securities portfolio management operations and holding and safekeeping of the money and securities of a client.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Chapter 11

PRUDENTIAL REQUIREMENTS

§ 93. Share capital and initial capital of investment firm

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(1) Upon the establishment of an investment firm as a new company its share capital or, in case of an operating company, the start-up capital shall at least amount to:

- 1) 50,000 euros, if the firm is providing services specified in clauses 43 (1) 1) or 2) of this Act.
- 2) 125,000 euros, if the firm is providing services specified in clauses 43 (1) 4) or 7) or clause 44 1) of this Act;
- 3) 730,000 euros, if the firm is providing services specified in clauses 43 (1) 3) or 6) of this Act.

(2) The initial capital shall consist of the capital and reserves specified in points (a) to (e) of Article 26(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council.

(3) If an investment firm executes only the transaction orders issued by clients and its share capital or initial capital is less than 730,000 euros, it has the right to hold the positions arising from such transactions on its account only if all the following conditions are met:

- 1) this position arose from the inability of the investment firm to execute the client's order or from the partial execution of the client's order;
- 2) the total market value of all such positions is subject to a ceiling of 15 per cent of the firm's own funds;
- 3) the position is of occasional and temporary nature;
- 4) the duration of the position is strictly limited to the time needed to conduct the unsuccessful transaction in question;
- 5) the investment firm complies with the requirements provided for in Articles 92–95 and Part IV of Regulation (EU) No 575/2013 of the European Parliament and of the Council.

(4) The positions not included in a trading portfolio arising from the provision of investment services are not deemed to be investment services specified in clause 43 (1) 3) of this Act.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 94. Prudential ratios

(1) In order to guarantee the financial soundness and to reduce the risks related to providing investment services, an investment firm is required at all times to adhere to prudential ratios, which requirements and accounting procedure are established in Regulation (EU) No 575/2013 of the European Parliament and of the Council and § 82² of the Credit Institutions Act.

(2) The investment firms providing the investment services specified in clauses 43 (1) 3) and 6) of this Act shall comply with the provisions of Division 2¹ of Chapter 7 of the Credit Institutions Act.

(3) Eesti Pank may decide not to apply the buffers provided for in §§ 86⁴⁵ and 86⁴⁶ of the Credit Institutions Act to small and medium-sized investment firms defined pursuant to the Commission Recommendation No. 2003/361/EC of 6 May 2003, unless this endangers the stability of the financial system. In such case, Eesti Pank shall notify of implementing a derogation the European Commission, the European Systemic Risk Board, the European Banking Authority and, if necessary, the competent authorities of the relevant Contracting States and provide the corresponding reasons.

(4) The own funds of an investment firm shall at all times be equal to or exceed the minimum amount of the initial capital provided for in § 93 of this Act.

(5) The management and internal audit systems, the organisation of accounting and the system for documentation and preservation of all transactions and operations of an investment firm shall provide the Financial Supervision Authority with the opportunity at any moment to monitor the compliance with the requirements arising from legislation and ensure the accuracy of the calculation of and reporting on prudential ratios.

(6) If an investment firm is part of a financial conglomerate for the purposes of § 110¹ of the Credit Institutions Act, the firm shall comply with the provisions of Chapter 9¹ of the Credit Institutions Act.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 94¹. Minimum amount of own funds

[Repealed – RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 95.–§ 103. Repealed - RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 103¹. Exceptions in fulfilling capital requirements

[Repealed – RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 104. Liquidity

(1) An investment firm shall invest its assets such that the satisfaction of justified claims of creditors, i.e. the liquidity, is guaranteed at all times. For that purpose, an investment firm shall maintain the necessary ratio of liquid assets and current liabilities.

(2) If necessary due to the nature of the services provided by an investment firm or the financial situation of an investment firm, the Supervision Authority may establish a separate liquidity requirement for each investment firm.

§ 105. Limitations on large exposures

[Repealed – RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 105¹. Exceptions in calculation of limitations on large exposures

[Repealed – RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 106. Notification obligation

An investment firm shall promptly inform the Supervision Authority and provide an explanation if the size of the own funds of the investment firm decreases by more than five per cent.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) An investment firm shall immediately inform the Supervision Authority of the repayment of any subordinated liability and other similar obligations specified in subsection 100 (7) of this Act, if the size of the own funds provided for in subsection 103 (2) of this Act falls below 120 per cent of the prudential ratio.

(3) An investment firm shall immediately inform the Supervision Authority and provide an explanation if the consolidation group of the investment firm fails to comply with the limitations provided for in subsection 105 (8) of this Act.
[RT I, 21.12.2010, 6 - entry into force 31.12.2010]

§ 106¹. Terms of authorisation procedure upon calculation of prudential ratios

[Repealed -RT I, 09.05.2014, 2 - entry into force 19.05.2014]

Chapter 12

DISCLOSURE OF AND REPORTING ON INFORMATION RELATED TO PRUDENTIAL REQUIREMENTS, RISK MANAGEMENT AND ACCOUNTING

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 107. Organisation of Accounting

(1) The accounting and reporting of investment firms shall be organised pursuant to the Accounting Act, this Act, other legislation and the articles of association of the investment firm.

(2) The accounting of an investment firm shall provide truthful information relating to the business activities and the financial situation of the investment firm.

(3) The parent undertaking of a consolidation group of an investment firm is required to organise consolidated accounting.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 108. Reports

(1) An investment firm shall prepare reports and submit them to the Supervision Authority pursuant to the procedure prescribed by law.

(2) If an investment firm belongs to a consolidation group, its parent undertaking over which the Supervision Authority exercises supervision on a consolidated basis shall prepare and submit consolidated reports to the Supervision Authority.

(3) The contents, methods of preparing and procedure for the submission of reports of investment firms and parent undertakings of investment firms shall be established by regulation of the minister responsible for the area.

(4) The contents, methods of preparing and procedure for the submission of reports of branches of foreign investment firms may be established by regulation of the minister responsible for the area.
[RT I 2005, 59, 464 - entry into force 01.03.2006]

(5) The Financial Supervision Authority has the right to request additional reports and information necessary for the exercise of supervision to the extent provided by this Act, as well as the information and reports concerning the services provided by an investment firm, which are necessary for the performance of the duties of the Financial Supervision Authority on the basis of Regulation 1095/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 84–119).
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 109. Term for submission of reports

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(1) An investment firm providing investment services provided for in this Act shall submit to the Supervision Authority the supervision reports:

- 1) once a month, within 20 days after the end of the reporting period, if the investment firm holds an activity licence for the provision of services specified in clauses 43 (1) 3) or 6) of this Act;
 - 2) once a month, within twenty days after the end of the reporting period, if the investment firm holds an activity licence for the provision of services specified in clauses 43 (1) 1), 2), 4), 5);7) or 8) or 44 1) of this Act.
- [RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(2) The parent undertaking of a consolidation group of an investment firm shall submit the reports specified in subsection (1) of this section once a quarter within one month after the end of the reporting period.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) The annual report, the sworn auditor's report, the proposal for and the resolution on the distribution of profits or the covering of losses for the financial year and an extract from the minutes of the general meeting concerning the approval of or refusal to approve the annual report shall be submitted to the Supervision Authority within two weeks after the general meeting of shareholders but not later than by 1 May of the year following the financial year.
[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

§ 110. Disclosure of reports

(1) An investment firm shall disclose the annual report within four months after the end of the financial year.
[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(2) An investment firm which holds an activity licence for the provision of services specified in clauses 43 3)-8) or 44 1) of this Act shall disclose and submit to the Supervision Authority the public annual reports regarding six months and twelve months within two months after the end of the period under review.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) The list of information to be disclosed, the methods of preparing the reports, the procedure for disclosure and submission to the Supervision Authority of the reports may be established by regulation of the minister responsible for the area.
[RT I 2010, 2, 3 - entry into force 22.01.2010]

(4) Reports subject to disclosure by an investment firm shall be available at the seat and all branches and representative offices of the investment firm as well as on its website. If the investment firm does not have its own website, it shall submit the report subject to disclosure to the Supervision Authority for disclosure thereof on the website of the Supervision Authority.
[RT I 2005, 59, 464 - entry into force 01.03.2006]

(5) A branch of a foreign investment firm shall disclose at least the last annual report of the investment firm which has been prepared according to the legislation of the home country of the investment firm and translated into Estonian.

[RT I 2005, 59, 464 - entry into force 01.03.2006]

§ 110¹. Information concerning risk management, own funds and capital adequacy subject to disclosure

(1) An investment firm shall disclose the following information concerning risk management and the principles of calculation of capital adequacy:

- 1) strategy of risk management and processes by significant risk;
- 2) extent of application of Chapter 11 of this Act by the investment firm and its consolidation group;
- 3) principles of calculation of Tier 1, 2 and 3 own funds;
- 4) principles and methods of the process provided in § 82² of this Act;
- 5) methods used for calculation of capital requirement.

(2) An investment firm shall disclose the following information on own funds and capital adequacy:

- 1) the size of Tier 1, 2 and 3 own funds, set forth by component;
- 2) size of capital requirements, set forth by risk.

(3) The information provided in subsections (1) of this section shall be disclosed and submitted to the Supervision Authority together with the annual account at least once a year at the time provided in § 109 of this Act. If significant changes occur during a financial year in the information subject to disclosure based on subsection (1) of this section, such changes shall be disclosed together with the interim account of the corresponding accounting period in the manner and at the time provided by § 110 of this Act.

(4) The information provided by subsection (2) of this section shall be disclosed and submitted, together with the annual account and interim accounts, to the Supervision Authority in the manner and at the time provided by § 110 of this Act.

(5) Specific requirements for the information subject to disclosure concerning risk management, own funds and capital adequacy of an investment firm, and for the methods for disclosure of such information shall be established by regulation of the minister responsible for the area.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 111. Audit

(1) Companies belonging to the same consolidation group as an investment firm shall be audited by at least one common auditor.

(2) As a result of auditing an investment firm, an auditor shall submit a report to the investment firm and the Supervision Authority, assessing, inter alia, prudential requirements established for own funds and the sufficiency and efficiency of the internal audit system.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 112. Appointment of auditor

(1) A trustworthy person with adequate expertise and experience to audit investment firms may be appointed auditor of an investment firm.

(2) The auditor of an investment firm may be appointed to conduct a single audit or for a specific term which shall not exceed five years.

(3) An auditor shall be appointed by a court of the seat of the investment firm on the basis of a petition from the Supervision Authority if:

- 1) the general meeting has not appointed an auditor;
- 2) the auditor appointed by the general meeting refuses to conduct an audit and the general meeting of the investment firm fails to appoint another auditor within one month;
- 3) in the opinion of the Supervision Authority, the auditor is no longer trustworthy.

(4) The authority of a court-appointed auditor shall continue until appointment of a new auditor by the general meeting.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 113. Notification obligation of auditor

(1) An auditor is required to notify the Supervision Authority promptly in writing of any circumstances of which he or she becomes aware in the course of conducting an audit of the investment firm and which result or may result in:

- 1) material violation of legislation regulating the activities of investment firms;
- 2) interruption of the activities of the investment firm;
- 3) interruption of the activities of a subsidiary of the investment firm;

4) a qualified report by the sworn auditor concerning the annual accounts or consolidated accounts of the investment firm;

[RT I 2010, 9, 41 - entry into force 08.03.2010]

5) a situation, or the risk of a situation arising, in which the investment firm is unable to perform its obligations;

6) an act by a manager or employee causing significant proprietary damage to the investment firm or to a client or clients thereof.

(1¹) An auditor is required to notify the Supervision Authority promptly in writing of any circumstances of which he or she becomes aware in the course of conducting an audit of a person which has a close link with an investment firm and which result or may result in the circumstances provided in subsection (1) of this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) An obligation not to disclose information, which is imposed on an auditor by legislation or a contract, does not apply to the requirement to forward information to the Supervision Authority.

Chapter 13

MERGER OF INVESTMENT FIRMS

§ 114. Prohibition of division

Division of an investment firm is prohibited.

§ 115. Special merger rules

(1) The merger of an investment firm shall be performed pursuant to the procedure prescribed in the Commercial Code, unless otherwise prescribed in this Chapter.

(2) Investment firms may be merged only with investment firms founded according to the law of a Contracting State.

[RT I 2007, 65, 405 - entry into force 15.12.2007]

(3) If investment firms merge by founding a new company, the activity licences of all the merging investment firms expire.

§ 115¹. Own funds upon merger of investment firms

The own funds of a new investment firm created upon merger of two or more investment firms shall not fall below the overall level of own funds of the merged investment firms at the moment of merger.

[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

§ 116. Merger agreement and merger report

(1) The merger agreement of an investment firm shall not be entered into with a suspensive or resolute condition.

(2) The Supervision Authority shall be notified of entry into a merger agreement between investment firms within three working days as of the merger agreement being entered into.

(3) Upon the merger of investment firms, a merger report shall be prepared and the report shall be audited by an auditor.

[RT I, 02.11.2011, 1 - entry into force 12.11.2011]

(4) The auditor's report shall provide an opinion on the exchange ratio of shares and the determination thereof and on whether the acquiring investment firm or the investment firm being founded meets the prudential ratios provided for in this Act.

§ 117. Authorisation for merger

(1) Authorisation is necessary from the Supervision Authority for the merger of investment firms (hereinafter *authorisation for merger*).

(2) In order to be granted authorisation for merger, the acquiring investment firm or, in the case prescribed in subsection 115 (3) of this Act, the merging investment firms jointly shall submit an application to the Supervision Authority to which the following information and documents are appended:

1) the merger agreement or a notarised copy thereof;

- 2) the merger report;
- 3) merger resolutions if the adoption thereof is required;
[RT I, 02.11.2011, 1 - entry into force 12.11.2011]
- 4) the auditor's report;
- 5) the business plan specified in clause 54 (1) 11) of this Act for the three years following the merger;
- 6) the information and documents specified in clauses 54 (1) 4), 5), 12) and 13) of this Act.

(3) The provisions of § 53 and subsections 55 (1)–(4¹) of this Act regarding applications for activity licences and the review thereof shall apply with respect to applications for authorisation for merger.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 118. Decision regarding authorisation for merger

(1) A decision to grant or to refuse to grant authorisation for merger or to issue an activity licence to an investment firm founded as a result of a merger shall be taken by the Supervision Authority not later than within thirty days as of submission of all the required information and documents. The applicant shall be informed of the decision immediately.

(2) The Supervision Authority may refuse to grant authorisation for merger if:

- 1) the information or documents submitted upon applying for authorisation for merger do not meet the requirements provided for in this Act or legislation established on the basis thereof or such information is or such documents are inaccurate, misleading or incomplete;
- 2) the applicant fails, within the prescribed term, or refuses to submit the information or documents subject to submission to the Supervision Authority upon applying for authorisation for merger;
- 3) the investment firm founded as a result of the merger does not meet the requirements provided for in this Act or legislation established on the basis thereof or if the merger harm the interests of clients of the investment firm for some other reason;
- 4) in the opinion of the Supervision Authority, a manager or person carrying out the duties of the internal audit unit of the investment firm resulting from the merger or a person having a qualifying holding therein does not meet the requirements provided for in this Act;
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]
- 5) the merger would significantly reduce effective competition in the securities market or would harm the regular operation of the securities market for some other reason.

(3) The Supervision Authority shall decide to terminate an activity licence upon merger of investment firms whereby a new investment firm is founded at the same time when it decides to issue an activity licence to an investment firm founded as a result of a merger, and the decision does not enter into force before the date of entry of the new investment firm in the commercial register.

(4) The Supervision Authority shall decide to terminate an activity licence of an investment firm being acquired upon merger of investment firms at the same time when it decides to issue an authorisation for merger, and the decision does not enter into force before the date when the merger is entered in the commercial register.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 119. Merger notification

[RT I 2007, 65, 405 - entry into force 15.12.2007]

(1) Merging investment firms shall immediately publish a merger notification concerning the fact of being granted authorisation for merger in at least one national daily newspaper and on the websites of all merging investment firms.
[RT I 2007, 65, 405 - entry into force 15.12.2007]

(2) [Repealed - RT I 2007, 65, 405 - entry into force 15.12.2007]

(2¹) An investment firm shall submit an application for entry of a merger in the commercial register promptly after publication of the merger notice specified in subsection (1) of this section.
[RT I 2007, 65, 405 - entry into force 15.12.2007]

(3) The Supervision Authority shall publish the decision on the grant of an authorisation for the merger of investment firms on its website pursuant to the procedure provided on the basis of subsection 237 (3) of this Act.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

Chapter 13¹ **INVESTMENT AGENT**

§ 119¹. Use of investment agents

(1) An investment agent is a representative of an investment firm acting on the basis of an authorisation document who may be used by the investment firm for the advertising, introductions and sales promotion of the investment services and ancillary services provided by the firm, the receipt and forwarding of the orders related to securities of clients, including the forwarding of instructions related to investment services, the organisation of the offer or issue of securities, or for provision of consultations related to securities and the services offered by the investment firm. An investment agent may carry out such activities as an ancillary activity.

(2) The use of investment agents shall be established by the internal policies of an investment firm.

(3) An investment agent may represent only one investment firm.

(4) The provisions of subsections 82⁶(2) and (3) and clause (7) 7) of this Act apply to the use of investment agents by investment firms.

(5) The provisions of this Chapter concerning investment agents do not apply to investment firms which provide services equivalent to the services provided by an investment agent.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 119². List of investment agents

(1) Only an investment agent included in the list of investment agents (hereinafter *list*) is permitted to operate as an investment agent, and an investment firm is permitted to use only the services provided by an investment agent entered in such list.

(2) An investment agent is entered in and deleted from the list by the investment firm whom the agent represents or, in cases provided by law, by the Supervision Authority. If the legislation of a Contracting State does not allow the investment firms of that Contracting State to use investment agents then an investment firm may also enter an investment agent established in the Contracting State in the list.

(3) The list shall be published on the web site of the Supervision Authority.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 119³. Requirements for investment agents

(1) Investment agents who are natural persons and members of the management board of investment agents who are companies shall have impeccable professional and business reputation.

(2) The following shall not operate in the capacity of the persons specified in subsection (1):

1) persons whose act has resulted in the bankruptcy or compulsory liquidation of a company or the revocation of the activity licence of a company;

2) persons who are subjected to a prohibition on business;

3) persons whose activities have shown that they are not capable of organising the management of a company such that the interests of the shareholders, members, creditors and clients of the company are sufficiently protected;

4) persons who have been punished for an economic offence, official misconduct, offence against property or offence against public trust unless the information concerning the punishment has been expunged from the punishment register pursuant to the Punishment Register Act.

(3) The natural persons specified in subsection (1) of this section must have sufficient experience in work related to the provision of investment and financial services and sufficient training in the area of investment.

(4) An investment firm represented by an investment agent shall provide, at the request of its investment agent, training in the area of investment to the investment agent.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 119⁴. Entry of investment agent in list

(1) A person is entered in the list on the basis of the person's application.

(2) The investment firm who received an application shall make a decision on entry in the list or refusal of entry in the list within fourteen days after receipt of the application. An investment firm shall enter the applicant in the list promptly after the relevant decision is made.

(3) Persons who do not comply with the requirements provided for investment agents in this Act shall not be entered in the list.

(4) The given name and surname of an investment agent, his or her personal identification code, contact details and the name of the investment firm whom the investment agent represents shall be entered in the list concerning an investment agent who is a natural person.

(5) The business name, registry code and address of an investment agent, the name of the investment firm whom the investment agent represents, and the given name and surname of the member of the management board responsible for assisting the investment firm in its operation shall be entered in the list concerning an investment agent who is a legal person.

(6) The investment firm who made an entry in the list shall be responsible for the accuracy of the entry.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 119⁵. Deletion of investment agent from list

(1) An investment firm represented by an investment agent shall immediately delete the investment agent from the list as its representative if:

- 1) the investment agent requests deletion thereof from the list;
- 2) the investment agent is a legal person and is dissolved or the investment agent is a natural person and dies;
- 3) the representation relationship between the investment agent and the investment firm is terminated;
- 4) the investment agent does not conform to the requirements prescribed for investment agents by this Act;
- 5) a member of the management board of the investment agent does not meet the requirements provided for in this Act;
- 6) the investment agent has violated the provisions of this Act or the interests of the clients of the investment firm are insufficiently protected;
- 7) the Supervision Authority demands the deletion of the investment agent from the list due to the becoming evident of any of the facts specified in this subsection.

(2) Upon becoming evident of the facts specified in subsection (1) of this section, the Supervision Authority has the right to delete an investment agent from the list.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 119⁶. Specific duties of investment agents

(1) In addition to performing the duties of notifying clients provided by this Act and arising from legislation established on the basis thereof, an investment agent has the duty to disclose, upon contacting a client or a potential client, the name of the investment firm represented by the agent and the extent of the agent's authorities.

(2) An investment agent has no right to receive or store money or securities to be transferred by a client to the investment firm unless the investment agent itself is an investment firm or a credit institution.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

Part 4 REGULATED MARKET

Chapter 14 RIGHT TO OPERATE

§ 120. Activity licence

(1) In order to operate a regulated market (hereinafter in this Part *market*) as a permanent area of activity, a corresponding activity licence (hereinafter in this Part *activity licence*) shall be applied for from the Supervision Authority.

(2) A separate activity licence shall be applied for for operating each market. An activity licence for a multilateral trading facility can be applied for only together with an activity licence for a market or after obtaining an activity licence for a market.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) Each market may have only one operator of the market (hereinafter in this Part *operator*). An operator shall not operate only a multilateral trading facility.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) Only public limited companies have the right to operate as operators.

(5) An operator does not have the right to engage in other areas of activity which are not related to operating the market or multilateral trading facility or which endanger the regular and reliable operations of the market or multilateral trading facility or its activities as an operator.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 121. Application for and processing of activity licence

(1) The provisions of subsections 48 (2) and (3), subsection 51 (1), clauses (2) 1) and 3) and subsection (3), § 52, subsection 53 (3), subsections 54 (2) and (3) and §§ 55, 55¹, 57 and 58¹ of this Act shall apply with respect to activity licences of operators.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) Upon application for an activity licence, the members of the management board of a company being founded or operating (hereinafter in this Chapter *applicant*) shall submit a written application, as well as the information and documents specified in clauses 54 (1) 1)-10), 12) and 15) of this Act, the draft rules specified in § 127 of this Act and the applicant's business plan for the next three years (hereinafter in this Chapter *application*).

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) The business plan specified in subsection (2) of this section shall contain a precise description of the trading, settlement, information and other systems of the market as well as a description of the applicant's organisational structure, places of business and the information technology and other technical measures to be implemented, and its economic indicators.

(4) The minister responsible for the area may, by a regulation, establish more specific requirements for the business plan specified in subsection (2) of this section.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 122. Refusal to issue activity licence

The Supervision Authority shall refuse to issue an activity licence if:

1) the information or documents submitted upon application for the activity licence do not meet the requirements provided for in this Act or legislation established on the basis thereof or are inaccurate, misleading or incomplete;

2) the applicant fails, within the prescribed term, or refuses to submit the information or documents subject to submission upon application for an activity licence or requested by the Supervision Authority to the Supervision Authority;

3) the applicant, due to its organisational structure, legal and technical solutions or insufficiency of assets and owners' equity, is not able to meet the requirements established by this Act or legislation established on the basis thereof for operators, the market or multilateral trading facility;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

4) other areas of activity of the applicant endanger the regular and lawful operation of the market or multilateral trading facility or its activities as an operator;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

5) in the opinion of the Supervision Authority, the members of the supervisory board and management board of the applicant do not have sufficient knowledge for operating a market or multilateral trading facility or they are unable to operate the market or multilateral trading facility in a regular and lawful manner, or that manager of the applicant is lacking the education, knowledge, experience or impeccable reputation necessary to perform his or her duties;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

6) a manager has been a bankrupt or if bankruptcy proceedings with respect to this person have been terminated by abatement, or if the activities or omissions of the manager have led to the bankruptcy, compulsory dissolution or revocation of the activity licence of a person or if the activities or omissions of the manager have shown his or her inability to organise the activities of a professional securities market participant or qualified investor in a manner that would sufficiently protect the interests of its creditors;

7) the applicant fails to meet the requirements provided for in this Act or legislation established on the basis thereof;

8) the applicant has materially or repeatedly violated requirements provided for in legislation or the activities or omissions of the applicant are in contradiction with good business practices;

9) close links between the applicant and another person prevent sufficient supervision over the operator, or the requirements arising from legislation or the implementation of legislation of the state whose rules of law apply to the applicant or the persons with whom the applicant has close links prevent sufficient supervision over the operator.

(2) During the period of validity of its activity licence, an operator shall prevent circumstances which would serve as a basis for refusal to issue the activity licence as provided for in subsection (1) of this section.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 123. Revocation of activity licence

(1) Unless otherwise prescribed by this section, the provisions of subsections 58 (1), (3) and (4) shall apply with respect to revocation of the activity licence of an operator.

(2) The Supervision Authority has the right to revoke an activity licence if:

- 1) disorder in the market or multilateral trading facility may endanger the economy of the state as a whole or law and order in the state;
- 2) the operator endangers the regular and lawful operation of the market or multilateral trading facility through its activities or omissions;
- 3) the operator does not meet the valid requirements for the issue of activity licences;
- 4) the operator is unable to ensure, to the extent of its competence, protection of the interests of investors related to the market or multilateral trading facility;
- 5) grounds for refusal to issue an activity licence provided for in subsection 122 (1) of this Act exist with respect to the operator;
- 6) the operator has repeatedly or materially violated the provisions of legislation regulating its activities or the activities of the operator are in contradiction with good business practices;
- 7) according to information submitted to the Supervision Authority by a securities market supervisory agency of a Contracting State, the operator has violated the conditions provided by legislation of the Contracting State;
- 8) the operator fails to comply in full or within the prescribed term with a precept issued by the Supervision Authority;
- 9) the activities or omissions of the operator have led to a loss of confidence therein;
- 10) it becomes evident that the operator has chosen Estonia as the place for application for activity licence and registration in order to evade compliance with stricter requirements established for operators in another Contracting State where the operator mainly operates;
- 11) the operator fails to commence activities or have not organised the market for more than six consecutive months, or if an act or omission by the founders of the operator shows that the operator will be unable to commence activities within twelve months as of the issue of activity licence;
- 12) the operator fails to commence operating the market within six months as of the issue of the activity licence.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Chapter 14¹

REQUIREMENTS FOR CONTROL, MANAGEMENT AND ORGANISATIONAL STRUCTURE OF OPERATORS OF MARKETS

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 123¹. Qualifying holding in operator

(1) The provisions concerning investment firms in §§ 72-78 of this Act apply to operators and persons acquiring, increasing, decreasing, transferring or owning a qualifying holding in the operators.

(2) An operator shall publish, at its website, clear, correct and accurate data concerning the shareholders who had, as at the end of the previous financial year, a qualifying holding in the operator. The operator shall amend the data immediately after becoming aware of changes thereto.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 124. Operating risk management

(1) The information technology system or other system used by the operator to conduct transactions and record information in order to operate the regulated market shall be reliable and dependable and reduce operating risks in the market and with respect to market participants, and shall ensure the continuity and regularity of the operation of the market or multilateral trading facility, including the conduct of transactions in a swift, safe and trouble-free manner.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The minister responsible for the area may, by a regulation, specify the criteria for a reliable and dependable information technology system or other system specified in subsection (1) of this section.

(3) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 124¹. Requirements for manager

(1) Only persons who have the education, experience and professional qualifications necessary to manage an operator and who have an impeccable reputation may be elected or appointed managers of operators.

(2) The manager of an operator shall be a member of the supervisory and management board thereof. An employee of an operator or another person who independently takes management decisions related to the development or business activities of the operator may be deemed to be the manager of the operator by the Supervision Authority. In such event the Supervision Authority is required to inform the operator thereof at the earliest opportunity.

(3) The management board of the operator shall consist of at least two members.

(4) Members of the management board of an operator shall have a degree or education corresponding thereto, and the experience necessary for managing an operator.

(5) The following shall not be managers of operators:

- 1) persons whose act or omission has resulted in the bankruptcy or compulsory liquidation of a company or the revocation of the activity licence of a company;
- 2) persons whose activities have shown that they are not capable of organising the management of a company such that the interests of the shareholders, members, creditors and clients of the company are sufficiently protected;
- 3) persons who are subjected to a prohibition on business;
- 4) persons who have been punished for an economic offence, official misconduct, offence against property or offence against public trust unless the information concerning the punishment has been expunged from the punishment register pursuant to the Punishment Register Act.

(6) The managers and employees of an operator are required to act with the prudence and diligence expected of them and in accordance with the requirements for their positions.

(7) The managers of an operator shall guarantee that the organisational structure of the operator is transparent, the areas of responsibility are clearly delineated and procedures for the establishment, measurement, management, constant monitoring and reporting of risks have been established and that such procedures are proportional to the nature, extent and level of complexity of the activity of the operator.

(8) The managers of an operator are required to keep themselves informed of the rules and established for compliance with this Act and the legislation issued on the basis thereof, and with other rules of procedure. The managers of an operator shall regularly review such rules and rules of procedure, evaluate their efficiency and take necessary measures to eliminate any deficiencies.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 124². Giving notification of officers and auditor

(1) Upon the election or appointment of a manager of an operator, the person who is to be elected or appointed shall submit the following to the operator:

- 1) the information specified in clauses 54 (1) 5) and 6) of this Act;
- 2) confirmation that no circumstances prescribed in this Act which would preclude his or her right to act as manager of the operator apply to him or her.

(2) An operator is required to inform the Supervision Authority of the election or appointment of managers and an auditor, and of their resignation or the initiation of their removal before the expiry of their term of office within ten days as of the relevant decision being made or the relevant application being received. Upon election or appointment of a manager, the operator shall submit the data and confirmation specified in subsection (1) of this section and, in the case of an auditor, submit the name of the auditor together with a confirmation concerning the absence of facts which preclude the right to be the auditor of the operator.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 124³. Removal of manager

(1) The Supervision Authority may issue a precept to an operator to remove a manager if:

- 1) the manager does not meet the requirements provided for in this Act;
- 2) misleading, incomplete or incorrect information or documents have been submitted in connection with his or her election or appointment;
- 3) the activities of the manager in managing the operator have demonstrated his or her inability to organise the management of the operator such that the interests of clients and creditors are sufficiently protected.

(2) If an operator fails to comply with a precept specified in subsection (1) of this section in full or within the prescribed term, the Supervision Authority has the right to demand the removal of the manager by a court.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 124⁴. Policies and procedures

(1) An operator shall establish and apply rules of procedure regulating its activities (hereinafter in this Chapter *internal rules*), the aim of which is to ensure that legislation regulating the activities of the operator and the rules of the operator's market are complied with and that decisions taken by the directing bodies of the operator are duly observed.

(2) The rules and procedures established and applied by an operator shall guarantee the lawful and regular operation of the operator and the market. The operator shall regularly evaluate the efficacy of its rules and procedures and the correspondence thereof to the actual situation, and adjust the rules and procedures in order to guarantee the best possible operation of the market in a lawful and regular manner.

(3) The provisions relating to investment firms in subsection 82 (3) and §§ 82³, 82⁴, 82⁶, 83–83² and 88 of this Act and legislation established on the basis of such provisions apply to operators.

(4) The provisions of § 82³ of this Act apply to operators of markets only for transactions, the object of which are securities admitted to trading on the markets or multilateral trading facilities operated by the operator.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 125. Financial risk management

(1) The share capital of an operator shall be at least 125,000 euros.

(2) The owners' equity of an operator shall be at least equal to the operating costs needed to operate the relevant market for five months.

(3) If the operator has not commenced operations, the operating costs needed to operate the market shall be determined on the basis of the business plan submitted to the Supervision Authority by the applicant upon application for an activity licence.

Chapter 15 SELF-REGULATION

§ 126. Self-regulation

(1) An operator shall, through its management and organisational structure, ensure the regular and lawful operation of the market and supervision of the participators and issuers on the market and the activities thereof.

(2) In order to ensure the regular and lawful operation of the market, the operator shall establish the rules and regulations of the market (hereinafter *rules and regulations*).

(3) The rules and regulations shall set out standard conditions on agreements to be entered into with a person for the operator to grant that person the right to participate in the market and on agreements to be entered into with issuers of securities for the admission of such securities to trading to the market.

(4) Unless otherwise provided by law, the Supervision Authority shall conduct supervision over a market, and the over the transactions and other activities on the market if the location of the operator's seat has been specified as Estonia in the register.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 127. Rules and regulations

(1) The purpose of the rules and regulations is to ensure that the obligations of the participators and issuers in the market are performed, taking into account public and economic interests and the protection of investors.

(2) The rules and regulations shall prescribe at least:

- 1) the organisational structure of the market and its operator, to the extent that this is not described in the articles of association of the operator;
- 2) the bases, conditions and procedure for admitting a security to trading and for the suspension and termination of trading;
- 3) the principal rights and obligations of the issuer of securities admitted to trading with respect to the operator, market participators and issuers of other securities admitted to be traded on the market;
- 4) the bases, conditions and procedure for forwarding information to the operator;
- 5) the bases, conditions and procedure for admitting a person to the market and removing a participator from the market, and for operating as a direct or remote market member;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

6) the principal rights and obligations of a market participant with respect to the operator, other market participants, clients or creditors of the market participant and issuers of securities admitted to be traded on the market;

7) the conducting of a transaction in a market in a swift, safe and trouble free manner, giving of notification of a transaction, forwarding of information necessary to conduct a transaction, and disclosure of the price quotations of a security and other similar information;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

8) the rights and obligations of the person, body or member thereof who decides on the admission of a security to trading or the suspension or termination of trading therewith, and the bases, conditions and procedure for the election or appointment thereof;

9) the rights and obligations of the person, body or member thereof who exercises supervision upon the exercise of supervision, and the bases, conditions and procedure for the election or appointment thereof;

10) contractual penalties for violation of this Act, legislation established on the basis thereof and the rules and regulations;

11) matters pertaining to the guarantee fund, in the event there is a guarantee fund in the regulated market.

(3) The provisions of law regarding unreasonably harmful standard conditions shall not apply with respect to rules and regulations.

(4) Any agreement entered into by an operator regarding service fees and payment thereof in return for participation in the market, admission of a security to be traded on the market, conducting of transactions on the market and other services is not deemed to be part of the rules and regulations.

§ 128. Amendment of rules and regulations

(1) Operators have the right to amend rules and regulations unilaterally.

(2) In the event of amendment of the rules and regulations, the amendments shall be submitted to the Supervision Authority for approval. Upon application for approval, a corresponding written application shall be submitted to the Supervision Authority accompanied by the draft rules and regulations together with explanations of the amendments and an estimate of their impact on the market participants and the operation of the market.

(3) The Supervision Authority may request the operator to submit additional information and documents in order to specify the amendments to the rules and regulations and estimate the impact thereof.

(4) The Supervision Authority shall make a decision approving the amendments to the rules and regulations or refusing approval thereof within thirty days as of submission of a corresponding application, but not later than within twenty days as of submission of all the information specified in subsection (3) of this section.

(5) The Supervision Authority shall refuse approval if the amendments to the rules and regulations are not in compliance with legislation or are contradictory, misleading or incomplete or if implementation thereof would not guarantee sufficient protection of the interests of investors or of persons serving as parties to the rules and regulations.

§ 129. Entry into force of amendments to rules and regulations

(1) Amendments to the rules and regulations shall enter into force upon their disclosure pursuant to the procedure prescribed in § 130 of this Act, unless a later term is set out in the amendments.

(2) Only amendments to the rules and regulations which are approved by the Supervision Authority may be disclosed.

§ 130. Disclosure of rules and regulations

The operator shall disclose the rules and regulations on its website.

Chapter 16 OPERATION OF MARKET

Division 1

Market Participant and Issuer

§ 131. General obligation of operator

(1) The operator shall establish and implement the rules and regulations in order to ensure the efficiency and transparency of the market.

(2) For the purposes of this Part, efficiency denotes a situation where the offers and transactions of market participants are organised in a manner which ensures the immediate availability of information concerning such offers and transactions and that the transactions of market participants are conducted and executed pursuant to requirements.

(3) For the purposes of this Part, transparency denotes a situation where all market participants receive accurate information regarding securities trading and the issuers of such securities immediately and at the same time and where the general public has the opportunity to obtain such information.

§ 132. Equal treatment

(1) Every investment firm or credit institution of Estonia or a Contracting State, or another person registered in a foreign state who hold an activity licence for the provision of the investment services specified in clauses 43 (1) 2) or 3) of this Act have the right to participate in a market if the prudential ratios applicable to the persons registered in a foreign state comply with the requirements which are at least as strict as those established by the legislation of the European Community, and provided that:

- 1) such person has an organisational structure, sufficient expertise to participate in a market and sufficient funds to conduct the transactions on the market in a swift and trouble free manner;
- 2) the securities market supervisory agency of Estonia or a foreign state exercises supervision over the person. [RT I 2007, 58, 380 - entry into force 19.11.2007]

(1¹) Everyone may apply for the admission of securities to trading on a market if admission of the securities to trading on a market complies with the provisions of this Act, legislation established on the basis thereof and the Prospectus Regulation.

(2) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) An operator shall only permit persons to participate in the market who undertake to observe the rules and regulations and pay the operator a service fee established by the latter.

(4) The rules and regulations of the market and service fees apply uniformly and they shall be applied and amended uniformly with respect to all market participants as well as applicants to participate, issuers of securities traded on the market and applicants seeking their securities to be admitted to trading on the market. [RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 132¹. Application of provisions of Part II of this Act upon admission of securities to trading on market

(1) Unless otherwise provided for in this Chapter, the provisions of §§ 14¹–16, 18–21, 24, 31, 32, 37, 39 and 39¹ of this Act regarding prospectuses, their supplements and the disclosure and registration of the prospectuses apply to prospectuses to be disclosed in connection with admission of securities to trading on a market (hereinafter *trading prospectus*) and their supplements and the disclosure and registration of the trading prospectuses.

(2) Unless otherwise provided for in this Chapter, the provisions of §§ 31–33, 37, 39 and 39¹ of this Act regarding public offers, offerors and issuers of securities apply to admission of securities to trading on a market, persons asking for admission to trading and issuers of securities traded on a market.

(3) The provisions prescribed in §§ 25-28 of this Act apply with respect to trading prospectuses, taking into account the fact that the person who causes the damage has the right to compensate the damage by acquiring a security traded on a market from the person that sustained the damage for the price that the latter paid for the security or for the sales price of the security immediately after admission of the security to trading on the market.

(4) The provisions of Chapters 14-18 of this Part concerning securities do not apply to securities specified in § 14 of this Act. The specified securities shall be traded on a market and listed on the stock exchange pursuant to the rules of the market or the stock exchange where the securities are admitted to trading or listed. [RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 132². Publication of trading prospectus upon admission to trading on securities market

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1) Unless otherwise provided for in § 132³ of this Act, a trading prospectus pertaining to the admission to trading on a market located or operating in Estonia, which complies with the requirements of this Chapter shall be made public in connection with the public offer.

(2) A trading prospectus shall be made public not later than on the date on which securities are admitted to trading on a market, taking account of the requirements provided for in Articles 29 and 39 of the Prospectus Regulation, in one of the following manners:

- 1) in at least one national daily newspaper;
- 2) in a printed form to be made publicly available at the registered office of the operator of the market;
- 3) at the registered office of the issuer and at the offices of the financial intermediaries placing or reselling the securities, including the paying agents of the issuer;
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]
- 4) on the website of the issuer or another person specified in clause 3) of this subsection;
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]
- 5) on the website of the operator of the market;
- 6) on the website of the securities market supervisory agency of the home Contracting State of the issuer.

(2¹) If the prospectus is made public in the manner provided for in clause (2) 1) or 2) of this section, it shall be also made public on the website of the issuer or, if necessary, the financial intermediaries placing or reselling the securities, including the paying agent of the issuer.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) If, upon admission of securities to trading on a market, an initial public offer of non-marketable shares of the same type is made, the trading prospectus shall, in addition to the provisions of subsection (2) of this section, be accessible to the public at least within six working days preceding the end of the offer.

(4) A trading prospectus which is prepared concerning non-equity securities whose denomination per unit amounts to at least 100,000 euros and which are admitted to trading on an Estonian regulated market, need not contain a summary and, notwithstanding the provisions of § 32 of this Act, it may be drawn up, at the choice of the issuer or the person asking for admission to trading, either in English or, by agreement of the Supervision Authority and the home Contracting State of the issuer and the securities market supervisory agencies of other host Contracting States, in any other language.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 132³. Specifications upon making trading prospectus public

(1) A trading prospectus need not be made public or registered if, upon admission of securities to trading on an Estonian market, at least one of the following conditions is met:

- 1) the issuer of the non-equity securities admitted to trading is a Contracting State, the central bank or a regional or local government of a Contracting State, the European Central Bank or an international organisation in which at least one Contracting State is a member;
- 2) the admission to trading concerns securities which are unconditionally and irrevocably guaranteed by a Contracting State or a local or regional government of a Contracting State;
- 3) the admission to trading concerns non-equity securities which are issued by a credit institution in a continuous or repeated manner, which are not subordinated, convertible, replaceable, which do not grant the right to acquire or exchange securities of a different type and which are not underlying assets for derivative instruments, with a total consideration of less than 75,000,000 euros per all the Contracting States in total calculated in a one-year period of the issue or offer of the securities;
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

3¹) the admission to trading concerns securities which are subject to offer in the Contracting States with a total consideration of less than 5,000,000 euros calculated in a one-year period of the issue or offer of the securities;
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

- 4) the number of shares admitted to trading forms up to 10 per cent of the number of shares of the same type which have been admitted to trading on the same market beforehand within twelve months;
- 5) the admission to trading concerns shares which are interchangeable with the shares of the same type and of the same public limited company which are already traded on the market, provided that the admission to trading does not result in an increase in the share capital of the public limited company;
- 6) the admission to trading concerns securities which are offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded by the Supervision Authority to comply with the requirements established by this Act regarding trading prospectuses;
- 7) the admission to trading concerns securities which are offered or allotted in connection with a merger or division, provided that a document is available containing information which is regarded by the Supervision Authority to comply with the requirements established by this Act regarding trading prospectuses and observes the requirements provided for in the legislation of the European Union;
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

8) the admission to trading concerns shares which are of the same type with shares already traded on the same market and which are offered or allotted in connection with the increase in the share capital or, in other cases,

free of charge to existing shareholders, provided that a document is made available which contains relevant information on the number and nature of the shares and the reasons for and details of the offer;

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

9) the admission to trading concerns shares, in case of which the dividends are paid in the shares of the same type as already traded on the same market, provided that a document is made available which contains relevant information on the number and nature of the shares and the reasons for and details of the offer;

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

10) the admission to trading concerns the securities of the same type as the securities issued by an issuer or a company belonging to the consolidation group of the issuer, which are offered to existing or former members of the supervisory board or management board or employees of the issuer provided that the headquarters or the registered office of the company is in a Contracting State and a document is made available which contains relevant information on the number and nature of the securities and the reasons for and details of the offer;

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

11) the admission to trading concerns shares which are of the same type with shares traded on the same market and which are issued in connection with an exchange of securities or exercise of the rights arising from the securities;

12) securities already traded on another regulated market of a Contracting State are admitted to trading, provided that all the conditions provided for in subsection (2) of this section are met.

(1¹) Clause (1) 10) of this section also applies to companies established in third countries, which securities are admitted to trading either on a regulated market or the market of the third country. In the latter case, the exception is applied in case the sufficient information, including the document specified in clause (1) 10) of this section, is available at least in English and if the European Commission has adopted a resolution which certifies the equivalence in respect to the market of the third country in question.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) A trading prospectus need not be made public if, in the case of securities traded on another regulated market of a Contracting State, the following conditions are met:

1) these securities, or securities of the same type, have been admitted to trading on that other regulated market for more than 18 months;

2) for securities, a prospectus or a trading prospectus or listing particulars have been prepared, registered and made public pursuant to the requirements provided for in this Act or the requirements regarding prospectuses, trading prospectuses or listing particulars in force in the EU before the entry into force of this Act;

3) the ongoing obligations to trading on that other regulated market have been fulfilled;

4) the person seeking the admission of a security to trading on a regulated market makes a summary complying with the requirements provided for in subsection 14¹(3) of this Act public, taking account of the provisions of § 32 and subsection 132²(2) of this Act. The specified summary shall set out the place where the most up-to-date prospectus can be accessed.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) Without prejudice to the adequate information of investors, where certain information required to be included in a trading prospectus according to the provisions of the Prospectus Regulation is inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities traded on a market, the trading prospectus shall contain information equivalent to the required information.

(4) If the admission to trading concerns securities which are subject to offer in the Contracting States with a total consideration of less than 5,000,000 euros calculated in a one-year period of the issue or offer of the securities, the public offer, trading prospectus and listing particulars shall be prepared and made public pursuant to the requirements established either in the Prospectus Regulation or the requirements established in subsection 17 (4) of this Act regarding prospectuses and the information presented therein.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(5) The Supervision Authority may make exceptions regarding the disclosure of information or the composition of information in a trading prospectus under the conditions and pursuant to the procedure provided by a regulation of the minister responsible for the area if:

1) disclosure of such information in the trading prospectus would be contrary to the public interest; or

2) disclosure of such information in the trading prospectus would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, person asking for admission to trading or guarantor, if any, and of the rights attached to the securities traded on the market; or

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

3) such information is of minor importance only for admission to trading on a regulated market and is not such as will influence the assessment of the financial position and prospects of the issuer, person asking for admission to trading or guarantor, if any.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(6) A person has the right to ask that the securities of an issuer whose home Contracting State is Estonia and which are specified in clauses (1) 1)-3) and subsection (4) of this section be admitted to trading on a market in all host Contracting States applying the provisions of § 39¹ of this Act correspondingly only if a trading prospectus is made public regarding the securities pursuant to the requirements provided for in this Act and Chapters 2 and 3 of the Prospectus Regulation.

(7) A person has the right to ask that the securities of an issuer whose host Contracting State is Estonia and which are specified in clauses (1) 1)-3) and subsection (4) of this section be admitted to trading on an Estonian market applying the provisions of subsection 16 (3) of this Act correspondingly only if a trading prospectus is made public regarding the securities pursuant to the requirements provided for in this Act and Chapters 2 and 3 of the Prospectus Regulation.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 132⁴. Supplement to trading prospectus

Any new significant circumstances, mistakes or inaccuracies relating to the information included in the trading prospectus which is capable of affecting the assessment of the securities and which become known between the time when the trading prospectus is approved and the time when trading on a market begins shall be immediately stated by the offeror in a supplement to the trading prospectus. The provisions of subsections 23 (2)-(4) of this Act regarding supplements to prospectuses apply to supplements to trading prospectuses.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 132⁵. Admission of securities to trading on market

(1) An operator shall only permit securities to be traded on the market if the issuer thereof or another person requesting the admission of the securities on the market undertakes to observe the rules and regulations and pay the operator a service fee established by the latter. In order to be admitted to trading on the market, the securities specified in clauses 2 (1) 1)–3), 6) and 7) of this Act must be freely transferable.

(2) The character of the derivative instruments which are admitted to trading on the market must allow the regular and correct pricing thereof, and swift and trouble-free conduct of transactions therewith.

(3) The specific requirements and criteria for admission of the securities specified in subsection (1) of this section to trading on the market are provided by Articles 35-37 of Commission Regulation No 1287/2006/EC.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 133. Resolution of disputes

(1) A person has the right to file an action with a court or, subject to agreement between the parties, the arbitral tribunal specified in § 202 of this Act for recognition of the right of a security to be admitted to trading and for obliging the operator to admit the security to trading.

(2) A person has the right to file an action with a court or, subject to agreement between the parties, the arbitral tribunal specified in § 202 of this Act for recognition of the right to participate in the regulated market and for obliging the operator to grant the person the right to participate in the market.

§ 134. Rights and obligations of market participants

(1) A market participant is required to:

- 1) observe the rules and regulations;
- 2) organise the supply of the operator with accurate, precise and complete information to the extent demanded on the basis of legislation or the rules and regulations for the purpose of performing its obligations provided for in the legislation and rules and regulations;
- 3) supply information, to the extent requested by the operator or prescribed by the rules and regulations, regarding transactions conducted outside the regulated market for own account or for the account of a third party with securities traded on the regulated market;
- 4) follow the principles of fair and equitable trading and generally accepted market principles.

(2) In conducting mutual offers and transactions on the market, the market participants are not required to apply, with respect to one another, the provisions of clauses 85 1), 5)–7) and 9) and §§ 86–87⁶, 89 and 89¹ of this Act, unless such offers and transactions are conducted on behalf or on account of a client. The first sentence of this subsection does not apply to the procedure for prohibition of market abuse in conformity to the provisions of Chapter 21.

(3) Operators shall inform the Supervision Authority of market participants at least once a year or at the request of the Supervision Authority.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 134¹. Participation in market without presence at location of market

Investment firms and credit institutions of other Contracting States who wish to participate in the market may participate in the market without being present at the location of the market (as a remote member) and without

observing the provisions of § 70 of this Act if the rules and regulations of the market do not require physical presence for the conduct of transactions on the market.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 134². Access to Estonian market in other Contracting States

(1) An operator planning to allow access to the Estonian market in another Contracting State shall submit the name of the Contracting State where allowing access is planned and the names of market participants and remote members, if such information exists, to the Supervision Authority.

(2) If an operator plans to allow access to the Estonian market in another Contracting State, the Supervision Authority shall make a decision concerning forwarding such information to the securities market supervisory agency of the relevant Contracting State and shall inform the securities market supervisory agency thereof within one month after receiving the information specified in subsection (1) of this section. The Supervision Authority shall immediately inform the operator of the decision to forward the information.

(3) An operator may commence activities in another Contracting State in compliance with the provisions of the legislation of such Contracting State.

(4) Based on the request of the securities market supervisory agency specified in subsection (1) of this section, the Supervision Authority shall submit, within a reasonable period of time, the data of the market participants and remote members founded in Estonia to such securities market supervisory agency.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 134³. Access to market of Contracting State in Estonia

(1) An operator registered in a Contracting State may allow access in Estonia to a market regulated thereby after giving due notice thereof to the securities market supervisory agency of the Contracting State.

(2) The Supervision Authority may request from a securities market supervisory agency of a Contracting State information concerning the market participants and members of the market regulated by the operator of the Contracting State specified in subsection (1) of this section.

(3) The Supervision Authority has the right to inform the agency exercising supervision over an operator of a Contracting State of the violations committed by the operator in Estonia.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 135. Obligations of issuer of security traded on market

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1) The issuer of a security traded on the market is required to comply with the provisions of clauses 134 (1) 1) and 2) of this Act unless the security is being traded on the market without the issuer's consent.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(5) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 135¹. Auditor of issuer of securities traded on market and auditing of reports

(1) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The auditor of the issuer and the issuer of securities traded on a market are required to sufficiently manage the conflict of interests, the risk of self-checking and other risks in respect of the independence of the auditor.

(3) A trustworthy and independent auditor with adequate expertise and experience to audit an issuer of securities traded on a market may be appointed auditor of the issuer. Sufficient rotation of auditors shall be applied upon appointment of auditor of the issuer of securities traded on the market.

(4) A court of the location of the Estonian issuer of securities traded on a market shall determine, on the basis of an application of the Supervision Authority, a new auditor of the issuer of securities traded on the market if, in the opinion of the Supervision Authority, the auditor fails to comply with the requirements of subsection (3) of this section.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 135². Principles of remuneration of management of issuer of shares granting voting rights being traded on market

(1) The bases and principles of determining the remuneration and other office related benefits of management board members and executive management (hereinafter in this section *managers*) of an issuer of shares granting voting rights being traded on a market (hereinafter *issuer of shares*), including severance payments, pension benefits and other benefits (hereinafter *principles of remuneration*), shall be clear and transparent and proceed from the long-term objectives of a company, taking into account in this respect the economic results of an issuer of shares and the legitimate interests of investors and creditors.

(2) The principles of remuneration shall also determine the bases for remuneration of managers with shares, share options or other similar rights, which are related to the acquisition of the shares of an issuer of shares, and also the minimum period during which the above right shall neither be exercised nor used.

(3) The supervisory board of an issuer of shares shall approve the principles of remuneration of managers of an issuer of shares and exercise the supervision over the adherence thereto.

(4) The bases for determining the fees payable to managers of an issuer of shares based on the economic performance and transactions (hereinafter *performance pay*) shall be objective and reasoned and predetermine the period of time for which the performance pay is paid.

(5) The following shall be taken into account upon determination and payment of the performance pay to managers of an issuer of shares:

- 1) the proportion of the basic pay and performance pay shall be in reasonable compliance with the duties of a manager;
- 2) the basic pay shall make up a sufficiently big part of the pay which makes it possible not to determine or pay the performance pay, if necessary.

(6) An issuer of shares shall establish the control procedure of the principles of remuneration of managers.

(7) The contract or contract of employment of a member of the management board of an issuer of shares shall prescribe the right of the issuer of shares to reduce the payable performance pay, suspend the payment of the performance pay or demand return of the paid performance pay in part or in full. An issuer of shares may apply the abovementioned right if:

- 1) the general economic performance of the issuer of shares has deteriorated to a significant extent as compared to the previous period;
- 2) the managers of the issuer of shares do not meet the performance criteria or
- 3) determination of the performance pay was based on information which was inaccurate or incorrect to a material extent.

(8) The limitation period for a claim arising from performance pay shall be three years as of the date when the payment of the performance pay to a manager of an issuer of shares was decided.

(9) An issuer of shares shall disclose in its annual report for the past financial year the principles of remuneration of the managers and the information characterising their implementation in the following format:

- 1) relevant characteristics of the principles of remuneration, including information concerning the criteria used to measure work results and compliance with them;
- 2) reasons for payment of performance pay and severance pay and enabling of other performance based financial or significant nonfinancial benefits.

(10) For the purposes of this Act, pay shall also mean the remuneration paid to members of the management board.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

Division 2 Transactions on Market

§ 136. Suspension and termination of trading

(1) An operator has the right to suspend or cease trading with a security on the market:

- 1) if the issuer of the security has violated, with respect to the operator, an obligation arising from legislation or the rules and regulations;
- 2) if the security being traded does not comply with the rules and regulations;
- 3) in order to protect the interests of investors;
- 4) in order to prevent danger to the regular or lawful functioning of the market, or on another basis provided by the rules and regulations.

(2) An operator has the right to cease trading with a security on the market on the basis of an application from the issuer of the security or the person who requested admission of the securities to trading on the market if the issuer or such person has duly performed its obligations with respect to the operator and arising from legislation and the rules and regulations.

(3) Suspension or cessation of trading with the securities specified in subsections (1) or (2) of this section must not cause significant damage to the investors or materially damage the regular functioning of the market.

(4) An operator shall immediately inform the Supervision Authority of the suspension or cessation specified in subsections (1) or (2) of this section and shall publish a notice to such effect on its web page.

(5) In order to protect the interests of investors, to avoid danger to the regular and lawful operation of the market or to protect any other significant interest or avoid any other threat, the Supervision Authority has the right to issue a precept to an operator or, in cases requiring swift reaction, order an operator to:

1) suspend trading with the securities for up to ten consecutive days every time where the requirements to trading or for forwarding or disclosure of regulated information provided by this Act have been violated or there is reason to believe that such violation is taking place;

2) for cessation of trading with securities on the market;

3) for amendment of the suspension or cessation order provided for in subsection (1) of this section.

(6) The Supervision Authority has the right to demand from the securities market supervisory agency of another Contracting State the suspension of trading with securities on a market operating in such Contracting State if this is necessary to protect the interests of Estonian investors, prevent danger to the regular or lawful operation of the market, protect another significant right or prevent another danger, unless the circumstances provided in subsection (5) of this section exist.

(7) The Supervision Authority shall inform the securities market supervisory agencies of other Contracting States and the European Securities and Markets Authority of the suspension or cessation of trading by the operator specified in subsections (1) or (2), the precept or order to cease or suspend trading specified in subsection (5), or the demand of the Supervision Authority specified in subsection (6) of this section, and shall publish the relevant information on its website.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

§ 137. [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 138. Recording of transactions

(1) An operator shall keep a daily chronological record of all transactions conducted on the market.

[RT I 2002, 102, 600 - entry into force 26.12.2002]

(2) An operator shall at least record the time at which the transaction is conducted, information regarding the market participant which conducted the transaction, the securities which served as the object of the transaction, and their number, nominal value or book value and price.

[RT I 2010, 20, 103 - entry into force 01.07.2010]

(3) An operator shall preserve information entered in the register for at least five years as of their entry in the register.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 138¹. Free choice of settlement system

(1) For the lawful and regular functioning of the market, an operator has the right to freely choose a securities settlement system of Estonia or another Contracting State provided that such system meets the conditions provided in subsection (2) of this section.

(2) A market participant has the right to choose a settlement system for settling the transactions carried out with securities on the market if:

1) there is sufficient legal, technical and organisational connection between the market and the desired settlement system which enables the swift, safe and trouble free conduct of transactions on the market;

2) the Supervision Authority has granted consent for using a settlement system different from the settlement system of the market.

(3) The Supervision Authority shall grant the consent specified in clause (2) 2) of this section if, based on the evidence submitted thereto, all the doubts of the Supervision Authority as to the damage or possible damage that the use of the settlement system could cause to the legal and regular functioning of the market have been eliminated.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 139. Market guarantee fund

(1) If an operator undertakes to guarantee the execution of transactions conducted on the market, the operator shall establish a guarantee fund or enter into a relevant guarantee or insurance contract.

(2) The guarantee fund is an amount of money held in a bank account in credit institutions or Eesti Pank or invested in securities which is mainly used or can be used for guaranteeing the execution of transactions with securities conducted on the market.

(3) The guarantee fund shall be managed by the operator.

(4) The minister responsible for the area shall, by a regulation, establish the requirements for the formation of the guarantee fund and the size and use thereof.

§ 140. Special rules for bankruptcy

(1) The bankruptcy trustee of a market participant, the bankruptcy trustee of a person who applied for the admission of securities on the market to trading and an issuer of a security traded on the market shall continue to execute the rules and regulations until the dissolution of the participant, applicant or issuer.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) Contributions made by market participants to the guarantee fund specified in § 139 of this Act shall not be included in the bankruptcy estate of the contributor or the possessor of the guarantee fund.

Division 3 Communication of Information

§ 141. Maintenance of confidentiality of information not subject to disclosure

(1) Operators and members of bodies and employees thereof shall maintain indefinitely the confidentiality of any information which is obtained when performing their official duties with respect to the operator or in connection with their position or duties in the market or from the Supervision Authority within the framework of co-operation referred to in subsection 149 (2) of this Act and which is not subject to disclosure in accordance with legislation, a court judgement or the rules and regulations of the market.

(2) A member of a body and an employee of an operator may forward the information provided for in subsection (1) of this section to the body of the same operator or a member or employee thereof pursuant to the provisions of the articles of association and the rules and regulations of the operator, and to persons who are required by law to maintain the confidentiality of information obtained, and in cases where the obligation to disclose such information arises from law.

§ 142. Obligation to communicate information

(1) Information communicated to the operator shall be accurate, clear, precise and complete. Information shall be communicated to the operator immediately unless a different term is prescribed by this Act, legislation established on the basis thereof or the rules and regulations.

(2) An issuer of a security traded on the market who has given consent to trading on the market to the organiser of such market is required to organise, during the time that the rules and regulations applicable to such issuer are in force, the notification of the organiser of the information regulated by the issuer of the security.

(3) If the security admitted to trading on the market specified in clauses 2 (1) 1), 2), 3), 6) or 7) of this Act has been admitted to trading on a regulated market, such security may be admitted, in compliance with the requirements for the open offer of securities and registration of the prospectus, to trading on another regulated market without the consent of the issuer of the security. The organiser of the other market shall immediately inform the issuer of the security of the fact that the security thereof is being traded in also on another market.

(4) In the case of admission to trading on another regulated market provided in subsection (3) of this section, the obligation provided in this section and subsection 135 (1) of this Act to provide information directly to the other market does not apply to the issuer of the securities.

(5) An operator has the right to prescribe additional or more specific information in the rules and regulations which the issuer of securities traded on the market shall communicate to the operator.

(6) Market participants shall immediately communicate the information necessary to perform the obligations prescribed in §§ 144–144² of this Act and legislation established on the basis thereof to the operator.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 143. Disclosure of information by operator

In order to guarantee the transparency of the securities market, an operator shall disclose information obtained from market participants, issuers and other persons to the extent and pursuant to the procedure prescribed in this Act, legislation established on the basis thereof and the rules and regulations.

§ 144. Rights of operators in disclosure of trading information

(1) Operators have the right to receive reasonable remuneration for the disclosure of trading information, including pre- and after-trade information, and for the use of the system for disclosure of trading information.

(2) For the purpose of disclosure of the trading information provided in §§ 87⁶, 88⁵ and 88⁷ of this Act, operators have the right to grant for use, on uniform basis, systems for disclosure of trading information to investment firms.

(3) Article 18 of Commission Regulation 1287/2006/EC provides for the specific procedure for grant of waivers regarding the conditions for the disclosure of trading information based on the trading system of a market, types and scale of orders and types and scale of transactions.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 144¹. Disclosure of pre-trade information

(1) Organisers are required to ensure the constant availability of information concerning the securities traded on the market, including the prices of offers of securities, and the time, volume and number of offers.

(2) Articles 17 and 18 of Commission Regulation 1287/2006/EC provide for specific requirements for pre-trade information, including the number and volume of offers, the of the range of the sales and purchase offers, and the offers and interests of the market maker.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 144². Disclosure of after-trade information

(1) An operator is required to ensure constant access to information on the securities traded on the market, including the price of the transactions, recent prices, price changes, the highest and lowest prices, the time of transactions, and the volume and number of transactions. Trading information concerning a transaction made shall be disclosed immediately after the making of the transaction.

(2) Articles 27 and 28 of Commission Regulation 1287/2006/EC provide for specific requirements for after-trade information to be disclosed, and to its extent and content.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 145. Manner of disclosure of information

(1) An operator is required to disclose the information specified in § 143 of this Act on its website, through the broadcast media or in a national newspaper.

(2) An operator is required to disclose the trading information specified in § 144 of this Act on its website.

(3) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 146. Temporary release from obligation to communicate and disclose information

(1) With the consent of the operator and on the bases and pursuant to the procedure prescribed in the rules and regulations of the market, the obligation referred to in this Act to communicate information to the operator and to disclose information may be lifted for a period determined by the operator. An operator may grant such consent provided that the Supervision Authority has given its prior consent.

(2) An operator shall disclose the grant of the consent specified in subsection (1) of this section on its website.

(3) The Supervision Authority may issue a precept obliging the operator to withdraw its consent granted on the basis of subsection (1) of this section if, given the standing of the market or the issuer and the rights of investors, the Supervision Authority is of the opinion that the consent of the operator is not justified.

(4) Article 28 of Commission Regulation 1287/2006/EC provides for specific requirements for temporary release from the obligation to communicate and disclose information, and sets out the characteristics of transactions which are not subject to disclosure.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 147. [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

Chapter 17

MARKET SUPERVISION

§ 148. Rights and obligations of operator in exercising supervision

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1) In order to detect and reduce market abuse, other offences and non-compliance with the rules and regulations, an operator shall exercise supervision over the disclosure of information subject to disclosure by the issuers of securities admitted to trading on the market and, as much as reasonable, verify whether such information is up-to-date, correct, accurate and complete, and shall exercise supervision over the compliance with the provisions of rules and regulations, and the price formation of securities traded on the market, and over the conducting and execution of transactions.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) An operator shall exercise supervision over market participants and issuers of securities traded on the market to the extent prescribed by legislation and on the bases and to the extent prescribed in the rules and regulations.

(3) An operator has the right to establish its rights in exercising supervision in the rules and regulations in addition to those prescribed in legislation.

(4) An operator has the right to verify the documents of market participants pertaining to their right to participate in the market, and to obtain information therefrom which is necessary for exercising supervision. An operator has the same rights with respect to issuers of securities traded on the market.

(5) In order to exercise independent supervision, an operator shall establish and apply legal, technical and organisational measures, taking account of the nature, extent and complexity of its business activity and the nature and extent of the services provided thereby. A person engaged in supervision shall not engage in activities which affect or are likely to affect the independence of supervision.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(6) The management of an operator shall ensure the person exercising supervision with all the rights and working conditions necessary for performing the duties thereof.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 149. Co-operation with Supervision Authority

(1) An operator shall immediately inform the Supervision Authority of detected material offence and reasonable doubts regarding market abuse.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The operator and the Supervision Authority shall co-operate in exercising market supervision.

(3) Upon exercising market supervision, the Supervision Authority has the right to disclose information to the operator which is necessary for exercising market supervision, including information not subject to disclosure which the Supervision Authority has obtained in the course of exercising its duties prescribed in this Act.

(4) If so requested by the Supervision Authority, an operator shall grant the Supervision Authority free access to the information technology system used to operate the market and to other systems used for the intermediation of transactions and recording of information for the purpose of exercising market supervision.

Chapter 18

STOCK EXCHANGE

Division 1

Special Rules for Operations

§ 150. Definition of stock exchange

(1) A stock exchange is a market where listed securities are traded.

(2) Unless otherwise prescribed in this Chapter, the provisions of this Act regarding a market and its operator shall apply to a stock exchange (hereinafter *exchange*) and the operator of a stock exchange (hereinafter *operator of an exchange*) respectively.

§ 151. Member of exchange

(1) An operator of an exchange has the right to set out in its articles of association and the rules and regulations that only members of the exchange may participate in the exchange.

(2) A member of an exchange is a person to whom the operator of the exchange has granted the right or sole right to make offers and conduct transactions with all or certain listed securities and who undertakes to observe the rules and regulations of the exchange.

(3) Only professional securities market participants may become members of an exchange.

(4) Members of an exchange are required to pay service fees to the operator of the exchange, unless otherwise prescribed in the rules and regulations.

(5) The provisions regarding regulated market participants shall also apply with respect to members of an exchange, unless otherwise prescribed in this Chapter.

§ 152. Financial risk management

(1) The share capital of an operator of an exchange shall be at least 375,000 euros.

(2) The owners' equity of an operator of an exchange shall meet the requirements prescribed in § 125 of this Act.

Division 2 Self-regulation

§ 153. Rules and regulations of exchange

The rules and regulations of an exchange shall set out the following in addition to the provisions of the rules and regulations of the market:

- 1) the bases, conditions and procedure for the listing of securities and the termination thereof;
- 2) the principal obligations of the issuer of a listed security with respect to the operator of the exchange;
- 3) the bases, conditions and procedure for the admission of persons as members of the exchange and the termination of member status;
- 4) the principal rights and obligations of members of the exchange with respect to the operator of the exchange, other members of the exchange, and clients or creditors thereof;
- 5) the procedure for the forwarding and receipt of quotations and transaction orders via the exchange;
- 6) the rights and obligations of the person, body and member thereof deciding on the listing of a security, and the bases, conditions and procedure for the election or appointment thereof.

Division 3 Organisation of Exchange

§ 154. Listing

(1) For the purposes of this Act, listing is the admission of a security to trading on an exchange. Trading on the exchange shall also be in securities included in the exchange list.

(2) The operator of an exchange shall only permit trading on the exchange with securities which have been listed in the exchange list on the basis of this Act, legislation established on the basis thereof and the relevant rules and regulations.

(3) Unless otherwise provided in this Chapter, the provisions regarding admission of securities to trading on the market and regarding suspension and termination of the trading thereof shall apply to the listing of securities and to suspension and termination of the listing thereof.

§ 155. Conditions of listing

(1) Only freely transferable securities the characteristics of which and the issuers of which and their acts meet the conditions prescribed in legislation and the rules and regulations of the relevant exchange may be listed.

(2) Upon listing, the security and its issuer shall meet at least the requirements established by a regulation of the minister responsible for the area. These requirements shall set out at least the following:

- 1) requirements for the issuer of the security for which listing is applied for, including requirements regarding the legal status, capital and financial situation of the issuer and its directing bodies, their operations and the terms therefor;
- 2) requirements for the security for which listing is applied for, including requirements regarding its legal status, special rules for free transferability, public offering, distribution, listing of securities of the same type, and the form of the security;
- 3) requirements for securities issued by foreign issuers;
- 4) other requirements, including requirements regarding the minimum value of listed debt securities and the conditions of listing convertible bonds.

§ 156. Decision regarding listing

- (1) Decisions about listing shall be taken by the relevant body of the operator of the exchange.
- (2) In order to listing to take place, the applicant shall submit a corresponding written application, the listing particulars and other information and documents prescribed in the rules and regulations of the relevant exchange. The operator of the exchange shall immediately notify the Supervision Authority of the receipt of an application and forward the listing particulars to the Supervision Authority.
- (3) A decision on listing shall be taken within three months as of submission of the application, information and documents specified in subsection (2) of this section, unless a shorter term is prescribed in the rules and regulations of the relevant exchange.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 157. Listing particulars

The provisions of §§ 14¹–16, 18–21, 24, 31, 32, 37, 39 and 39¹ of this Act regarding prospectuses, their supplements and the disclosure and registration of the prospectuses together with the specifications provided for in §§ 1322–132⁴ of this Act regarding trading prospectuses and supplements thereto apply to listing particulars, their supplements and the disclosure and registration of the listing particulars.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 158. Application of compensation requirement

The provisions prescribed in §§ 25–28 of this Act shall apply with respect to the listing particulars, taking into account the fact that the person who causes the damage has the right to compensate the damage by acquiring a security listed on the exchange from the person that sustained the damage for the price that the latter paid for the security or for the sales price of the security immediately after its listing on the exchange.

§ 159. Obligation to communicate and disclose information

- (1) The minister responsible for the area shall, by a regulation, establish:
 - 1) a minimum list of information which the issuer of a listed security shall forward to the operator of the exchange for disclosure;
 - 2) a minimum list of obligations which the issuer of a listed security shall perform in connection with the listing;
 - 3) the manner of disclosing the information and the terms of performing the obligations specified in clauses 1) and 2) of this subsection.
- (2) The list specified in clause (1) 2) of this section shall contain at least obligations pertaining to:
 - 1) the issue of new securities;
 - 2) the equal treatment of investors in equal circumstances;
 - 3) the intended amendment of the articles of association;
 - 4) [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]
 - 5) [Repealed - RT I 2005, 13, 64 - entry into force 01.04.2005]
 - 6) changes of rights arising from the securities.
- (3) The operator of an exchange has the right to establish in the rules and regulations a shorter term than that established by the minister responsible for the area for the forwarding and disclosure of information with regard to issuers whose securities are listed on the exchange.

Division 4

Exchange Supervision

§ 160. Application of contractual legal remedies with regard to participator in exchange, member of exchange and issuer

If, in addition to other requirements, the rules and regulations of an exchange set out the possibility of applying contractual legal remedies provided for in § 161 of this Act (hereinafter *legal remedies*), the operator of the exchange has the right to apply the legal remedies provided for in § 161 of this Act with respect to a participator in the exchange, member of the exchange and issuer of a listed security for failure to perform or inadequate performance of this Act, other legislation established on the basis thereof or the rules and regulations of the exchange.

§ 161. Types of legal remedy

(1) The legal remedies are as follows:

- 1) a contractual penalty as prescribed in the rules and regulations of the exchange;
- 2) full or partial suspension of the rights accompanying the status of participator or member of the exchange for a term ranging from three to thirty days;
- 3) termination of the status of participator or member of the exchange;
- 4) suspension of the listing of or trading with a security for a term ranging from three to thirty days;
- 5) termination of the listing of or trading with a security.

(2) The procedure for processing, applying, and appealing against legal remedies shall be prescribed in the rules and regulations of the exchange.

§ 162. Application of legal remedies and right of appeal

(1) The filing of a complaint against the application of legal remedies provided for in subsection 161 (1) of this Act shall not hinder or suspend the execution of the legal remedies.

(2) A person in respect of whom a legal remedy is applied has the right of recourse to a court or, on the agreement of the parties, the arbitral tribunal specified in § 202 of this Act in the matter within ten days as of the day of application of the legal remedy.

§ 163. Disclosure of application of legal remedies

The operator of an exchange has the right to make public the fact and time of legal remedies being applied, their type and the name of the person in respect of whom the remedies are applied. Such disclosure of the fact and time of legal remedies being applied and of the type thereof and of the name of the person in respect of whom the legal remedies are applied is not deemed as dishonouring a person.

Chapter 18¹ MULTILATERAL TRADING FACILITY

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 163¹. Organisation of multilateral trading facility

(1) Investment firms holding an activity licence for providing the investment service specified in clause 43 (1) 8) of this Act and operators of regulated markets holding the activity licence specified in subsection 120 (1) of this Act shall establish appropriate rules and regulations in order to ensure the regular and lawful operation of multilateral trading facilities.

(2) Such rules and regulations shall determine the right to participate in the multilateral trading facility and the standard conditions for admission of securities to trading.

(3) The rules and regulations apply uniformly and they shall be applied and amended uniformly with respect to all participators in the multilateral trading facility as well as applicants to participate, issuers of securities traded and applicants seeking their securities to be admitted to trading in the multilateral trading facility.

(4) The provisions of §§ 127-130 of this Act apply to the rules and regulations of multilateral trading facilities, except in relation to guarantee funds.

(5) The operator of a multilateral trading facility shall inform the persons wishing to participate in the system of the obligations and rights provided in § 134 and of the obligations for performance of the transactions within the system provided by the rules and regulations.

(6) One multilateral trading facility shall have one operator.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 163². Submission of information to multilateral trading facility and disclosure of trading information

(1) The provisions of subsections 144 (1) and (3) and §§ 144¹, 144² and 146 of this Act apply to transfer of the management of a multilateral trading facility. The operator of a multilateral trading facility need not independently publish trading information if the trading information of the multilateral trading facility has already been disclosed through the regulated market.

(2) The information published in compliance with subsection (1) of this section shall enable the users thereof to form investment opinions, taking account of the nature of the participant in the trading facility and the type of the traded security.

(3) An issuer of securities need not adhere to the requirements for disclosure of inside information and other regulated information to a multilateral trading facility or its operator, if securities specified in clauses 2 (1) 1), 2), 3), 6) or 7) of this Act issued thereby and admitted to trading on a regulated market are being traded within the system without the consent of the issuer.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 163³. Trading within a multilateral trading facility

(1) Only the persons specified in subsection 132 (1) of this section have the right to participate in a multilateral trading facility and the provisions of § 134 apply to such persons.

(2) In conducting mutual offers and transactions on the market, the participants in a multilateral trading facility are not required to apply, with respect to one another, the provisions of clauses 85 1), 5)–7) and 9) and §§ 86–87⁶, 89 and 89¹ of this Act, unless such offers and transactions are conducted on behalf or on account of a client. The first sentence of this subsection does not apply to the procedure for prohibition of market abuse in conformity to the provisions of Chapter 21.

(3) The provisions of §§ 136 and 138¹ of this Act apply the transformation of a multilateral trading facility.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 163⁴. Supervision over activities within multilateral trading facilities

The provisions of §§ 148 and 149 of this Act apply the operators of multilateral trading facilities.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Chapter 19 TAKEOVER BIDS

§ 164. Scope of application

(1) The provisions of this Chapter shall apply to takeover bids made to acquire voting rights in public limited companies which are registered in Estonia (hereinafter *Estonian target issuer*) and of which all or a certain type of their shares are traded on an Estonian market.

(2) The provisions of this Act, legislation established on the basis thereof and other legislation concerning notification of the employees of target issuers, holding of voting rights and controlled companies, the exception concerning the mandatory takeover bid specified in § 173 of this Act, protective measures and other provisions relating to company law shall apply to takeover bids made to acquire voting rights in Estonian target issuers, none whose shares are traded on an Estonian market.

(3) The provisions of this Act and legislation established on the basis thereof concerning takeover bids shall apply to takeover bids made to acquire voting rights in public limited companies which are registered in another Contracting State (hereinafter *target issuer of Contracting State*) provided that one of the following conditions have been met:

1) the takeover bid for acquiring voting rights is made only with respect to shares granting voting rights being traded on an Estonian market;

2) the takeover bid for acquiring voting rights is made simultaneously with respect to shares granting voting rights being traded on an Estonian market and a market of another Contracting State, provided that the shares were admitted to trading on the Estonian market for the first time or they were admitted to trading simultaneously in an Estonian market and a market of another Contracting State and the target issuer has decided to choose the Supervision Authority as the agency authority to supervise the takeover bid.

(4) Only the provisions of this Act and legislation issued on the basis thereof concerning approval and processing of takeover bids, determination of fair purchase prices, disclosure and the contents of the prospectus

for a takeover bid (hereinafter *prospectus for takeover bid*) shall apply under the conditions provided in subsection (3) of this section. In other cases, the law of the country of the seat of the target issuer shall apply to target issuers of Contracting States.

(5) The provisions of this Chapter shall not apply to a public limited company established as an investment fund within the meaning of § 1 of the Investment Funds Act, and to investment funds registered in other Contracting States.

(6) For the purposes of this Chapter, a share is a security specified in clauses 2 (1) 1) and 7) of this Act as well as any other transferable right for voting at a general meeting of shareholders.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 165. Takeover bid

(1) For the purposes of this Act, a takeover bid is a public tender for the acquisition of shares for money or securities traded on the market to the shareholders (hereinafter *target persons*) of the target issuer.

(2) A public tender by the target issuer for the acquisition of the shares of the target issuer to its shareholders is not a takeover bid.

(3) The term for acceptance of an offer made by a takeover bid shall be 28 - 42 days based on which the offeror shall determine the term of the takeover bid (hereinafter *term of takeover bid*). The term of a takeover bid shall be calculated as of the term of publication of the prospectus for the takeover bid.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 166. Obligation to make takeover bid

(1) A person who has gained dominant influence over the target issuer either directly or together with other persons acting in concert is required to make a takeover bid for all shares of the target issuer within twenty days as of gaining dominant influence.

(2) The obligation provided for in subsection (1) of this section shall not apply if, before gaining dominant influence, the takeover bid provided in this Chapter was made or in case of implementation of the resolution tools or powers provided for in the Financial Crisis Prevention and Resolution Act.
[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

§ 167. Dominant influence

(1) Dominant influence is a situation where the target issuer is a controlled company within the meaning of subsection 10 (1) of this Act, whereupon voting rights are determined on the basis of the provisions of subsection 10 (3) this Act.

(2) The Supervision Authority has the right to determine the gaining, holding, transfer, absence and scope of dominant influence in each individual case by carefully considering all the relevant circumstances.
[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 168. Persons acting in concert

(1) For the purposes of this Act, persons acting in concert are connected persons and other persons who, either alone or together with other persons, act together with the person obligated to make the takeover bid, person making the takeover bid (hereinafter *offeror*) or the target issuer on the basis of an oral or written agreement in order to gain, maintain or increase dominant control over the target issuer or in order to frustrate the takeover bid.

(2) For the purposes of this Act, connected persons are a controlled company, a person controlling this company and other companies controlled by this person.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 169. Functions of Supervision Authority

(1) The Supervision Authority shall monitor the compliance of the takeover bid with legislation.

(2) The Supervision Authority shall execute supervision over the takeover bid together with the relevant operator of an exchange or the relevant operator.

(3) The Supervision Authority has the right to request information from the offeror and target issuer about the takeover bid.

(4) If in the case of a takeover bid, the law of a third country applies to the offeror simultaneously with the law of Estonia and such law does not require the making of a takeover bid to all target persons, the Supervision Authority may permit, based on the request of the offeror, not to deem persons whose residence or seat is in that state to be target persons.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 170. Obligations of offeror and connected persons

- (1) In the case of a takeover bid, the offeror shall treat all owners of shares of the same type equally.
- (2) The offeror and the target issuer must provide the target persons with significant, correct, accurate, complete and identical information for informed consideration of the takeover bid.
- (3) The offeror shall make a takeover bid if it has sufficient financial resources and the means to carry out the takeover.
[RT I 2008, 13, 89 - entry into force 15.03.2008]

(4) [Repealed - RT I 2007, 58, 380 - entered into force 19.11.2007]

§ 171. Obligations of target issuer and connected persons

(1) In the case of a takeover bid, members of the management, management board and supervisory board of the target issuer shall be guided by the interests of the target issuer and shall not hinder the consideration of the takeover bid by target persons.

(2) The supervisory board of the target issuer shall formulate and disclose its opinion regarding the takeover bid.

(3) During the period between the takeover bid and the results of the takeover bid being made public, the management board or supervisory board of the target issuer (hereinafter *management body of target issuer*) shall not perform any acts which could cause the failure of the takeover bid, unless the general meeting of the shareholders of the target issuer grants authorisation for the performance of such acts in the capacity of a protective measure (hereinafter *protective measures*). The issue of shares which may permanently prevent the offeror from gaining control over the target issuer is also considered to be a protective measure. Protective measures shall not be applied for longer than necessary. The management body of a target issuer has the right to invite other persons to make competing takeover bids and the making of such bids is not deemed to be application of protective measures.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) The authorisation of the general meeting of the shareholders of the target issuer must also exist concerning the decisions of the management body made before the disclosure of the takeover bid which are beyond the scope of the everyday economic activities of the target issuer and compliance with which could result in the application of protective measures.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(5) The authorisation of the general meeting of the shareholders of the target issuer provided in subsections (3) and (4) of this section shall be adopted if at least two-thirds of the votes represented at a general meeting are in favour unless the articles of association prescribe a greater majority requirement.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 171¹. Prohibition on imposition of restrictions and use of special rights

(1) During the term of the takeover bid, the restrictions on the transfer of shares provided by the articles of association, contracts between the target issuer and the shareholders or contracts between the shareholders shall not apply to the offeror.

(2) The restrictions and agreements relating to voting rights provided by the articles of association of the target issuer do not apply, and preferred shares do not grant voting rights at a general meeting of shareholders which takes place within the term of the takeover bid where a resolution is passed concerning the use of the protective measures specified in subsections 171 (3) and (4).

(3) If after a takeover bid, the offeror has acquired at least 75 per cent of the share capital of the target issuer representing the voting rights then, any agreements related to voting rights and special rights of shareholders provided by the articles of association of the target issuer do not apply upon the election and removal of the members of the supervisory body, and preferred shares do not grant voting rights at the first general meeting called by the offeror where amendment of the articles of association or passing of a resolution concerning the membership of the supervisory body is planned. The offeror has the right to call a general meeting, notice of which shall be given at least two weeks in advance.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 172. Obligations of offeror, target issuer and persons acting in concert therewith

The offeror, target issuer and persons acting in concert therewith are required to refrain from activities which would cause unusual fluctuations in the price of the shares of the target issuer during the term of a takeover bid.

§ 173. Exceptions to mandatory takeover bid

On the basis of a relevant written application from the person who gains dominant influence over the target issuer, the Supervision Authority has the right to grant an exception to the requirement for a mandatory takeover bid if one of the following circumstances exists:

- 1) the company acquired dominant influence over the target issuer from another company belonging to the same group as the company and the company continues to belong to the same group thereafter;
- 2) dominant influence was gained reducing the share capital of the target issuer;
- 3) dominant influence was gained for the purpose of carrying out a merger or division prior to approval of the merger or division agreement by the merging companies or by the general meeting of the shareholders of the target issuer being divided, on the condition that, as a result of the merger or division of the target issuer, the dominant influence of the person or persons acting in concert shall be terminated;
- 4) the shares were acquired for a short term for the purpose of further transfer but the acquisition resulted in a dominant influence, including the acquisition of securities for a trading portfolio, underwriting of a share issue and acquisition of the shares by the issuer;
- 5) dominant influence was gained without any prior intention to gain dominant influence over the target issuer, and the acquirer of dominant influence surrenders it to a third party who is not a person acting in concert therewith within ten working days as of gaining dominant influence, on the condition that a general meeting of the shareholders of the target issuer is not held during this term;
- 6) a shareholder gained dominant influence by exercising a pre-emptive right to subscribe to shares which arises from law and was not acquired from other persons.
- 7) dominant influence was gained as a result of succession, gift or division of marital property, and the acquirer of dominant influence surrenders it to a third party who is not a person acting in concert therewith within ten working days as of gaining dominant influence, on the condition that a general meeting of the shareholders of the target issuer is not held during this term;
- 8) dominant influence was gained as a result of transformation, rehabilitation or rationalization of the target issuer, and the acquirer of dominant influence surrenders it to a third party who is not a person acting in concert therewith within ten working days as of gaining dominant influence, on the condition that a general meeting of the shareholders of the target issuer is not held during this term;
- 9) dominant influence was gained as a result of pledging or establishment of financial guarantee, and the acquirer of dominant influence surrenders it to a third party who is not a person acting in concert therewith within ten working days as of gaining dominant influence, on the condition that a general meeting of the shareholders of the target issuer is not held during this term.

[RT I 2009, 12, 71 - entry into force 27.02.2009]

§ 174. Purchase price in takeover bid

(1) The ratio of the purchase prices of shares of different type which serve as the object of a takeover bid shall be in proportion to the rights and obligations deriving from the shares.

(2) The purchase price of a share which serves as the object of a mandatory takeover bid and is stated in the mandatory takeover bid shall be fair.

(3) The fair price payable for a share which serves as the object of a takeover bid within the framework of a mandatory takeover bid shall be the highest price that the offeror or persons acting in concert with the offeror have paid for such share within the six months prior to the offer.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) If the offeror or persons acting in concert with the offeror acquire the shares after the disclosure of the takeover bid and before the disclosure of the result of the takeover bid for a price higher than the purchase price, then the highest price that they have paid for such share during that period is deemed to be the fair price.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(5) If within six months following the acquisition of the own shares based on the resolution of the general meeting or supervisory board of a target issuer under dominant influence a person having dominant influence over the target issuer or a person acting in concert therewith makes a takeover bid to the shareholders of such target issuer, the offeror shall compensate the difference between the price paid for the share to the person who transferred the share to the target issuer in the course of the acquisition of the own shares based on the resolution of the general meeting or supervisory board and the purchase price paid in the takeover bid if the purchase price is higher in the takeover bid and if a shares buy-back programme meeting the requirements of Commission Regulation (EC) No 2273/2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments (OJ L 336, 23.12.2003, p. 33–38) or other equivalent document does not disclose an intention of making the takeover bid.

[RT I 2009, 37, 250 - entry into force 10.07.2009]

§ 175. Approval of takeover bid

- (1) The offeror shall obtain approval for the takeover bid from the Supervision Authority.
- (2) The Supervision Authority shall not approve a takeover bid which violates legislation.
- (3) The Supervision Authority shall make a decision on the approval of a takeover bid or the grant of the exception specified in § 173 of this Act within fifteen days as of receiving a corresponding written application from the offeror.
- (4) If a share which serves as the object of a takeover bid of a target issuer registered in another Contracting State has been admitted to trading on the Estonian market, a takeover bid may be made in Estonia based on the prospectus of a takeover bid approved by the competent supervision authorities of other Contracting States. [RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 176. Right to contest takeover bid

- (1) A target person or other person connected with the takeover bid may not demand cancellation of the takeover bid or modification of the conditions thereof after the Supervision Authority has approved the takeover bid.
- (2) A target person or other person connected with the takeover bid may demand compensation of damage caused by the takeover bid.
- (3) The limitation period of a claim specified in subsection (2) of this section shall be one year as of approval of the takeover bid by the Supervision Authority.

§ 177. Disclosure of takeover bid

The offeror shall publish the prospectus for the takeover bid on the website of the operator of the relevant market and the prospectus shall contain accurate, precise and complete information regarding the takeover bid.

§ 178. Results of takeover bid

The offeror shall make public the results of the takeover bid after expiry of the term of the takeover bid on the website of the operator of the corresponding market. [RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 179. Extension of term of takeover bid

If circumstances emerge which postpone the takeover bid, the offeror shall extend the term of the takeover bid with respect to these target persons who have not, within the framework of the takeover bid, made a proposal or an offer to the offeror to transfer the shares.

§ 180. Withdrawal from contract

- (1) In the cases and pursuant to the procedure prescribed in this Act and legislation established on the basis thereof, a person who makes a proposal or an offer for the transfer of a share within the framework of a takeover bid and the target person who accepts the proposal or the offer have the right to withdraw from the offer or proposal and to withdraw from the agreement.
- (2) In the cases and pursuant to the procedure prescribed in this Act and legislation established on the basis thereof, a target person who enters into a contract for the transfer of a share within the framework of a takeover bid has the right to cancel or withdraw from a transfer contract which has been entered into but not yet executed or to demand the return of that which has been delivered or received on the basis of a transfer contract which has already been executed or, in the event this is impossible, to demand compensation for damage in money. In this case, the offeror does not have the right to file a claim against the target person for compensation of damage.

§ 181. Competitive takeover bid

In the event another offeror makes a takeover bid with respect to the shares which are the object of the takeover bid (a competitive takeover bid), the target person has the right to choose between the offers and, in order to do so, to do the following during the term of the original takeover bid:

- 1) withdraw the proposal made to the offeror, within the framework of the original takeover bid, to transfer the share;
- 2) withdraw from the agreement to transfer the shares entered into within the framework of the original takeover bid.

§ 182. Consequences of illegal takeover bid

(1) If a person violates the obligation prescribed in § 166 of this Act but the person is not granted the right to withdraw from making a mandatory takeover bid in accordance with § 173 of this Act or if a person violates the obligation prescribed in subsection 175 (1) of this Act, the person may not exercise voting rights in the target issuer and these votes shall not be included in the quorum of the general meeting of the target issuer until such time as the violation is eliminated.

(2) The Supervision Authority has the right to issue a mandatory precept to the registrar of the Estonian Central Register of Securities for immediate execution to prohibit, for a term of up to twenty days, the use and disposal of securities in a securities account held by an offeror or a person acting in concert therewith in the event that an illegal takeover bid is made or that another bid, similar to a takeover bid, is made available to the shareholders of the target issuer or that the offeror and a person acting in concert therewith performs other acts which are in violation of this Act or legislation established on the basis thereof.

§ 182¹. Takeover of shares after takeover bid

(1) If the offeror has acquired at least 9/10 of the share capital of the target issuer representing the voting rights as the result of a takeover bid, the general meeting of shareholders of the target issuer may decide, at the request of the offeror, on the takeover of the remaining shares belonging to target persons for a fair compensation.

(2) The general meeting of the target issuer may make the decision on the takeover of the remaining shares belonging to target persons specified in subsection (1) of this section within three months after the expiry of the takeover term. A resolution on the takeover of shares belonging to the rest of the target persons shall be adopted if at least 9/10 of the votes represented by shares are in favour.

(3) In the case provided by subsection (1) of this section, fair compensation may be paid in money or in liquid shares traded on the market and in such case, the compensation shall not be lower than the purchase price of the takeover bid.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 182². Extension of term of takeover bid with respect to target persons

The takeover term shall be extended up to three months after the date of disclosure of the takeover bid results with respect to the target persons who, within the framework of the takeover bid, did not make the target issuer an offer for the taking over of shares, if at least 9/10 of the share capital of the target issuer representing the voting rights is represented by the shares of the offeror and the general meeting of the target issuer has not made the takeover decision provided in § 182¹ of this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 183. Rules of takeover bids

(1) Based on the principles set out in this Act, the minister responsible for the area shall, by a regulation, establish more specific requirements for a takeover bid and the circumstances related thereto (hereinafter *the rules of a takeover bid*).

(2) The rules of a takeover bid shall prescribe the following:

- 1) the criteria and procedure for determining a fair purchase price for the share which serves as the object of the takeover bid and the payment thereof;
- 2) the maximum term of the takeover bid and the conditionality criteria of the takeover bid;
- 3) the conditions and procedure for amending the takeover bid;
- 4) the procedure for co-ordination of the takeover bid with the Supervision Authority;
- 5) the criteria and procedure for disclosing and communicating information regarding the takeover bid;
- 6) the requirements as to the contents and form of the prospectus containing all the terms and conditions of the takeover bid;
- 7) the criteria and procedure for publication of the results of the takeover bid;
- 8) the criteria and procedure for distribution of the shares serving as the object of the takeover bid to the offeror;
- 9) the obligations of the offeror when acquiring the shares serving as the object of the takeover bid on more favourable conditions with respect to the target persons than those set out in the takeover bid;
- 10) the requirements as to the contents and form of the opinion of the supervisory board of the target issuer regarding the takeover bid and related circumstances;
- 11) the nature of inappropriate protection measures taken by the target issuer or target person with the aim of not making the takeover bid or of defeating the takeover bid;
- 12) the principles and valid provisions applicable to a competitive takeover bid and the impact of a competitive takeover bid on the original bid;
- 13) the scope of the rights and obligations of the Supervision Authority in exercising supervision prior to the takeover bid being made public and supervision related to the takeover bid.

(3) If necessary, the rules of a takeover bid may also prescribe:

- 1) more specific features of a mandatory takeover bid and more specific features of the extraordinary circumstances in the case of which a person has the right, with the approval of the Supervision Authority, to withdraw from making a mandatory takeover bid;
- 2) the procedure to withdraw a proposal made within the framework of the takeover bid and to withdraw from an agreement entered into;
- 3) particulars of changing the purchase price of a share serving as the object of a mandatory takeover bid, based on which the Supervision Authority has the right to propose the changing of the purchase price disclosed earlier to the offeror.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Chapter 20

REGULATED INFORMATION

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Division 1

General Provisions

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 184. Application of Chapter

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1) The provisions of this Chapter apply to the disclosure of regulated information relating to issuers of securities, except for money market instruments, admitted to trading on the Estonian market or a market of another Contracting State provided that the home Contracting State of such issuers is Estonia.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) The provisions of this Chapter do not apply to money market instruments and the units or shares of such investment funds, which are not closed-ended for the purposes of the Investment Funds Act.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 184¹. Shareholder

(1) For the purposes of this Chapter, a shareholder is a person who directly or indirectly holds:

- 1) the shares of the issuer in its own name and on its own account;
- 2) the shares of the issuer in its own name and on behalf of a third person;
- 3) depositary receipts of the shares of the issuer.

(2) The person holding a depositary receipt is the holder of the share represented by and underlying the depositary receipt.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 184². Debt security

For the purposes of this Chapter, a debt security is a bond or other debt obligation tradable as a security, except for a convertible security or another security which is equivalent to a share or which, as the result of conversion or performance of the rights represented thereby grants the right to acquire a share or a security which is equivalent to a share.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 184³. Electronic means

For the purposes of this Chapter, electronic means shall mean the electronic equipment for the processing, storing and transmitting of data by way of cable, radio communication, optic technology or other electromagnetic technologies.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 184⁴. Disclosure of choice of home Contracting State

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(1) If Estonia is the home Contracting State pursuant to § 13¹ of this Act, an issuer or person asking for admission to trading shall disclose the information concerning such choice pursuant to the provisions of § 184⁶ of this Act and simultaneously submit the same information to the competent supervisory agency of the Contracting State which is the registered office or, where appropriate, place of residence of the issuer and to the competent supervisory agencies of all the host Contracting States.

(2) If an issuer has not disclosed the choice of the home Contracting State pursuant to the procedure provided for in subsection (1) of this section within three months as of the admission of the issuer's securities to trading on a market, the issuer's home Contracting State shall be the Contracting State where the issuer's securities have been admitted to trading on a market. If there are several such Contracting States, the issuer's home Contracting States shall be all of these Contracting States until the issuer has chosen one from among these and disclosed such choice pursuant to the provisions of subsection (1) of this section.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 184⁵. Host Contracting State

[Repealed - RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 184⁶. Disclosure of regulated information

(1) An issuer or person asking for admission to trading shall disclose the regulated information under the conditions provided for in this Chapter.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) An issuer or person asking for admission to trading shall disclose the regulated information in the form which allows rapid access thereto in an uniform manner, and shall make such information accessible within the system specified in subsection (5) of this section. An issuer or person asking for admission to trading shall not charge any fees for the provision of information.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(3) For the publication of information, an issuer is required to use media channels which may be presumed to actually and efficiently transmit the information to the public all over the European Union. Regulated information shall be disseminated simultaneously to the widest possible public.

(4) The provisions of subsections (1)-(3) also apply to issuers whose securities have not been admitted to trading on the regulated market of the home Contracting State and whose only host Contracting State is Estonia.

(5) The Supervision Authority shall administer the central recording system for regulated information or shall appoint a person to administer the system.

(6) Regulated information shall be presented to the media channels as an unaltered full text.

(7) The requirement provided for in subsection (6) of this section is deemed to be fulfilled with respect to the reports specified in §§ 184¹⁰-184¹² of this Act also in case the data related to the regulated information is submitted to media channels, indicating the website on which the specified reports can be accessed in addition to the system specified in subsection (5) of this section.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(8) Regulated information shall be presented to media channels in a manner which guarantees the safety and data protection of the message, reduces the danger of abuse of data and allows to determine the source of the regulated information with sufficient clarity. In order to ensure safe access to regulated information, any failures or malfunctions which may occur upon the transmission of the data shall be eliminated as soon as possible. An issuer is not responsible for system errors or possible deficiencies in media channels to which the regulated information has been forwarded.

(9) Regulated information shall be forwarded to media channels in a manner clearly indicating that its nature is regulated information and it shall also set out the provider of the information or the issuer of the securities (hereinafter *information provider*), the topic of the regulated information and the date and time when the issuer forwarded the information. At the request of the Supervision Authority, an information provider shall provide the following information related to the publication of regulated information:

- 1) the name of the person who forwarded the information to the media channel;
- 2) data concerning confirmation of safety (validation);
- 3) time and date of forwarding the information to the media channel;
- 4) the data channel or means through which the information was forwarded;
- 5) data concerning any prohibition set by the information provider with respect to the regulated information.

(10) The Supervision Authority may provide instructions to simplify the publication of regulated information and information subject to publication pursuant to legislation issued on the basis of the Directive 2003/6/EC of the European Parliament and of the Council on insider dealing and market manipulation and the Prospectus Directive with the aim to create an electronic information network between the Supervision Authority, operator

of the regulated market and the commercial register, and an information network between the Contracting States.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 184⁷. Notification of Supervision Authority

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

Upon disclosure of the regulated information, an issuer or person asking for admission to trading shall simultaneously submit the same information to the Supervision Authority unless the information has been disclosed pursuant to the provisions of §§ 186, 188⁷ or 1889 of this Act. The Supervision Authority may disclose the information submitted thereto on its website.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 184⁸. Language

(1) If securities have been admitted to trading only on the market of Estonia as the home Contracting State, regulated information shall be published, in Estonian or English.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) If securities have been admitted to trading on the market of Estonia as the home Contracting State and also on the market of one or several host Contracting States, the regulated information shall be published in Estonian or English and, according to the choice of the issuer, in a language accepted by the host Contracting States or in English.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) If securities have been admitted to trading on the market of one or several host Contracting States but not on the market of Estonia as the home Contracting State, the regulated information shall be published according to the choice of the issuer in a language accepted by the host Contracting States, in English or in Estonian and English.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) If securities have been admitted to trading on the market of Estonia as the host Contracting State, regulated information shall be published, according to the choice of the issuer, in Estonian or English.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(5) If securities have been admitted to trading on the market without the issuer's consent, then instead of the issuer, the obligations provided in subsections (1)–(4) of this section shall apply to the person asking for admission to trading.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(6) The information provided for in subsection 185 (1) of this Act shall be forwarded to the issuer in Estonian or in English.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(7) If securities with the nominal value or book value of at least 100,000 euros or debt securities which nominal value corresponded to at least 100,000 euros on the date of their issue have been admitted to trading on the markets of one or several Contracting States, the regulated information shall be disclosed, at the choice of the issuer or person asking for admission to trading, in the language accepted by the home Contracting State and the host Contracting State, or in English.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(8) The provisions of subsection (7) of this section shall also apply to debt securities, which have been admitted to trading before 31 December 2010 on a market of one or several Contracting States and which nominal value is at least 50,000 euros or corresponded to at least 50,000 euros on the date of their issue, if these debt securities are nominated in other currencies and these have not been repurchased.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 184⁹. Issuers located in third countries

(1) The Supervision Authority has the right to exempt an issuer whose registered office is in a third country from compliance with the requirements provided in §§ 184¹⁰–184¹², 186, 187 and 187³–187⁷ of this Act provided that equivalent requirements have been established by the legislation of such third country for the issuer or that the issuer adheres, upon disclosure of information, to the requirements of the third country which the Supervision Authority deems to be equivalent. Information subject to publication based on the equivalent requirements of the third country shall be submitted to the Supervision Authority pursuant to the provisions of § 184⁷ of this Act and disclosed pursuant to the provisions of this Chapter. The Supervision Authority shall notify

the European Securities and Markets Authority of the decision on granting the release provided for in the first sentence of this section.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) The requirements of a third country are deemed to be the equal requirements provided by subsection 184¹⁰(5) of this Act if, pursuant to such requirements, an annual management report shall include, in compliance with the legislation of that country, at least the following information:

- 1) a fair and balanced overview including an integral analysis of the development and results of the issuer's economic activities and financial situation, together with a description of the main risks and possible doubts related thereto, above all taking account of the extent and complexity of its economic activities;
- 2) information concerning significant events which are to take place after the end of the financial year;
- 3) information concerning the possible directions of development of the issuer's activities.

(3) The analysis referred to in clause (2) 1) of this section shall include the main financial indicators related to actual business activity and, where necessary, also other indicators which allow to understand the issuer's development, the result of its activity and financial status.

(4) The requirements of a third country are deemed to be the equal requirements provided by subsection 184¹¹(3) of this Act if, pursuant to the legislation of that country, submission of abridged accounts is required in addition to the interim management report and the interim management report shall contain at least the following information:

- 1) a review of the activities of the corresponding period;
- 2) possible directions of development of the issuer during the remaining six months of the financial year;
- 3) in the case of an issuer of shares, the most significant transactions with the related parties unless such information has been published earlier.

(5) The requirements of a third country are deemed to be the equal requirements provided by subsection 184¹⁰(2) and subsection 184¹¹(7) of this Act if the relevant person of the issuer is responsible, pursuant to the legislation of the third country, for the annual and semi-annual financial information and, above all for:

- 1) compliance of the annual report to the applicable procedure for reporting or accounting standards;
- 2) accuracy of the management review included in the management report.

(6) [Repealed - RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(7) The requirements of a third country are deemed to be the equal requirements provided by the first sentence of subsection 184¹⁰(3) of this Act if, pursuant to the legislation of the country, submission of reports on a solo basis by a parent undertaking is not required but an issuer whose registered seat is in that foreign country must submit at least the following information in the consolidated reports:

- 1) calculation of dividends with respect to issuers of shares and ability to pay dividends;
- 2) the requirements concerning the minimum capital and liquidity of all issuers, if possible.

(8) For compliance with an equivalent requirement, an issuer shall submit, at the request of the Supervision Authority, additional audited data which shall contain information concerning the reports on the solo basis of the issuer as a separate undertaking and shall reflect the details of the information specified in subsection (7) of this section. The data subject to submission may be prepared according to the accounting standards of the third country.

(9) The requirements of a third country are deemed to be the equal requirements provided by the second sentence of subsection 184¹⁰(3) of this Act if an issuer whose registered seat is located in the third country is not required, pursuant to the legislation of the third country, to submit a consolidated report but must prepare its reports on a solo basis pursuant to international accounting standards applicable within the European Union or approved pursuant to Article 3 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council on the application of international accounting standards (OJ L 243, 11.09.2002, pp 1–4) or pursuant to third country accounting standards equivalent thereto. If the financial information does not conform to such standards then, for compliance with the equality requirement, the financial information shall be submitted in the form of an adjusted financial statement and in addition, the reports prepared on a solo basis must be audited by an independent auditor.

(10) The requirements of a third country are deemed to be the equal requirements provided by § 186 of this Act if the period during which an issuer whose registered seat is located in the third country is required, pursuant to the legislation of the third country, to notify of qualified holdings and during which it must disclose such qualifying holdings is not longer than seven trading days.

(11) The term for informing issuers and the further term for disclosure by an issuer may differ from the terms established by subsection 185²(1) and § 186 of this Act, and the Supervision Authority may make a decision concerning such different terms based on the issuer's request. Information concerning such decisions shall be published on the website of the Supervision Authority.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(12) The requirements of a third country are deemed to be the equal requirements provided by § 187 of this Act if an issuer whose registered seat is located in the third country is required, pursuant to the legislation of the third country, to meet the following conditions:

- 1) if an issuer is permitted to hold up to 5 per cent of the voting rights represented by own shares, it is required to disclose such information when such limit is reached or exceeded;
- 2) if an issuer is permitted to hold 5- 10 per cent of the voting rights represented by own shares, it is required to disclose such information when 5 per cent or the relevant maximum amount is reached or exceeded;
- 3) if an issuer is permitted to hold over 10 per cent of the voting rights represented by own shares, it is required to disclose such information when the 5 per cent or 10 per cent limit is reached or exceeded. Upon determining the equality requirement, the notification obligation need not be taken into account upon exceeding a limit higher than 10 per cent.

(13) The requirements of a third country are deemed to be the equal requirements provided by § 187⁵ of this Act if an issuer whose registered seat is located in the third country is required, pursuant to the legislation of the third country is required to disclose the total number of voting rights and the size of the own capital and share capital within thirty calendar days after such total number or size of capital is changed.

(14) The requirements of a third country are deemed to be the equal requirements provided by clause 187⁶(3) 1) and clause 187⁷(3) 1) of this Act if an issuer whose registered seat is located in the third country is required, pursuant to the legislation of the third country is required to provide information at least concerning the place, time and agenda of a meeting.

(15) The requirements of a third country are deemed to be the equal requirements concerning independence provided by clauses 187¹(6) and (7) of this Act if the management company or investment firm specified in subsection 187¹(9) of this Act is required, by the legislation of that country to meet the following conditions:

- 1) the management company or investment firm must be able to use the voting rights represented by its assets freely and independently from the parent undertaking on all occasions;
- 2) the management company or investment firm must disregard the interests of the parent undertaking or other undertaking controlled by the parent undertaking in the case of conflict of interests.

(16) In order to comply with the equality requirement specified in subsection (15) of this section, a parent undertaking must comply with the notification requirements provided by clause 187¹(11) 1) and subsections (12) and (13) of this Act. In addition to the above, the parent undertaking must submit a certificate or confirmation concerning its conformity to the conditions provided in subsection (15) of this section with respect to each management company or investment firm.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Division 2

Periodic Information

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 184¹⁰. Disclosure of annual financial reports

(1) An issuer is required to disclose its annual report within four months after the end of the financial year and arrange the annual report to be publicly available for at least ten years.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) The annual financial report shall consist of the audited annual accounts, management report and declaration by the management.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) If an issuer is required to submit consolidated reports pursuant to legislation established upon transposition of the Seventh Council Directive 83/349/EEC based on Article 54(3)(g) of the Treaty on consolidated accounts (OJ L 193, 18.07.1983, pp 1–17) (hereinafter *Seventh Directive*), the audited annual accounts specified in subsection (2) of this section shall consist of the consolidated reports conforming to Directive No 1606/2002/EC of the European Parliament and of the Council and reports concerning the parent undertaking conforming to the law of the Contracting State of the registered seat of the parent undertaking. If an issuer is not required to prepare consolidated reports, such audited annual accounts shall consist of reports conforming to the law of the Contracting State of the registered seat of the issuer.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) The annual accounts which constitute a part of the annual financial report shall be audited in conformity to the provisions of legislation established upon the transposition of Articles 51 and 51a of the Fourth Council Directive 78/660/EEC based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of

companies (OJ L 222, 14.08.1978, pp 11–31) (hereinafter Fourth Directive) or, if the issuer is required to prepare consolidated reports, in conformity to the provisions of legislation established upon the transposition of Article 37 of the Seventh Directive. The sworn auditor's report shall be signed by the persons who carried out the audit. The obligation to audit annual accounts is not performed if the sworn auditor's report was published by a third-country sworn auditor for the purposes of § 11 of the Auditors Activities Act who has not been registered with the Auditors Activities Register regardless of the provisions of § 30¹ of the Auditors Activities Act.

[RT I, 23.12.2014, 2 - entry into force 01.01.2015]

(5) The management report shall be prepared in conformity to the provisions of legislation established upon the transposition of Articles 46 and 46a of the Fourth Directive or, if the issuer is required to prepare consolidated reports, in conformity to the provisions of legislation established upon the transposition of Article 36 of the Seventh Directive.

[RT I 2010, 7, 30 - entry into force 26.02.2010]

(6) The persons responsible for the operation of the issuer, whose names and duties shall be clearly indicated, shall declare and confirm in the declaration of the management that according to their best knowledge, the annual accounts, prepared according to the accounting standards in force, present a correct and fair view of the assets, liabilities, financial situation and loss or profit of the issuer and the undertakings involved in the consolidation as a whole, and the management report gives a correct and fair view of the development and results of the business activities and financial status of the issuer and the undertakings involved in the consolidation as a whole and contains a description of the main risks and doubts.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 184¹¹. Disclosure of half-yearly report

(1) An issuer of shares or debt securities is required to disclose the half-yearly report concerning the first six months of the financial year within three months after the end of such period and arrange the half-yearly report to be publicly available for at least ten years.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) The half-yearly report shall consist of the abridged accounts, an interim management report and declaration by the management.

(3) The interim management report shall set out, as a minimum, the significant events which took place during the first six months of the financial year and their effect to the abridged accounts, and contain a description of the main risks and ambiguities of the remaining six months of the financial year. The interim management report of an issuer of shares shall also set forth the significant transactions with the related parties.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(4) If an issuer is required to prepare consolidated reports, the abridged accounts specified in subsection (2) of this section shall be prepared in conformity to the international accounting standards approved pursuant to the procedure prescribed by Article 6 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council and which are applied to the interim accounting reports. If an issuer is not required to prepare consolidated reports, the abridged accounts shall contain the abridged balance sheet, abridged income statement and explanatory Annexes. In preparing the abridged balance sheet and abridged income statement, the issuer shall adhere to the same principles for selecting information for calculations and disclosure than upon preparation of the annual financial report.

(5) The abridged balance sheet and abridged income statement shall set out all the entries and intermediate amounts of the annual accounts for the previous year. Additional budgetary entries shall also be added in the case where, upon omission of such data, the semi-annual accounts would fail to give an accurate and fair overview of the assets, liabilities, financial situation, profit or loss of the issuer. In addition to the above, the following comparative data shall be added:

- 1) the balance sheet of the first six months of the current financial year and the comparative balance sheet of the financial year directly before that;
- 2) the cumulative income report for the first six months of the current financial year containing comparative data concerning the comparable period of time of the previous financial year.

(6) The explanatory annexes shall contain a sufficient amount of information to guarantee the comparability of the abridged half-yearly report to the annual financial report.

(7) An issuer of shares shall submit, in the interim management reports, information at least concerning the following significant transactions and transaction amendments with the related parties:

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

- 1) transactions with related parties carried out during the first six months of the current financial year which have significantly influenced the financial situation of the enterprise, or the results of activities during such period;
- 2) any amendments to the transactions with related parties described in the last annual statement which could have significantly influenced the financial situation of the enterprise, or the results of activities during the first six months of the financial year.

(8) If the half-yearly report has been audited, the sworn auditor's report or the review prepared by the auditors shall be submitted in full length. If the half-yearly report has not been audited or reviewed by auditors, the issuer shall make a declaration to such effect in the report.
[RT I 2010, 9, 41 - entry into force 08.03.2010]

(9) If an issuer of shares has no obligation to prepare a consolidated report, the issuer shall disclose at least the transactions with related parties specified in Article 43 (1) (7b) of the Fourth Directive.
[RT I 2009, 12, 71 - entry into force 27.02.2009]

(10) The persons responsible for the operation of the issuer, whose names and duties shall be clearly indicated, shall declare and confirm in the declaration of the management specified in subsection (2) of this section that according to their best knowledge, the abridged accounts, prepared according to the accounting standards in force, give a correct and fair view of the assets, liabilities, owners' equity, economic performance and cash flows of the issuer and the undertakings involved in the consolidation as a whole pursuant to the provisions of subsection (4) of this section, and the interim management report gives a correct and fair view of the information required in subsection (3) of this section.
[RT I 2009, 12, 71 - entry into force 27.02.2009]

§ 184¹². Report on payments made to governmental authorities

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]
An issuer active in the extractive or logging of primary forest industries for the purposes of Article 41 of Directive 2013/34/EU of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.06.2013, p. 19–76) shall prepare on an annual basis, in accordance with Chapter 10 of the specified Directive, a report on payments made to governmental authorities and make the report public at the latest six months after the end of the financial year and arrange the report to be publicly available for at least ten years.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 184¹³. Exemptions from disclosure of periodic information

(1) The provisions of §§ 184¹⁰-184¹² of this Act do not apply to the following issuers:
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

1) a state, a regional or local government of a state, an international organisation or another international institution governed by public law of which at least one Contracting State is a member, the European Central Bank, the European Stability Mechanism, another mechanism established with the objective of preserving the financial stability of eurozone and providing financial assistance to the Contracting States or a central bank of a Contracting State regardless of whether they issue shares or other securities;
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

2) an issuer who issues only debt securities admitted to trading on the market with the nominal value of at least 100,000 euros, or with the nominal value corresponding to at least 100,000 euros on the day of issue if the debt securities are nominated in another currency.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) The provisions of § 184¹¹ of this Act do not apply to credit institutions whose shares have not been admitted to trading on the market and who have continuously or repeatedly issued only debt securities within the meaning of § 184² of this Act, provided that the nominal value of all such debt securities remains below 100,000,000 euros and the credit institution has not published a prospectus prepared in compliance with the legislation established upon transposition of the Prospectus Directive. Within the meaning of this subsection, debt securities issued continuously or repeatedly shall mean the securities specified in subsection 2 (7) of this Act.

(3) The provisions of § 184¹¹ of this Act do not apply to issuers established earlier than 31 December 2003 and who issue, for the market, only debt securities with non-retrievable and unconditional guarantee provided by the Republic of Estonia or a local government of Estonia.

(4) [Repealed - RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(5) The exception provided for in subsection (1) of this section does not apply to issuers who issue exclusively debt securities, which have been admitted to trading on the market before 31 December 2010 and which nominal value is at least 50,000 euros or corresponded to at least 50,000 euros on the date of their issue, if these debt securities are nominated in other currencies and these have not been repurchased.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

Division 3

Ongoing Information

[RT I 2007, 58, 380 - entry into force 19.11.2007]

Subdivision 1 Information Concerning Holdings

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 185. Obligation to notify of number of votes

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(1) If the number of votes in an issuer of shares belonging to a person pursuant to the provisions of §§ 9 and 10 of this Act constitutes 5, 10, 15, 20, 25 or 50 per cent, or 1/3 or 2/3 of all the votes represented by the shares issued by such issuer (hereinafter *notification threshold*) or exceeds any notification threshold either when increasing or decreasing, the person shall notify of the number of votes belonging thereto the issuer of the shares and the Supervision Authority.

(2) The notification obligation specified in subsection (1) of this section shall apply also in case the number of votes in an issuer of shares belonging to a person reaches or exceeds the notification threshold in one of the following ways:

- 1) due to an event changing the breakdown of voting rights disclosed pursuant to § 187⁵ of this Act;
- 2) in case of an issuer of shares registered in a third country, due to an event equivalent to provisions of clause 1) of this subsection;
- 3) in conjunction of the voting rights belonging to the person on other grounds provided for in clause 10 (3) 9) or 9¹) of this Act and §§ 9 and 10 of this Act;
- 4) upon acquisition of the shares specified in clause 10 (3) 9) or 9¹) of this Act, including in case the person has previously notified of the number of votes specified in clause 10 (3) 9) or 9¹) of this Act pursuant to the procedure provided for in this section.

(3) If the security specified in clause 10 (3) 9) or 9¹) of this Act is related to several underlying shares, each issuer of an underlying share shall be given separate notice of reaching or exceeding the notification threshold.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 185¹. Person liable to notification obligation

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(1) Each shareholder or another person specified in subsection 10 (3) of this Act shall have the notification obligation provided for in § 185 of this Act.

(2) If more than one person has the notification obligation, such persons may submit a joint one-time notice. The submission of a joint one-time notice shall not release any of the persons from the liability related to the notification obligation thereof.

(3) The parties to an agreement provided for in clause 10 (3) 4) of this Act shall submit a notice jointly each time.

(4) If a shareholder specified in clause 10 (3) 12) of this Act grants an authorisation for one meeting of shareholders or if an authorised person specified in the same clause receives one or several authorisations for one meeting of shareholders, a notice may be submitted as a one-time notice at the moment of either granting or receiving an authorisation provided that the notice states, in an unambiguous manner, the circumstances related to the voting rights in a situation where the authorised person is no longer able to use the voting rights at his or her own discretion.

(5) A person is not required to submit a notice in case the notification obligation is performed by the parent undertaking of such person.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 185². Term of notification

(1) The notification obligation provided for in subsection 185 (1) of this Act shall be performed immediately but not later than on the fourth trading day as of the trading day following the day when a person:

- 1) became aware of the acquisition or transfer of the shareholding, exceeding the notification threshold or a possibility to exercise the voting right;
- 2) taking into account the circumstances, should have become aware of the acquisition or transfer of the shareholding, exceeding the notification threshold or a possibility to exercise the voting right, regardless of the

date of entry into force of the acquisition or transfer of the shareholding, exceeding the notification threshold or a possibility to exercise the voting right, or

3) became aware of an event changing the breakdown of the votes disclosed pursuant to § 187⁵ of this Act.

(2) For the purposes of this Act, a trading day shall mean the provisions of Article 2(5) and 4 of Commission Regulation (EC) 1287/2006.

(3) In the application of subsection (1) of this section, excluding an event changing the breakdown of the votes disclosed pursuant to § 187⁵ of this Act, it shall be considered that a shareholder or another person specified in subsection 10 (3) of this Act became aware or should have become aware of the acquisition or transfer of the shareholding, exceeding the notification threshold or a possibility to exercise the voting right no later than two trading days after the performance of the transaction.

(4) The calendar of Estonian trading days shall be taken as the basis upon application of subsection 185 (1), clauses 185 (2) 1), 3) and 4) and §§ 186 and 187 of this Act. The Supervision Authority shall publish on its website the calendar of trading days for the markets located or operating in Estonia

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 185³. Notice of reaching or exceeding notification threshold

(1) The notification obligation specified in § 185 of this Act shall be considered performed when at least the following information has been submitted:

- 1) breakdown of voting rights according to the situation at hand;
- 2) where possible, information concerning the controlled companies through which such securities related to voting rights are actually held;
- 3) date of reaching or exceeding the notification threshold;
- 4) information concerning the shareholder, including in the case where, based on the conditions provided in subsection 10 (3) of this Act, the shareholder has no right to perform the voting right, and information concerning the person who has the right to perform the voting right on behalf of such shareholder.

(2) The information related to the voting rights specified in clauses 10 (3) 9) and 9¹) of this Act shall contain the following in addition to items specified in clauses (1) 1)–3) of this section:

- 1) separate division by voting rights belonging to the person on other grounds provided for in clauses 10 (3) 9) and 9¹) of this Act and §§ 9 and 10 of this Act;
- 2) separate division by securities with the right of performance in kind and in money;
- 3) if a specific period of time has been set for the use of the right arising from the security, the time of acquisition of the shares or the time when the possibility to acquire the shares arose;
- 4) the term for redemption, use or expiry of the security;
- 5) information concerning the person holding the security;
- 6) the name of the issuer who issued the underlying shares.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 185⁴. Number of votes

(1) The number of votes specified in subsection 185 (1) of this Act shall be found on the basis of all the shares of the same class which represent the voting rights including in case the performance of the voting rights of such shares has been suspended.

(2) Upon submission of information specified in § 185 of this Act and related to securities specified in clauses 10 (3) 9) and 9¹) of this Act:

- 1) all the securities related to the underlying shares issued by the same issuer for the purposes of subsection 10 (5) of this Act shall be totalled;
- 2) the percentage of votes shall be calculated from the total number of voting rights and the size of the share capital which has been published last pursuant to § 187⁵ of this Act;
- 3) the total number of votes specified in clause 2) of this subsection shall be calculated on the basis of the notional amount of the underlying shares of the securities totalled pursuant to clause 1) of this subsection;
- 4) the total number of votes shall be calculated in case the securities may be performed only in money, multiplying the notional amount of the shares specified in clause 3) of this subsection by the delta of the securities specified in clauses 10 (3) 9) and 9¹) of this Act, taking into account long positions taken in such securities and not netting such long positions with short positions.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 185⁵. Proof of acquisition and transfer of shareholding

(1) At the request of the Supervision Authority or the issuer of the share, the person who notified of the number of votes based on § 185 of this Act is required to prove to the Supervision Authority or the issuer the number of votes directly or indirectly owned thereby, and the amount, acquisition, ownership or transfer of the shareholding.

(2) If the Supervision Authority has a suspicion that the person has violated the notification obligation provided for in § 185 of this Act, but a person or agency registered in a foreign state refuses, without good reason, to provide the Supervision Authority with information concerning the votes which belong or are likely to belong to that foreign person or agency in a public limited company, the suspicion of the violation of the notification obligation shall be considered justified.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 186. Disclosure obligation

An issuer shall organise the publication of the information received on the basis of § 185 of this Act without delay but not later than within three trading days after receiving the notice, unless the information is published by the Supervision Authority pursuant to the provisions of § 184⁶ of this Act within three trading days after receiving the notice.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 187. Other cases

An issuer of shares who, itself or through a third person acting in its own name but at the expense of the issuer, acquires or transfers the shares, as the result of which the proportion of its shares in the voting rights reaches, exceeds or falls below 5 or 10 per cent, is required to make public such proportion without delay but not later than within four trading days after the acquisition or transfer of the shares. The proportion of own shares shall be calculated on the basis of all the voting rights represented by the shares issued by the issuer.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 187¹. Exceptions

(1) The notification obligation provided for in § 185 of this Act shall not apply to:

- 1) shares which are acquired only for settlement purposes within a usual short settlement cycle;
- 2) shares held by a person providing the service of safekeeping of shares, within the limits of its authority to provide such service, provided that such service provider is permitted to exercise the voting rights represented by such shares only based on instructions received in writing or through electronic media;
- 3) a five per cent holding acquired or transferred for market-making purposes if the market-maker does not interfere with the management of the issuer or influence the issuer to buy the shares held by the market-maker or to guarantee their price;
- 4) voting rights represented by the shares included in the trading portfolio of a credit institution or investment firm, provided that such voting rights do not exceed five per cent of all the voting rights represented by the shares issued by the issuer and that such voting rights are neither exercised nor used otherwise to interfere in the management of the issuer;
- 5) voting rights represented by the shares acquired by a credit institution or investment firm for the purpose of stabilisation within the meaning of Commission Regulation (EC) No 2273/2003, provided that such voting rights are neither exercised nor used otherwise to interfere in the management of the issuer;
- 6) shares which are given to or by the members of the European System of Central Banks in connection to performance of the functions of financial institutions, including to shares given to or by such members based on a pledge, repurchase or other such agreement for monetary policy purposes or internally within a payment system, provided that such agreements are short-term and the voting rights represented by such shares are not exercised.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) The maximum length of an ordinary short settlement cycle shall be the three trading days following the transaction.

(3) A credit institution or investment firm who wishes to use the exemption provided by clause (1) 3) of this section shall notify the Supervision Authority not later than within four trading days that such credit institution or investment firm is acting or intends to act as a market-maker with respect to a certain issuer. A credit institution or investment firm who finishes its activity as a market-maker with respect to a relevant issuer shall immediately inform the Supervision Authority thereof.

(4) The Supervision Authority shall promptly forward the information received based on subsection (3) of this section to the relevant supervision authority of the home Contracting State of the issuer.

(5) For determining the securities kept for market-making purposes, a market maker is not required to keep such securities in a separate account and is permitted to determine the relevant securities in any other verifiable manner.

(6) A parent company of a management company of a UCITS provided by the Investment Funds Act or a parent company of a management company of a UCITS of another Contracting State is not required to total the holdings specified in subsection 185 (1) of this Act with the holdings which the management company manages by itself, provided that the management company performs its voting rights independently from the parent undertaking. The first sentence of this subsection does not apply if the parent undertaking or a person controlled by the parent undertaking has invested in the holdings managed by the management company, and the management company is permitted to perform the voting rights represented by such holdings only based on the direct or indirect instructions of the parent undertaking or the undertaking controlled by the parent undertaking.

(7) A parent undertaking of Estonia or another Contracting State is not required to total the holdings specified in subsection 185 (1) of this Act with the holdings managed by such investment firm separately for each client within the meaning of subsection 43 (4) of this Act under the following conditions:

- 1) the investment firm has an activity licence for providing the service of managing securities portfolios;
- 2) the investment firm is permitted to perform the voting rights represented by such shares only in writing or based on directions given through electronic means, or the investment firm guarantees, while applying necessary and relevant measures, that the securities portfolio management service is provided separately from any other equivalent services related to the management of investment funds;
- 3) the investment firm performs its voting right independently from the parent undertaking.

(8) Subsection (7) of this section does not apply if the parent undertaking or an undertaking controlled by the parent undertaking has invested in the holdings managed by the investment firm, and the investment firm is permitted to perform the voting rights represented by such holdings only based on the direct or indirect instructions of the parent undertaking or the undertaking controlled by the parent undertaking.

(9) The exemption provided in subsections (6) or (7) of this section to total holdings with the holdings of the parent undertaking shall also apply to undertakings whose seat is in a third country but who, if their seat or principal place of business would be located in a Contracting State, would be required to hold an equivalent activity licence for providing the service of securities portfolio management or management of UCITS-s pursuant to the legislation of the European Community, provided that they comply with requirements for independence equivalent to the requirements for management companies or investment firms provided in subsections (6) or (7) of this section.

(10) In order to benefit from the exemption specified in subsections (6) or (7) of this section, the parent undertaking of a management company or investment firm must meet the following conditions:

- 1) the management company or investment firm shall not interfere with the performance of the voting rights belonging to the management company or investment firm by giving direct or indirect instructions or in any other manner;
- 2) the management company or investment firm must be able to perform the voting rights represented by its assets freely and independently from the parent undertaking.

(11) If a parent undertaking wishes to benefit from the exemption provided in subsections (6) or (7) of this section, the parent undertaking shall immediately submit the following information to the Supervision Authority:

- 1) the names of the management companies and investment firms and indicate, if possible, the supervisory authorities exercising supervision over them but refrain from setting forth the corresponding issuers;
- 2) a certificate or confirmation concerning the conformity of the parent undertaking to the conditions provided in subsection (10) of this section with respect to each specified management company or investment firm.

(12) A parent undertaking shall update the list specified in clause (11) 1) of this section as and when necessary.

(13) If a parent undertaking intends to use the exemption provided in subsections (6) and (7) of this section only with respect to the securities specified in clauses 10 (3) 9) and 9¹) of this Act, the parent undertaking shall submit to the Supervision Authority only the information provided for in clause (11) 1) of this section.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(14) For the purposes of clause (10) 1) of this section, direct instructions shall mean any instructions that the parent undertaking or an undertaking controlled by the parent undertaking may give the management company or investment firm upon each subsequent performance of the voting rights.

(15) For the purposes of clause (10) 1) of this section, indirect instructions shall mean general, subsequent or any other form of instructions given by the parent undertaking or an undertaking controlled by the parent undertaking which limit the performance of the voting right by the management company or investment firm within the extent determined by such instructions with the aim to serve certain business interests of the parent undertaking or the undertaking controlled by the parent undertaking.

(16) [Repealed - RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(17) [Repealed - RT I, 14.11.2015, 1 - entry into force 24.11.2015]

Subdivision 2

Information for owners of securities

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 187². Information published in third countries

An issuer shall guarantee that information related to the issuer or securities issued thereby disclosed in third countries which may be of importance to the public of the European Economic Area is disclosed pursuant to the provisions of this Chapter even if such information is not regulated information.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 187³. Changes of rights arising from securities

(1) An issuer shall promptly publish all changes which occur in the rights represented by different classes of securities, including changes in the rights represented by the options and futures issued by the issuer itself which grant the right to acquire or transfer the shares of such issuer.

(2) An issuer issuing other securities except shares shall promptly publish all changes which occur in the rights of the owners of such securities, including in the terms of the securities which may indirectly influence the rights of the owners of the securities.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 187⁴. Issue of debt obligations

[Repealed - RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 187⁵. Event changing breakdown of voting rights

An issuer is required to promptly publish any changes in the total number of voting rights and the size of the capital.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 187⁶. Special requirements for issuers of securities

(1) An issuer of shares shall treat all shareholders equally under equal circumstances.

(2) An issuer of shares shall guarantee the correctness, accuracy and completeness of information and the accessibility in Estonia of all the possibilities and information needed by the shareholders for the performance of their rights. Shareholders shall be guaranteed a possibility to perform their rights by grant of authorisation insofar as, in doing so, the shareholders comply with the legislation of the country of origin of the issuer.

(3) An issuer of shares shall:

- 1) give information concerning the place, time and agenda of a general meeting and also concerning the total number of shares and voting rights and the rights of shareholders to participate in the general meeting;
- 2) make accessible the format for voting authorisation in written form or through electronic media together with the notice of a general meeting or, at the request of a person, after summoning the general meeting to every person who has the right to vote in a general meeting;
- 3) appoint a credit institution or financial institution to act as its paying agent through whom the shareholders can perform their proprietary rights;
- 4) publish or send notices concerning the division and payment of dividends and the issue of new shares and, among other, notify of any agreements and acts related to the division, subscription, cancelling or exchange of shares.

(4) An issuer of shares may forward information to shareholders by electronic means if all the following conditions are met:

- 1) the corresponding decision has been passed by the general meeting of shareholders;
- 2) the use of electronic means does not depend on the ability of the shareholder or the persons provided in subsection 10 (3) of this Act to access such means at their residence or seat;
- 3) means of identification are used which guarantee the actual and effective transmission of data to shareholders and persons who have the right to perform voting rights or to give instructions for performing voting rights;
- 4) a written notice asking for consent for transmission of information by electronic means has been sent to shareholders or the persons provided in clauses 10 (3) 3)-5), 8) and 11) of this Act, whereas failure to respond to such notice within a reasonable period of time is deemed to be grant of consent. Regardless of whether or not consent is given, such persons may require the forwarding of information in written form in the future;
- 5) the issuer shall determine the division of the costs of forwarding of information through electronic means based on the requirement for equal treatment provided in subsection (1) of this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 187⁷. Special requirements for issuer of debt securities

(1) An issuer of debt securities shall treat all the owners of the debt securities granting the same rights in an equal manner with respect to the rights represented by the debt securities.

(2) An issuer of debt securities shall guarantee the correctness, accuracy and completeness of information and the accessibility to the public in Estonia of all the possibilities and information that the owners of the debt securities need for the performance of their rights. Owners of debt securities shall be guaranteed a possibility to perform their rights by grant of authorisation insofar as, in doing so, the shareholders comply with the legislation of the country of origin of the issuer.

(3) An issuer of debt securities shall:

- 1) publish or send a notice concerning the place, time and agenda of a general meeting of the owners of debt securities, and concerning interest payments as well as the performance of rights of substitution, exchange, subscription or cancelling, any repayment, and concerning the corresponding participation rights of the owners of the debt securities;
- 2) make accessible the format for voting authorisation in written form, a format enabling written reproduction or by electronic means, together with the notice of a general meeting or, at the request of a person, after summoning the general meeting to every person who has the right to vote in a general meeting of the owners of debt securities;
- 3) appoint a credit institution or financial institution to act as its paying agent through whom the owners of debt securities can perform their proprietary rights.

(4) If only the owners of debt securities with the nominal value of at least 100,000 euros or owners of debt securities whose nominal value corresponded to 100,000 euros on the date of their issue are invited to participate in a general meeting of the owners of debt securities, then the issuer may organise the meeting in any Contracting State provided that the accessibility of all means and information necessary for the performance of the rights thereof is guaranteed in that Contracting State to the owners of the debt securities.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(4¹) The provisions of subsection (4) of this section shall also apply to the owners of such debt securities with the nominal value of at least 50,000 euros or corresponding to at least 50,000 euros on the date of their issue, who hold debt securities, which have been admitted to trading on the market before 31 December 2010. These debt securities shall not be repurchased and the owners of the debt securities shall be ensured the availability of all the means and information in this Contracting State, which is necessary for exercising these rights.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(5) An issuer may forward information to the owners of debt securities by electronic means if all the following conditions are met:

- 1) the corresponding decision has been passed by the general meeting of the owners of debt securities;
- 2) the use of electronic means does not depend on the ability of the owners of the debt securities or their representatives to access such means at their residence or seat;
- 3) means of identification are used which guarantee the actual and effective transmission of data to the owners of debt securities;
- 4) a written notice asking for consent for transmission of information by electronic means has been sent to the owners of debt securities, whereas failure to respond to such notice within a reasonable period of time is deemed to be grant of consent. Regardless of whether or not consent is given, such persons may require the forwarding of information in written form in the future;
- 5) the issuer shall determine the division of the costs of forwarding of information through electronic means based on the requirement for equal treatment provided in subsection (1) of this section.

(6) Subsection (5) of this section also applies if, based on subsection (4) of this section, Estonia has been chosen as the place of a general meeting of the owners of debt securities.

(7) The provisions of this section do not apply to securities issued by the Republic of Estonia or an Estonian local government.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 188. [Repealed - RT I 2007, 58, 380 - entry into force 19.11.2007]

Chapter 21 PROHIBITION ON MARKET ABUSE AND INVESTMENT RECOMMENDATIONS

Division 1 General Provisions

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹. Financial instrument

(1) For the purposes of this Chapter, a financial instrument is:

- 1) a security specified in subsection 2 (1) of this Act;
- 2) another instrument which is admitted to trading on the market of Estonia or another Contracting State or for which a request for admission to trading on such a market has been submitted.

(2) For the purposes of this Chapter, options and futures related to a financial instrument shall mean a derivative instrument within the meaning of clause 2 (1) 6) of this Act which is related to the financial instrument specified in subsection (1) of this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 188². Market abuse

For the purposes of this Act, market abuse means the misuse of inside information, and market manipulation.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188³. Application of provisions regulating market abuse

(1) Unless otherwise provided by this Chapter, the provisions of §§ 237¹⁷, 237²², 237²⁷, 237³⁰, 237³⁷ and 237⁴² of this Act apply with respect to and in relation with financial instruments which have been admitted to trading on an Estonian market or a market of another Contracting State, or concerning which a request has been submitted for admission to trading on an Estonian market or a market of another Contracting State, regardless of whether the relevant transaction, proposal or agreement is carried out on such market or in a Contracting State exercising supervision over such market.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) In addition to the provisions of subsection (1) of this section, the provisions regarding punishment prescribed in § 188⁶ of this Act and punishment for the misuse of inside information also apply to any financial instrument and in connection with any financial instrument which is not admitted to trading on the market of Estonia or another Contracting State, but the value of which depends on the financial instrument specified in subsection (1) of this section.

(3) The provisions of this Chapter do not apply to transactions conducted by a Contracting State, the central bank of a Contracting State, the European Central Bank or a person or agency acting in the name of a specified person in connection with monetary policy, exchange rate policy or state debt management policy.

(4) The prohibitions on market abuse provided for in this Chapter and the liability for violation of the prohibitions on market abuse provided for in Chapter 25 of this Act shall not apply to transactions which are concluded according to the requirements prescribed in the Commission Regulation (EC) No. 2273/2003.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(5) If the Supervision Authority has a suspicion that a person has violated the prohibition on market abuse provided for in this Chapter, but a person or agency registered in a foreign state refuses, without good reason, to provide the Supervision Authority with information concerning the person or circumstances related to the violation of the prohibition on market abuse, the suspicion of the violation of the prohibition on market abuse shall be considered justified.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

Division 2 Misuse of Inside Information and Disclosure of Inside Information

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188⁴. Inside information

(1) Inside information is undisclosed precise information pertaining directly or indirectly to a financial instrument or the issuer of such financial instrument and which, if disclosed, would probably have a significant effect on the price of the financial instrument or a derivative linked to the financial instrument.

(2) In the case of a commodity derivative, inside information is undisclosed precise information pertaining directly or indirectly to a commodity derivative and which, according to the accepted practices on the market of commodity derivatives, the users of the market of commodity derivatives receive or should receive, particularly information which is made accessible to the users of the market of commodity derivatives or which is subject to disclosure according to legislation regulating the operation of the corresponding commodity market or market of commodity derivatives, the market rules, a contract or custom.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(3) In respect of a person executing an order concerning a financial instrument, inside information is also precise information which is communicated by a client, related to the client's order subject to execution and pertains directly or indirectly to a financial instrument or the issuer of such financial instrument and which, if disclosed, would probably have a significant effect on the price of the financial instrument or a derivative linked to the financial instrument.

(4) Precise information specified in subsections (1)–(3) of this section is information concerning an event which has occurred or circumstances which exist or the occurrence or existence of which may be reasonably presumed, and the information shall be sufficiently accurate to assume the possible effect of the specified event or circumstances on the price of the financial instrument or a derivative linked to the financial instrument.

(5) Information specified in subsections (1) and (3) of this section which, if disclosed, would probably have a significant effect on the price of a financial instrument or a derivative linked to the financial instrument, is information on which the decision of a reasonable person investing in financial instruments who makes an investment decision is probably based before making the decision.

(6) Research and assessments conducted on the basis of information which is publicly available is not deemed to be inside information.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188⁵. Insider

(1) An insider is a person who, by reason of being a full partner or a member of the management or supervisory body of the issuer of a security due to his or her holding in the issuer of a security or his or her work, profession or duties, or as a result of an offence committed by him or her is in possession of inside information.

(2) If a person specified in subsection (1) of this section is a legal person or agency, the natural person who participates in making the decision for the account of the above-mentioned legal person or agency upon conducting a transaction is also deemed to be an insider.

(3) In addition to the provisions of subsections (1) and (2) of this section, an insider is also any third party who possesses inside information while that person knows, or ought to have known, that the information possessed is inside information.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188⁶. Prohibition on misuse of inside information

(1) Inside information is deemed to be misused if an insider:

- 1) directly or indirectly acquires or transfers or attempts to acquire or transfer on his or her own account or on the account of a third party a financial instrument or a derivative linked to the financial instrument which is deemed to be inside information;
- 2) discloses inside information to a third party, unless such disclosure is connected with the usual performance of functions or official duties;
- 3) makes recommendations to a third party or influences a third party to acquire or transfer a financial instrument or a derivative linked to the financial instrument which is deemed to be inside information.

(2) Inside information is not deemed to be misused if a person acquires or transfers a financial instrument which is deemed to be inside information for the performance of a contract and the person is a party to the contract and the contract was entered into before the person became an insider.

(3) The misuse of inside information is prohibited.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188⁷. Disclosure of inside information

(1) The issuer of a financial instrument is required to immediately disclose the inside information directly pertaining to the issuer. The inside information shall be disclosed in a manner which enables fast access and complete, correct and timely assessment of the information by the public. Upon disclosure, the issuer shall not combine, in a manner likely to be misleading, the provision of inside information to the public with the marketing of its activities.

(2) The disclosure of inside information shall not be delayed upon the coming into existence of a set of circumstances or the occurrence of an event, albeit not yet formalised.

(3) In addition to the provisions of subsection (1) of this section, the issuer of a financial instrument is required to disclose inside information on its website at the earliest opportunity.

(4) Any significant changes concerning already publicly disclosed inside information shall be publicly disclosed promptly after these changes occur, through the same channel as the one used for public disclosure of the original information, and the requirements for the disclosure of inside information established in this Division shall be complied with.

(5) The issuers of financial instruments are required to ensure that the disclosure of inside information pertaining directly to the issuers is synchronised as closely as possible between all categories of investors in Estonia and other Member States in which those issuers have requested or approved the admission of their financial instruments to trading on the market.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188⁸. Delay in disclosure of inside information

(1) If the disclosure of inside information may damage the legitimate interests of an issuer, the issuer may, at own liability, delay the disclosure of inside information on the condition that delay in the disclosure of inside information is unlikely to deceive the public and the issuer ensures the confidentiality of the inside information.

(2) The Supervision Authority may, by instructions, issue an illustrative list of situations which may damage the interests of an issuer and of conditions for maintaining the confidentiality of inside information.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188⁹. Disclosure of inside information upon leakage thereof

(1) If an issuer or a person acting for the account of or on behalf of the issuer, discloses information to a third party in connection with the work, profession or duties thereof, the person shall disclose the corresponding information to the full extent at the same time with the disclosure to the third party, if such disclosure is intentional, or immediately after disclosure of the information to the third party, if such disclosure is unintentional.

(2) The provisions of subsection (1) of this section need not be complied with if a third party who receives inside information has the obligation, arising from legislation, the articles of association or a transaction, to maintain the confidentiality of the information.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹⁰. Compensation for damage

(1) A person has the right to demand that the issuer of a financial instrument traded on the Estonian market compensate for the damage arising from failure to disclose the information directly pertaining to the issuer or from disclosure of incorrect inside information to the person (hereinafter in this section *violation*) if:

1) the person acquires the financial instrument after the violation and is, after disclosure of the undisclosed inside information or becoming aware of the incorrectness of the inside information, still the owner of the financial instrument;

2) the person transfers the financial instrument acquired before the violation after failure to disclose the inside information or before becoming aware of the incorrectness of the inside information.

(2) A claim for compensation for damage provided for in subsection (1) of this section does not arise, unless the issuer commits the violation intentionally or due to gross negligence.

(3) A claim for compensation for damage provided for in subsection (1) of this section does not arise if, upon the acquisition specified in clause (1) 1) of this section or upon the transfer specified in clause (1) 2) of this section, the person was aware of the undisclosed inside information or the incorrectness of the disclosed inside information.

(4) The limitation period for a claim for compensation for damage provided for in subsection (1) of this section is one year as of the date on which the person becomes aware of the violation, but not longer than three years as of the commission of the violation.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹¹. General obligations of issuer in connection with handling of inside information

(1) The issuer is required to maintain the confidentiality of inside information and monitor access thereto. The issuer is required to organise the prohibition on access to inside information to persons who do not need the inside information for the performance of their functions at the issuer.

(2) The issuer is required to ensure that persons who have access to inside information are aware of their obligations in relation to the inside information and of the sanctions applicable upon misuse of the inside information.

(3) The issuer is required to apply legal, organisational and technical measures to comply with the requirements provided for in § 188⁹ of this Act.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹². List of insiders

(1) An issuer and a person acting on behalf of or for the account of the issuer (hereinafter in this section *person maintaining the list*) is required to maintain a list of persons who, in connection with the performance of their duties or on any other bases or in any other manner, have access to the inside information of the issuer (hereinafter *list of insiders*). In the list of insiders, the person maintaining the list is required to clearly distinguish between persons having permanent access to the inside information of the issuer and other persons having access to the inside information.

(2) Maintenance of the list of insiders shall allow the issuer to verify and monitor the movement of inside information by each piece of inside information separately.

(3) The person maintaining the list is required to ensure that the list of insiders is updated and corresponds to the movement of inside information and includes persons actually in possession of inside information.

(4) The person maintaining the list shall determine the person who is responsible for the maintenance and verification of the list and updating of data.

(5) The list of insiders shall contain at least the following information:

1) the name and personal identification code and, in the absence thereof, the date of birth of a person entered in the list of insiders;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

2) the reasons for entry of a person in the list of insiders;

3) the date and time when a person entered in the list of insiders became aware of the inside information or gained access thereto;

4) the date and time when the right of a person entered in the list of insiders to access inside information extinguished;

5) the date of preparation of the list of insiders and the dates when the data were updated.

(6) The minister responsible for the area may establish an additional list of information to be entered in the list of insiders and a list of situations in the case of which the list of insiders must be updated.

(7) The person maintaining the list is required to ensure that the data entered in the list of insiders are maintained for at least five years as of entry of the corresponding data in the list of insiders or updating the data.

(8) At the request of the Supervision Authority, the person maintaining the list is required to submit the list of insiders immediately to the Supervision Authority.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹³. Giving notification of transactions and disclosure

(1) The manager of an issuer of a financial instrument admitted to trading on the market of Estonia or another Contracting State (hereinafter in this section *issuer*), persons close to him or her and legal persons associated with the issuer are required to notify the Supervision Authority of transactions entered into with the shares, derivative instruments or financial instruments linked to such derivatives of the issuer on own account not later than on the fifth working day as of entry into the transaction.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) Upon giving notification of a transaction, the manager of an issuer, persons close to him or her and a legal person associated with the issuer are required to submit at least the following information to the Supervision Authority:

- 1) the name of the issuer;
- 2) the names and addresses of the manager of the issuer, persons close to him or her and a legal person associated with the issuer, their connection with the issuer and the reason for the notification obligation;
- 3) the description, name and identification number, if it exists, of the financial instrument which is the object of the transaction;
- 4) the amount and price of the financial instruments which are the object of the transaction;
- 5) the nature of the transaction (purchase, sale or other transactions);
- 6) the date and time of entry into the transaction and the market where the transaction is entered into.

(3) The Supervision Authority shall disclose the information specified in subsection (2) of this section on its website. The Supervision Authority may authorise a third party to disclose information on the website administered by the person.

(4) For the purposes of this section, the manager of an issuer is a member of the management board and supervisory board of the issuer and employees of the issuer who have regular access to the inside information of the issuer and the right to make management decisions in respect of the development and business activities of the issuer.

(5) For the purposes of this section, persons close to the manager are the spouse and minor child of the manager of an issuer and a person who has shared the household with the manager for at least a year as at the date of entry into the transaction.

(6) For the purposes of this section, a legal person associated with an issuer is a partnership or legal person managed or controlled by the manager or a person close to him or her, a partnership or legal person the management of which is significantly influenced by the manager or a person close to him or her, and a partnership or legal person which is founded for the benefit or in the interests of the manager or a person close to him or her or the economic interests of which are similar to those of the manager or a person close to him or her to a significant extent.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 188¹⁴. Obligation to establish internal rules

(1) An issuer whose securities are traded on a market shall establish internal rules to regulate the maintenance of the confidentiality of and disclosure of inside information.

(2) An issuer whose securities are traded on a market, and a subsidiary thereof, are required to establish internal rules to regulate transactions conducted with securities of the issuer by their full partners, managers and their employees for their own account or for the account or in the name of third parties.

(3) Other persons or agencies, including the Supervision Authority, professional securities market participants and auditors companies, which have regular access to inside information due to their duties of employment or their official duties or obligations are also required to establish internal rules specified in subsections (1) and (2) of this section.

(4) On the request of the Supervision Authority, the internal rules specified in subsections (1)-(3) of this section shall be submitted thereto immediately.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

Division 3

Market Manipulation and Prohibition on Market Manipulation

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹⁵. Market manipulation

(1) For the purposes of this Act, market manipulation means:

- 1) transactions or orders to trade which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments, unless the person who entered into the transactions or issued the orders to trade establishes that his or her reasons for so doing are legitimate and that these transactions or orders to trade conform to accepted market practices on the market concerned;
- 2) transactions or orders to trade which secure, by a person, or persons acting in collaboration, the price of one or several financial instruments at an abnormal or artificial level, unless the person who entered into the transactions or issued the orders to trade establishes that his or her reasons for so doing are legitimate and that these transactions or orders to trade conform to accepted market practices on the market concerned;
- 3) transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance;

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

4) dissemination of information in media channels, including Internet, or in any other way which gives, or is likely to give, false or misleading signals as to financial instruments, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading;

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

5) other transactions or acts which constitute market manipulation and which are similar to the transactions or acts provided for in clauses 1)-4) of this subsection.

(1¹) Market manipulation, in particular, includes the following:

1) ensuring a dominant position by a person or persons acting in concert as regards the demand or supply of a financial instrument if in the course thereof purchase or selling prices are determined directly or indirectly or other unfair trade terms are created;

2) acquisition or transfer of financial instruments upon closing the market which misleads investors acting on the basis of closing price;

3) dissemination of information in media channels, including opinions or rumours, regarding a financial instrument or the issuer thereof if a contract of purchase or sale of the financial instrument or a derivative instrument connected with the financial instrument has been previously entered into, which affects the price of the financial instrument and benefits from its effect on the price of the financial instrument in case the conflict of interests has not been duly and efficiently disclosed at the same time.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(1²) In the assessment of the market manipulation specified in clauses (1) 1) and 2) of this section the following signals are inter alia taken into consideration, keeping in mind that such signal per se shall not necessarily denote market manipulation:

1) orders to trade or transactions constitute a substantial part of the daily turnover of the transactions concluded with the corresponding financial instrument or the transactions on the corresponding market, primarily in case such activity causes significant change in the price of the financial instrument;

2) orders to trade or transactions of persons who hold substantial purchase or sale position in respect of a financial instrument cause significant changes in the price of the financial instrument admitted to trading on the market or a derivative instrument connected therewith or the underlying asset thereof;

3) the beneficial owner of a financial instrument admitted to trading on the market does not change as a result of the concluded transactions;

4) orders to trade or transactions comprise change of positions to contrary within a short period of time and constitute a substantial part of the daily turnover of the transactions concluded with the corresponding financial instrument or scope on the corresponding market, especially in case such activity causes significant change in the price of the financial instrument;

5) orders to trade or transactions are concentrated in a short period of time during the trading period and cause the price change which subsequently changes to the contrary;

6) orders to trade change the best purchase or selling price offered in respect of a financial instrument admitted to trading on the regulated market or (including) in more general terms the content of the order book available to the market participants, and these are cancelled before the execution;

7) orders to trade are granted or transactions are concluded simultaneously or almost simultaneously with the calculation of reference prices, settlement prices and values, and these orders to trade or transactions cause the price changes of a financial instrument by affecting such reference prices, settlement prices and values.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(1³) In the assessment of the market manipulation specified in clause (1) 3) of this section the following signals are inter alia taken into consideration, keeping in mind that such signal per se shall not necessarily denote market manipulation:

1) before or after the persons' orders to trade or transactions, the same persons or persons connected with them disseminate incorrect, unclear, incomplete or misleading information;

2) persons who granted orders to trade or concluded transactions or persons connected with them have previously or subsequently prepared or disseminated investment analyses or investment recommendations, which contain errors, are biased or evidently influenced by significant interests.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(1⁴) Deception or contrivance is an act or omission which misleads or may mislead a reasonable person investing in financial instruments regarding the actual economic circumstances, especially the demand and supply of a financial instrument, and maintains the price of the financial instrument or exerts pressure on the rise or decline of the price.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(1⁵) The examples of market manipulation specified in subsection (1¹) of this section shall not restrict the application of subsection (1) of this section, and the signals specified in subsections (1²) and (1³) of this section also shall not restrict the application of subsections (1) and (1¹) of this section

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

(2) Market manipulation is prohibited.

(3) The minister responsible for the area may, by a regulation, establish an illustrative list of patterns of activity which constitute market manipulation and circumstances taken into account upon ascertaining of market manipulation.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 188¹⁶. Accepted market practices

(1) For the purposes of this Act, accepted market practices are practices that are reasonably expected in one or more financial markets and are accepted by the Supervision Authority pursuant to the provisions of this section.

(2) In order to ensure honest operation and sufficient innovation and dynamicity in securities markets, the Supervision Authority shall, each time, assess practices on the basis of the following principles:

1) new or emerging market practices are not assumed to be unacceptable by the Supervision Authority simply because they have not been previously accepted by it;

2) honest, legal and efficient operation in the interests of clients without the Supervision Authority interfering with the normal operation of the market shall be ensured to persons providing investment services as a permanent activity.

(3) In addition to the provisions of subsection (2) of this section, the Supervision Authority shall take the following circumstances into account upon assessment of operation:

1) the level of transparency of the relevant market practice to the whole market of the financial instrument;

2) the degree to which the relevant practice takes into account the trading mechanism of the relevant market of the financial instrument;

3) the degree to which the relevant practice enables market participants to react properly and in a timely manner to the new market situation created by that practice;

4) the need to safeguard the operation of market forces and the proper interplay of the forces of supply and demand;

5) the risk inherent in the relevant practice for the honest and lawful operation of markets in the relevant financial instrument within the whole European Economic Area;

6) the outcome of any investigation of the relevant market practice by any foreign securities market supervisory agency;

7) the structural characteristics of the relevant market of financial instruments, the types of financial instruments traded and the type of market participants;

8) the degree to which the relevant market practice has an impact on the liquidity and efficiency of the market of the financial instrument.

(4) Upon assessment of that specified in clause (3) 4) of this section, the Supervision Authority shall analyse the impact of the relevant market practice against the main market parameters.

(5) The Supervision Authority has the right to determine accepted market practices in one or more financial markets. Upon determination of accepted market practices, the Supervision Authority shall cooperate with persons providing investment services as a permanent activity, operators, issuers and investors or organisations representing them, and with securities market supervisory agencies of other states. The Supervision Authority shall publish the definition of accepted market practices and its reasoned opinions regarding the conformity of operations to accepted market practices on its website.

(6) The Supervision Authority shall regularly review the market practices they have accepted, in particular taking into account significant changes to the relevant market environment.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹⁷. Specifications for assessment of operations

In respect of journalists when they act in their professional capacity the dissemination of information provided for in clause 188¹⁵ 1) 4) of this Act is to be assessed, taking into account the rules governing their profession, unless those persons derive, directly or indirectly, an advantage or profits from the dissemination of the information in question.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

Division 4 Requirements for Investment Recommendations

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹⁸. Investment recommendations

(1) For the purposes of this Act, an investment recommendation means written or oral research or other information recommending or suggesting an investment strategy, intended for publishing or making known or available through distribution channels to the public or at least to a large number of persons.

(2) Research or other information recommending or suggesting an investment strategy specified in subsection (1) of this section means:

1) information produced by an independent analyst, an investment firm, a credit institution, any other person whose main business is to produce recommendations or a natural person working for them under a contract of employment, authorisation agreement or otherwise, that, directly or indirectly, expresses a particular investment recommendation in respect of a financial instrument or an issuer of financial instruments;

2) information produced by persons other than the persons referred to in clause 1) of this subsection which directly recommends a particular investment decision in respect of a financial instrument, in particular “buy”, “sell”, “hold” and other similar recommendations.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188¹⁹. Information concerning producer to be published in investment recommendation

(1) For the purposes of this Chapter, the producer of investment recommendations (hereinafter in this Division *producer*) is a natural or legal person who produces investment recommendations in the course of the economic or professional activity thereof.

(2) An investment recommendation shall set out information on the producer, including, in the case of a producer who is a natural person, the name and job title and, in the case of a producer who is a legal person, its name and the name and job title of the natural person who prepared the recommendation.

(3) Where the producer is an investment firm or a credit institution, the name of the person or agency which exercises securities market supervision over the producer shall be disclosed in an investment recommendation by the producer.

(4) Where the producer is neither an investment firm nor a credit institution, but is subject to self-regulatory standards or codes of conduct established by a non-profit association uniting producers and other similar persons or another legal person or organisation upon production and dissemination of investment recommendations, a reference to those standards or codes shall be disclosed.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²⁰. Obligations of producers

In an investment recommendation, a producer is required to ensure that:

1) facts are clearly distinguished from interpretations, estimates, opinions and other types of non-factual information;

2) all sources are reliable or, where there is any doubt as to whether a source is reliable, this is clearly indicated in the investment recommendation;

3) all projections, forecasts and price targets are clearly labelled as such and that the material assumptions made in producing or using them are indicated;

4) any recommendation can be substantiated as reasonable, upon request by the Supervision Authority.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²¹. Special requirements for producers

In addition to the provisions of § 188²⁰ of this Act, where the producer is an independent analyst, an investment firm, a credit institution, a person belonging to the same consolidation group with an aforementioned person, any other relevant person whose main business is to produce investment recommendations, or a natural person working for them under a contract of employment, authorisation agreement or otherwise, that producer shall ensure that in an investment recommendation:

1) all substantially material sources are indicated, as appropriate, including the relevant issuer, together with the fact whether the recommendation has been disclosed to that issuer and amended following this disclosure before its dissemination;

2) any basis of valuation or methodology used to evaluate a financial instrument or an issuer of a financial instrument, or to set a price target for a financial instrument, is adequately summarised;

3) the meaning of any recommendation made, (such as “buy”, “sell” or “hold”), is adequately explained and any appropriate risk warning, including a sensitivity analysis of the relevant assumptions, indicated;

4) reference is made to the planned frequency of the investment recommendation, to updates of the recommendation and to any major changes in the coverage policy previously announced;

5) the date at which the investment recommendation was first released for distribution is indicated clearly and prominently, as well as the relevant date and time for any financial instrument price mentioned;

6) where an investment recommendation differs from an investment recommendation concerning the same financial instrument or issuer, issued during the 12-month period immediately preceding its release, this change and the date of the earlier investment recommendation are indicated clearly and prominently.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²². General requirements for disclosure of interests and conflicts of interest

(1) The producer and a natural or legal person involved in the production of investment recommendations and working for the producer under a contract of employment, authorisation agreement or otherwise are required to disclose all relationships and circumstances that may reasonably be expected to impair the objectivity of the investment recommendation, in particular where the producer and the natural or legal person connected with the production of investment recommendations and working for the producer under a contract of employment, authorisation agreement or otherwise, have a significant financial interest in one or more of the financial instruments which are the subject of the investment recommendation, or a similar interest or another conflict of interest with respect to an issuer to which the investment recommendation relates.

(2) The producer and an employee of the producer involved in the production of an investment recommendation and a person belonging to the same consolidation group with the producer involved in the production of the investment recommendation are required to disclose any holding of a financial instrument which is the object of the investment recommendation or the exercise of rights arising therefrom if the specified persons hold more than 5 per cent of all the financial instruments or can exercise more than 5 per cent of all rights arising from the financial instruments.

(3) Where the producer is a legal person, the producer is required to disclose at least the following:

- 1) any interests or conflicts of interest of the producer or of persons belonging to the same consolidation group with the producer, that are accessible or reasonably expected to be accessible to the persons involved in the preparation of the investment recommendation;
- 2) any interests or conflicts of interest of the legal person or of persons belonging to the same consolidation group with the legal person, known to persons who, although not involved in the preparation of the investment recommendation, had or could reasonably be expected to have access to the investment recommendation prior to its dissemination to clients or the public.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²³. Special requirements for disclosure of interests and conflicts of interest

In addition to the provisions of § 188²² of this Act, any recommendation produced by a producer who is an independent analyst, an investment firm, a credit institution or any other relevant person whose main business is to produce investment recommendations, or a person belonging to the same consolidation group with at least one producer (hereinafter *responsible person*), discloses the following information:

- 1) the holding of the responsible person in the issuer which is the object of the investment recommendation or in the issuer of the financial instrument (hereinafter in this section *issuer*) when the holding held by the responsible person exceeds 5 per cent of the total issued share capital or voting rights in the issuer;
- 2) the holding of the issuer in the responsible person when the holding exceeds 5 per cent of the total issued share capital or voting rights;
- 3) other significant financial interests held by the responsible person in relation to the issuer;
- 4) a statement that the responsible person is a market maker or liquidity provider in the financial instruments of the issuer;
- 5) a statement that the responsible person has been lead manager or co-lead manager over the preceding 12 months of any publicly disclosed offer of financial instruments of the issuer;
- 6) a statement that the responsible person is a party to any other agreement with the issuer relating to the provision of investment banking services to the issuer, provided that the agreement has been in effect over the preceding 12 months or the responsible person has given rise during the preceding 12 months to the payment of a compensation or to the promise to get a compensation paid on the basis of such agreement. The statement shall not disclose any confidential commercial information but, upon existence of an agreement or contract concerning the obligation to maintain business secrets, does not release from the obligation to provide the statement;
- 7) a statement that the responsible person is a party to an agreement with the issuer relating to the production of the investment recommendation.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²⁴. Special requirements for disclosure of interests and conflicts of interest of employees of investment firms and credit institutions

(1) A natural or legal persons working for an investment firm or a credit institution, under a contract of employment, authorisation agreement or otherwise, and who were involved in preparing the investment recommendation, shall disclose whether the remuneration of the person is tied to investment banking transactions performed by the investment firm or credit institution or a company belonging to the same consolidation group as the specified investment firm or credit institution.

(2) Where those natural persons provided for in subsection (1) of this section receive or purchase the shares of the issuers of financial instruments which are the object of an investment recommendation prior to a public offering of such shares, the price at which the shares were acquired and the date of acquisition thereof shall also be disclosed.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²⁵. Manner of disclosure of information

(1) A producer has the right to disclose the information disclosed in investment recommendations which is required in §§ 188¹⁹–188²¹ of this Act on the website of the producer instead of an oral investment recommendation. If information is disclosed only on the website, the investment recommendation shall clearly refer to the location of the information on the website.

(2) A producer may disclose the information provided for in clauses 188²¹ 1)-3) of this Act instead of a written investment recommendation on the website of the producer. If information is disclosed only on the website, the investment recommendation shall clearly refer to the location of the information set out clauses 188²¹ 1)-3) on the website.

(3) The existence or absence of interests or conflicts of interests provided for in §§ 188²²–188²⁴ of this Act shall be disclosed in an investment recommendation or on the website of the producer. Upon disclosure of information concerning interests and conflicts of interests on the website of the producer, the investment recommendation shall clearly refer to the location of the information on the website.

(4) An investment firm and a credit institution shall disclose the interests and conflicts of interests of persons and the price and date of acquisition of shares specified in § 188²⁴ of this Act on the website of the producer. [RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²⁶. General requirements for dissemination of investment recommendations

(1) For the purposes of this Chapter, the disseminator of investment recommendations (hereinafter in this Division *disseminator*) is a natural or legal person who disseminates investment recommendations in the course of the economic or professional activity thereof.

(2) A disseminator who, under own responsibility, disseminates an investment recommendation produced by a third party, is required to ensure that the investment recommendation indicates the identity of that disseminator.

(3) Whenever an investment recommendation is substantially altered by a disseminator, the disseminator is required to explain the alteration in the investment recommendation.

(4) Whenever the substantial alteration made by a disseminator consists of a change of the direction of the recommendation (such as changing a "buy" recommendation into a "hold" or "sell" recommendation or vice versa), the requirements provided for in §§ 188¹⁹–188²⁵ of this Act concerning producers also apply to the disseminator in addition to the provisions of this section.

(5) Disseminators who are legal persons and who themselves, or through natural persons, disseminate a substantially altered investment recommendation as compared to the original investment recommendation shall establish a formal policy so that the persons receiving the information may be directed to where they can have access to the identity of the producer of the investment recommendation, the original recommendation itself and the disclosure of the producer's conflicts of interest, provided that these elements are publicly available.

(6) Subsections (3)-(5) of this section do not apply to news reporting on investment recommendations produced by a third party where the substance of the investment recommendation is not substantially altered.

(7) In case of dissemination of a summary of an investment recommendation produced by a third party, the disseminator shall ensure that the summary is clear, mentioning the source document and where the disclosures related to the source document can be accessed by the public pursuant to the provisions of §§ 188¹⁹–188²⁵ of this Act.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 188²⁷. Special requirements for dissemination of investment recommendations

In addition to the provisions of § 188²⁶ of this Act, whenever the disseminator is an investment firm, a credit institution or a natural person working for such disseminator under a contract of employment, authorisation agreement or otherwise, and disseminates investment recommendations produced by a third party, the person is required to:

1) indicate the name of the agency or person exercising securities market supervision over the investment firm or credit institution;

2) disclose the interests and conflicts of interests provided for in §§ 188²³ and 188²⁴ of this Act if the producer of the investment recommendation has not already disseminated it through a distribution channel to the public or at least to a large number of persons;

3) disclose information indicated in the investment recommendation by the producer pursuant to the provisions of §§ 188¹⁹–188²⁵ of this Act if the investment firm or credit institution has substantially altered the investment recommendation.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

Division 5

Obligation to submit information

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 189. Submission of data

(1) Everyone shall submit information concerning circumstances relating to a suspicion of market abuse to the Supervision Authority at the request of the latter.

(2) The obligation provided for in subsection (1) of this section to submit information to the Supervision Authority concerning the acquisition and transfer of securities of an issuer for own account also applies with respect to a legal person's representative who is a natural person and who has access to inside information.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 190. Provision of information by issuer

On the request of the Supervision Authority, an issuer whose securities are traded on the market, and the parent undertaking and subsidiary thereof, shall submit information concerning insiders with respect to such securities and any circumstances related thereto to the Supervision Authority.

§ 191. Use of information

(1) The Supervision Authority may collect, preserve and use information and documents forwarded in accordance with §§ 189 and 190 of this Act only to verify the violation of prohibitions and the performance of obligations prescribed in this Chapter or for the purposes of co-operation with securities supervisory agencies of other states.

(2) Information forwarded to the Supervision Authority on the basis of § 189 of this Act which ceases to be necessary to verify the violation of prohibitions and the performance of obligations prescribed in this Chapter or for the purposes of international co-operation shall be immediately destroyed.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 192. Notification obligation of person providing investment services

(1) A person providing investment services as a permanent activity is required to immediately notify the Supervision Authority of a reasonable suspicion of market abuse. The notice shall be forwarded orally, in writing or by electronic means of communication. If the notice is forwarded orally, the information shall be repeated in writing not later than by the end of the following working day at the request of the Supervision Authority.

(2) A suspicion of market abuse need not be based on evidence.

(3) Persons connected with a suspicion of market abuse and persons belonging to the same consolidation group with them or otherwise associated with them shall not be notified of the fact that the Supervision Authority was notified of the suspicion of market abuse.

(4) Giving notification to the Supervision Authority of a suspicion of market abuse and, pursuant to the provisions of subsection (3) of this section, failure to notify the persons specified in the same subsection by a person in good faith is not deemed to be a breach of the confidentiality requirement or another requirement or obligation imposed by law or a contract and the liability prescribed by legislation or a contract does not apply to such person in good faith.

(5) A notice shall set out the following information:

- 1) a description of the suspicious transaction, including the type of order and the type of transaction;
- 2) the reasons for the suspicion;
- 3) means for identification of the persons on behalf of whom the transaction has been carried out, and of other persons involved in the relevant transaction;
- 4) information on circumstances relating to the activities of the notifier, including acting in the name or for the account of the notifier or third parties;
- 5) any other information which may have significance and which the notifier deems necessary to submit to the Supervision Authority.

(6) If all the information specified in the previous subsection is not available to the notifier at the time of submission of the notice, the notice shall set out at least the reasons for suspicion. The rest of the information

specified in subsection (5) of this section shall be submitted to the Supervision Authority at the earliest opportunity.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 193.–§ 201.[Repealed - RT I 2005, 13, 64 - entered into force 01.04.2005]

Chapter 22

ARBITRAL TRIBUNAL

§ 202. Arbitral tribunal of market

(1) An arbitral tribunal of a market (hereinafter *arbitral tribunal*) is a permanent arbitral tribunal formed by an operator of an Estonian market which resolves disputes arising from contractual and other civil law relations with respect to the market and the operator thereof.

(2) An operator shall inform the Supervision Authority of whether it has a permanently operating arbitral tribunal. If an arbitral tribunal is operating, the operator shall submit written information confirming the members of the arbitral tribunal and the compliance of its operations with law to the Supervision Authority.

(3) The Supervision Authority shall inform courts and other state agencies engaged in arranging the execution of court judgments of the lawful and permanent operation of an arbitral tribunal.

§ 203. Competence of arbitral tribunal

An arbitral tribunal shall resolve disputes on the basis of an action filed if:

- 1) the parties have entered into a written agreement to have the arbitral tribunal resolve a dispute which has already arisen or any dispute which may arise in the future;
- 2) consent to the arbitral tribunal resolving the dispute has been expressed by the plaintiff by filing the action and by the defendant by activities which reflect its readiness to subject itself voluntarily to the jurisdiction of the arbitral tribunal.

§ 204. Council of arbitral tribunal and arbitrators

(1) The council of an arbitral tribunal shall consist of up to six members. The council of an arbitral tribunal shall be appointed for up to two years in accordance with the rules and regulations of the arbitral tribunal.

(2) The principal duty of the council of an arbitral tribunal is to appoint and remove persons from the arbitral tribunal list and to maintain the list of arbitrators. The other rights and obligations of the council of an arbitral tribunal shall be prescribed in the rules and regulations of the arbitral tribunal.

(3) Members of the council of an arbitral tribunal shall have an academic degree in law. Arbitrators shall have an academic degree or education equivalent thereto.

(4) Arbitrators shall be independent in the performance of their duties.

§ 205. Rules and regulations of arbitral tribunal

The rules of procedure of the council of an arbitral tribunal and the procedure for forming an arbitral tribunal and for resolving disputes shall be regulated in the rules and regulations of the arbitral tribunal, which shall be approved by the relevant operator.

§ 206. Dispute in arbitral tribunal

(1) Disputes shall be reviewed in an arbitral tribunal in accordance with its rules and regulations by one or several arbitrators chosen by the parties or appointed by the council of the arbitral tribunal.

(2) The review of disputes in an arbitral tribunal is free or subject to payment in accordance with the rules and regulations of the arbitral tribunal. The rate for payment and the procedure for payment shall be prescribed in the rules and regulations of the arbitral tribunal.

(3) In resolving a dispute, an arbitral tribunal shall proceed from the provisions of legislation and the rules and regulations of the market, as well as generally accepted business practices applicable to fair and equitable trading on the market and other generally accepted business practices.

§ 207. Securing action

(1) On the basis of an application from a party, an arbitral tribunal may secure an action, unless the parties have agreed otherwise. In order to secure the action, the arbitral tribunal may establish a measure for securing the action prescribed in the Code of Civil Procedure, except a measure for securing the action which restricts personal liberty. The arbitral tribunal may, in connection with securing the action, demand that both parties provide a reasonable security.

(2) A decision to secure an action determined on the basis of subsection (1) of this section shall be enforced pursuant to a ruling of a county court. The county court shall make the ruling on the basis of a petition of a party in proceedings on petition and allow enforcement of the decision on securing the action only if the same measure for securing the action has not been requested from the court already. The county court may reword the ruling on securing the action if this is necessary in order to apply a measure for securing the action.

(3) A county court may annul or amend a ruling on the securing of an action on the basis of an application.

(4) If it becomes evident that securing an action in arbitral proceedings was not justified, a party which applied for securing the action shall compensate the opposing party for the damage caused to the party due to securing the action or a security provided in order to prevent application of a measure for securing the action.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 208. Co-operation with county courts

An arbitral tribunal may request the assistance of a county court in attestation procedures or in other court activities which do not fall within the competence of the arbitral tribunal. The court shall process the application pursuant to the procedural provisions regulating attestation procedures or other court activities.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 209. Annulment of decision of arbitral tribunal

An interested party may demand that a decision of an arbitral tribunal be annulled on the basis and pursuant to the procedure provided for in the Code of Civil Procedure.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 210. [Repealed - RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 211. Termination of arbitral tribunal

The Supervision Authority has the right to issue a precept to an operator to terminate the activities of an arbitral tribunal if the activities of the arbitral tribunal endanger the regular operation of the market or the smooth operations of state agencies engaged in arranging the execution of court judgments.

Part 5 SETTLEMENT

Chapter 23 SETTLEMENT OF OBLIGATIONS ARISING FROM SECURITIES TRANSACTIONS

§ 212. Application of this Part

(1) This Part shall apply to the performance of obligations arising from securities transactions through the securities settlement system or interoperable securities settlement systems (hereinafter *linked system*), and to transactions used to guarantee the performance of obligations related to participation in the securities settlement system or linked system.
[RT I 29.06, 2011, 1 - entry into force 30.06.2011]

(2) The provisions of this Part shall not apply to register acts, except transfers of securities, carried out on the basis of the Estonian Central Register of Securities Act by the registrar of the Estonian Central Register of Securities.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 213. Securities settlement system

(1) A securities settlement system (hereinafter in this Part *system*) is a pool of administrative, technical and legal solutions formed for the purpose of performing obligations arising from securities transactions and guaranteeing performance of obligations related to participation in the system on the basis of an agreement entered into between three or more members of the system and the system operator.

(2) For the purposes of this Act, payment orders for the performance of obligations arising from securities transactions or instructions given for the transfer of securities are treated as transfer orders.

§ 213¹. Linked system

(1) Linked system for the purposes of this Act is two or more systems, which operators have agreed on executing transfer orders between the systems comprised by such linked system on uniform conditions and using uniform procedures. If the system operator, while participating in the linked system, has provided a security to another system operator, the initiation of bankruptcy proceedings against the system operator who has received the security shall not affect the rights to the security of the system operator who has provided the security.

[RT I, 26.04.2013, 2 - entry into force 06.05.2013]

(2) The operator of a system participating in the linked system shall determine in its own system rules the moment of entry of transfer order into the system and the moment of irretrievability from the system to ensure coordination with the rules of other interoperable systems.

(3) The Supervision Authority shall inspect the compliance between the moments of entry of transfer order into the system and the moment of irretrievability from the system that are specified in the system rules of all the interoperable systems participating in the linked system.

[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

§ 214. System operator

(1) A system operator is a person who, in accordance with the provisions of the system rules and contracts entered into on the basis thereof, arranges for the execution of transfer orders and, depending on the arrangement of the system, also organises the settlement of claims between members of the system.

(2) The following may act as a system operator:

- 1) Eesti Pank;
- 2) a person to whom the Supervision Authority has issued a relevant activity licence.

(3) Each system shall have only one system operator.

§ 215. Requirements for system operator

(1) The share capital of a system operator shall be at least 125,000 euros. The minister responsible for the area has the right to establish additional prudential requirements to ensure the reliability of the system operator. Upon establishment of such requirements, the collateral prescribed in § 226 of this Act and other significant circumstances shall be taken into account.

(2) The system operator shall arrange the operation of the system such that the data processing and other proceedings aimed at executing transfer orders ensure the performance of transfer orders in accordance with the conditions of the transfer orders and the system rules.

(3) In order to manage operating and management risks, a system operator shall apply sufficient internal control measures.

(4) The provisions of subsection 79 (5) and § 80 of this Act pertaining to managers of an investment firm apply with respect to the members of the supervisory board and management board of a system operator.

(5) The system operator and members and employees of bodies thereof are required to maintain, for an unspecified term, the confidentiality of information received by them from the Supervision Authority pursuant to clause 54 (4) 10) of the Financial Supervision Authority Act and which is not subject to disclosure pursuant to legislation or a court judgment.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 216. Activities of system operator

(1) An activity licence issued to a system operator grants only the following rights:

- 1) to keep account of claims to be settled and obligations to be performed through the system on the basis of transfer orders (clearing);
- 2) to arrange and ensure on a regular basis the settlement of claims and the performance of obligations arising on the basis of transfer orders, including the settlement thereof (settlement);
- 3) to enter into contracts to arrange for payment of monetary obligations related to the execution of transfer orders with the administrator of the payment system prescribed in the Credit Institutions Act or, if the system operator holds a relevant activity licence, to maintain the settlement accounts of the members of the system to arrange for payment of monetary obligations;

- 4) to make enquiries necessary to conduct securities transactions, and to give orders to the registrar of the Estonian Central Register of Securities (hereinafter in this Part *registrar*) to make entries in accordance with legislation, the system rules and the contracts entered into by the system operator;
- 5) to make enquiries necessary to conduct securities transactions, and to give orders to the payment system to perform acts in accordance with legislation, the system rules and the contracts entered into by the system operator;
- 6) to establish and manage guarantee funds necessary for the operation of the system, for ensuring performance of the obligations of the members of the system and for managing the risks arising from the operation of the system;
- 7) to take over claims and obligations arising from securities transactions in the cases and pursuant to the procedure prescribed in the system rules.

(2) In addition to the provisions of subsection (1) of this section, a system operator has the right to:

- 1) provide the services of a paying agent in making payments related to securities. For the purposes of this Act, a paying agent is a representative of an issuer who acts as an intermediary for payments made with respect to securities;
- 2) engage in lending and guarantee transactions of both securities and money;
- 3) provide services related to foreign currency exchange;
- 4) provide other services and conduct other transactions or acts which are necessary to arrange for performance of or to guarantee transfer orders.

§ 217. Activity licence of system operator

(1) The provisions of subsections 48 (2) and (3), subsections 51 (1) and (3), § 52, subsection 53 (3), subsections 55 (1)–(4¹), subsection 55¹(3) and § 57 of this Act apply with respect to the activity licence of a system operator (hereinafter in this Part *activity licence*).

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) An individual activity licence shall be applied for to operate each individual system.

§ 218. Application for activity licence

(1) Upon application for an activity licence, the applicant shall submit relevant written application to the Supervision Authority, as well as the information and documents specified in clauses 54 (1) 1)-11) of this Act, the draft system rules specified in § 222 of this Act and the applicant's business plan for the next three years. The format of applications shall be established by a regulation of the minister responsible for the area.

(2) The business plan specified in subsection (1) of this section shall contain a precise description of the operation of the settlement, information and other systems as well as a description of the applicant's organisational structure, places of business and the information technology and other technical measures to be implemented, and its economic indicators. The minister responsible for the area may, by a regulation, establish more specific requirements for the business plan.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 219. Refusal to issue activity licence

(1) The Supervision Authority shall refuse to issue an activity licence if:

- 1) the information or documents submitted upon application for the activity licence do not meet the requirements provided for in this Act or legislation established on the basis thereof or are inaccurate, misleading or incomplete;
- 2) the applicant fails, within the prescribed term, or refuses to submit the information or documents subject to submission upon application or requested by the Supervision Authority to the Supervision Authority;
- 3) the applicant, due to its organisational structure, legal and technical solutions or insufficiency of assets and owners' equity, is not able to meet the requirements established by this Act and legislation established on the basis thereof for system operators and the system;
- 4) other areas of activity of the applicant endanger the regular and lawful operation of the system or its activities as a system operator;
- 5) in the opinion of the Supervision Authority, the members of the supervisory board and management board of the applicant do not have sufficient knowledge for operating a system or they are unable to operate the system in a regular and lawful manner, or that a manager of the applicant is lacking the education, knowledge, experience or impeccable reputation necessary to perform his or her duties;
- 6) a manager has been a bankrupt or if bankruptcy proceedings with respect to this person have been terminated by abatement, or if the activities or omissions of the manager have led to the bankruptcy, compulsory dissolution or revocation of the activity licence of a person or if the activities or omissions of the manager have shown his or her inability to organise the activities of a professional securities market participant or qualified investor in a manner that would sufficiently protect the interests of its creditors;
- 7) the applicant fails to meet the requirements provided for in this Act or legislation established on the basis thereof;
- 8) the applicant has materially or repeatedly violated requirements provided for in legislation or if the activities or omissions of the applicant are in contradiction with good business practices;

(2) During the period of validity of its activity licence, a system operator shall prevent any circumstances which would serve as a basis for refusal to issue the activity licence provided for in subsection (1) of this section.

§ 220. Revocation of activity licence

(1) Revocation of an activity licence is the total or partial deprivation of a right acquired by a decision to issue an activity licence.

(2) The Supervision Authority has the right to revoke an activity licence if:

- 1) the system operator may endanger the economy of the state as a whole or law and order in the state or the regular and lawful operation of the securities market through its activities or omissions;
- 2) grounds for refusal to issue an activity licence provided for in subsection 219 (1) of this Act exist with respect to the system operator;
- 3) the system operator materially violates a requirement provided for in this Act or legislation established on the basis thereof;
- 4) the system operator fails to comply in full or within the prescribed term with a precept issued by the Supervision Authority;
- 5) the activities or omissions of the system operator have led to a loss of confidence therein;
- 6) the system operator fails to commence operations as a system operator within six months as of the issue of the activity licence.

(3) Prior to making a decision to revoke an activity licence on the basis of subsection (2) of this section, the Supervision Authority may issue a precept to the system operator establishing a deadline for elimination of the deficiencies which are the basis for revocation.

§ 221. Member of system

(1) A member of the system is a person who has entered into a contract with the system operator to use the system pursuant to the system rules for the purpose of executing transfer orders.
[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

(2) The following persons may be members of a system specified in subsection (1) of this section:

- 1) every investment firm or credit institution of Estonia or another Contracting State, or another person registered in a foreign state holding the appropriate activity licence, if the prudential ratios applicable to these institutions comply with the requirements which are at least as strict as those established by the legislation of the European Community and if the securities market supervision agency or financial supervision authority of the corresponding state exercises supervision over them;
 - 2) a government agency, a legal person in public law or a foundation established by the state;
 - 3) other system operator, registrar of a securities register or central bank.
- [RT I, 29.06.2011, 1 - entry into force 30.06.2011]

(2¹) The terms and conditions for becoming a member of a settlement system and using a settlement system shall be equivalent for the persons specified in subsection (2) of this section.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2²) The provisions of subsections (2) and (2¹) of this section do not limit the right of the operator of a settlement system to refuse, for a legitimate business reason, to provide a service requested by a member of the settlement system.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) In the cases and pursuant to the procedure prescribed in the system rules, a member of the system may act as an intermediary with respect to services of the system for third parties.

(4) In the cases and pursuant to the procedure prescribed in the system rules, a member of the system is required to inform entitled persons of its membership of the system and of the system rules.
[RT I 2004, 36, 251 - entry into force 01.05.2004]

§ 222. System rules

The issue and execution of transfer orders and the operation of the system shall be regulated by rules established by the system operator on the basis of this Act (hereinafter in this Part *system rules*), which shall inter alia include:

- 1) the name of the system operator;
- 2) the requirements for the system;
- 3) the requirements for members of the system;
- 4) the procedure for granting, suspending and revoking the status of a member of the system;
- 5) a description of the settlement facilities used to execute transfer orders;

- 6) the procedure for settling claims and obligations which arise from transfer orders, meaning the schedule for processing transfer orders and the execution and arrangement of transfer orders in the event that the operation of the system is upset due to a technical failure or by reason of inadequate performance of the obligations of a member of the system;
- 7) methods of ensuring the execution of transfer orders, and the procedure for establishing and using guarantee facilities;
- 8) the conditions of and procedure for ensuring performance of obligations arising from participation in the system;
- 9) conditions determining the finality of settlements, including the moment of receipt of a transfer order and the moment the transfer order becomes irrevocable;
- 10) the obligations and liability of the system operator and members of the system;
- 11) the procedure for amending system rules and for appealing against them.

§ 223. Approval of system rules

(1) After adoption or amendment, the system rules shall be submitted for approval to the Supervision Authority. Upon application for approval, a relevant written application shall be submitted to the Supervision Authority together with the system rules or the amendments thereto, accompanied by explanations and an evaluation of their impact on the members of the system and on the operation of the system.

(2) In order to specify the system rules or the amendments thereto or to evaluate the impact thereof, the Supervision Authority may demand the submission of additional information and documents from the system operator.

(3) The Supervision Authority shall make a decision regarding approval of or refusal to approve the system rules or amendments thereto within fifteen days as of submission of the relevant application but not later than within ten days after submission of all the information specified in subsection (3) of this section.

(4) The Supervision Authority shall refuse to approve the system rules or amendments thereto if they do not meet the requirements of legislation or are insufficient for the effective operation of the system.

(5) The system rules and amendments thereto shall enter into force after they are made public on the website of the system operator, unless the system rules or their amendments prescribe a later term. Only system rules and amendments thereto which have been approved by the Supervision Authority may be made public.

(6) The requirement for approval of the system rules or amendments thereto does not apply in the case where Eesti Pank operates as the system operator.

§ 224. Finality of transfer order

(1) A transfer order forwarded to the system operator in accordance with the system rules may not be withdrawn or amended as of the moment prescribed by the system rules. Acts performed after this moment with the aim of amending or cancelling a transfer order already made are void.

(2) The withdrawal of a transfer order in bankruptcy proceedings shall not result in the invalidity of settlements performed by the system operator.

§ 225. Settlement

Within the system, claims and obligations between the members of the system and between the members of the system and the system operator may be settled and performed by means of the settlement of accounts. In this event, settlement is carried out by executing the aggregate claims or total claims (net claim) and the aggregate obligations or total obligations (net obligation) resulting from setting off claims of the same type against obligations of the same type. Upon settlement of claims, the aggregate claim calculated on the basis of the system rules is deemed to be one claim valid with respect to the relevant person, its creditors and third parties.

§ 226. Collateral instruments of system

(1) If the system operator has assumed the obligation to organise performance of the obligations related to participation in the system, the system operator is required to establish a fund of collateral instruments (hereinafter if this Part *guarantee fund*) or implement other relevant measures which ensure that performance of the obligations related to participation in the system is sufficiently secured to the extent prescribed in the system rules.

(2) Assets of the guarantee fund may comprise any liquid assets, including a financial collateral provided for in § 314¹ of the Law of Property Act.
[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

§ 227. Collateral security

[Repealed - RT I, 29.06.2011, 1- entry into force 30.06.2011]

§ 228. Special rules upon bankruptcy of member of system and linked system

(1) In the event bankruptcy proceedings are initiated with respect to a member of the system or linked system, and moratorium is established with respect to a member of the system or linked system which is a credit institution, the system or linked system operator shall immediately stop accepting transfer orders given by the member of the system or linked system pursuant to the procedure prescribed in system or linked system rules.

(2) The initiation of bankruptcy proceedings or implementation of the resolution tools or powers provided for in the Financial Crisis Prevention and Resolution Act against a member of the system or linked system or a third party that provided a collateral to a member of the linked system, and the establishment of a moratorium with respect to a member of the system or linked system which is a credit institution does not suspend the execution of transfer orders forwarded by the relevant member of the system or linked system in accordance with the system or linked system rules to the system or linked system operator prior to the initiation of bankruptcy proceedings, implementation of the resolution tools or powers or establishment of a moratorium. Obligations undertaken by participating in the system or linked system prior to the initiation of bankruptcy proceedings, implementation of the resolution tools or powers or prior to the establishment of a moratorium shall be performed on account of the collateral established by the member of the system or linked system and the system or linked system guarantee fund.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(3) Transfer orders forwarded to the system or linked system operator and executed in accordance with the system or linked system rules on the working day of the initiation of bankruptcy proceedings or implementation of the resolution tools or powers against a member of the system or linked system or establishment of a moratorium with respect to a member of the system or linked system which is a credit institution shall be valid only in the event the system or linked system operator was not and did not have to be aware of the initiation of the bankruptcy proceedings, implementation of the resolution tools or powers or the establishment of the moratorium.

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(4) In the event of the bankruptcy of a member of the system or linked system, assets excluded from the ownership of the member of the system or linked system as a result of executing a transfer order specified in subsection (2) of this section shall not be included in the bankruptcy estate thereof.

(5) In the event of the bankruptcy of a member of the system or linked system, payments made into the guarantee fund of the system or linked system in accordance with the system or linked system rules shall not be included in the bankruptcy estate thereof in the amount which is necessary for executing the transfer orders of a member of the system or linked system received prior to the initiation of the bankruptcy proceedings.

(6) A member of the system or linked system shall immediately notify the system or linked system operator and the Supervision Authority of the initiation and termination of bankruptcy proceedings against it or if it is declared bankrupt or a moratorium is established with respect to it. The same obligation also rests with the interim trustee in bankruptcy, the trustee in bankruptcy or the moratorium administrator with respect to a member of the system or linked system.

(7) The working day of a system or linked system shall comprise the day and night settlement services of the system or linked system and include all events taking place during this regular activity cycle.

(8) The initiation of bankruptcy proceedings specified in this section and § 229 of this Act shall denote the appointment of an interim trustee by the court pursuant to § 15 of the Bankruptcy Act.

[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

§ 229. Special rules upon bankruptcy of system and linked system operator

(1) Upon the initiation of bankruptcy proceedings against a system or linked system operator, the system or linked system operator shall immediately stop accepting transfer orders from the members of the system or linked system.

(2) Upon the initiation of bankruptcy proceedings with respect to a system or linked system operator, all earlier transfer orders given to the system or linked system operator shall be subject to execution.

(3) Upon the bankruptcy of a system or linked system operator, the assets given by the members of the system or linked system to the system or linked system operator to execute transfer orders or to ensure the execution thereof shall not be included in the bankruptcy estate of the system or linked system operator.

(4) A system or linked system operator shall immediately notify the Supervision Authority of the initiation and termination of bankruptcy proceedings against it or if it is declared bankrupt. The same obligation also rests with the interim trustee in bankruptcy or the trustee in bankruptcy with respect to a system or linked system operator.

[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

Part 6 SUPERVISION AND LIABILITY

Chapter 24 SUPERVISION

§ 230. Rights and duties of Supervision Authority in exercising supervision

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1) The Supervision Authority has all the rights established in this Act and in the Financial Supervision Authority Act in exercising supervision over due compliance with the provisions of this Act, acts specified in clause 6 (1) 7) of the Financial Supervision Authority Act or legislation established on the basis thereof. In exercising the supervision, the Supervision Authority has the aforementioned rights, inter alia, also over due compliance with the provisions of the following European Union legislation:

- 1) Regulation (EU) No 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps (OJ L 86, 24.03.2012, p. 1–24);
- 2) Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.07.2012, p. 1–59);
- 3) Regulation (EU) No 462/2013 of the European Parliament and of the Council amending Regulation (EC) No 1060/2009 on credit rating agencies (OJ L 146, 21.05.2013, p. 1–33).

[RT I, 19.03.2015, 3 - entry into force 29.03.2015]

(2) The Supervision Authority has the right to exercise supervision over companies belonging to the same group as a professional securities market participant to the extent necessary for inspection of the professional securities market participant.

(3) In order to prevent, detect and reduce market abuse, failure to give notification or incorrect notification of acquisition or transfer of qualifying holding on the market and illegal takeover bid, the Supervision Authority is required to monitor making of offers regarding financial instruments and conclusion of transactions with financial instruments and other acts in connection with possible market abuse, acquisition and transfer of direct or indirect holding in the issuer of securities admitted to trading on the regulated market and with control. Monitoring may be covert.

(4) In the interests of the actual, effective and uniform accessibility of information in all the Contracting States, the Supervision Authority shall monitor the forwarding and publication of information by the issuers specified in subsection 184 (1) of this Act, the shareholders of such issuers and the persons who are deemed to be the owners of the voting rights arising from the issuers' shares pursuant to subsection 10 (3) of this Act. The Supervision Authority has the right to make public any failure by such persons to perform their duties.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4¹) The Supervision Authority shall disclose a decision or an administrative act made in a misdemeanour matter in connection with violation of the obligation to disclose the regulated information immediately after the entry into force thereof, specifying at least at least the information on the type and nature of the violation, the details of the person responsible for the violation (with regard to legal persons, the business name and the registry code if applicable; with regard to natural persons, the given name and surname, and personal identification code or date of birth in the absence thereof) and the information on challenging the decision or administrative act.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(4²) The Supervision Authority shall be entitled to postpone the disclosure of a decision or an administrative act made in a misdemeanour matter or not to disclose the identity of the violator, if one of the following conditions is met:

- 1) in the event that the sanction is imposed on a natural person, the publication of the personal data is disproportionate compared to the sanction;
- 2) the disclosure of a decision or administrative act made in a misdemeanour matter or the identity of the violator would seriously jeopardise the stability of the financial system or ongoing supervision proceedings;
- 3) the disclosure of a decision or administrative act made in a misdemeanour matter or the identity of the violator would cause disproportionate and serious damage to the persons involved.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(5) The Supervision Authority shall constantly monitor and assess whether the rules, procedures, strategies, organisation and reporting systems of management, and internal control systems applied in investment firms ensure reliable control of risks and sufficient coverage by own funds of the risks assumed. Such assessment is given at least once a year.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 230¹. Supervision over investment firm

(1) The supervision activities of the Supervision Authority cover:

1) all investment firms whose registered seat is in Estonia (hereinafter *Estonian investment firm*);

[RT I 2007, 58, 380 - entry into force 19.11.2007]

2) the subsidiaries, branches and representative offices of Estonian investment firms in foreign states if they are not supervised by foreign securities market supervisory agencies or if correspondingly agreed with a foreign securities market supervisory agency;

3) the subsidiaries, branches and representative offices of foreign investment firms in Estonia unless otherwise agreed with the securities market supervisory agency of the corresponding foreign state;

4) companies belonging to the same consolidation group as an investment firm.

(2) The Supervision Authority shall exercise supervision on a consolidated basis if:

1) an Estonian investment firm is a parent company;

2) the parent company of investment firms registered in Estonia or other Contracting States is a financial holding company registered in Estonia within the meaning of this Act or the Credit Institutions Act.

(3) If none of the subsidiary investment firms are located in the Contracting State where the parent undertaking of the consolidation group is located, supervision on a consolidated basis shall be exercised by the securities market supervisory agency of the Contracting State which authorised the subsidiary investment firm with the greatest balance sheet total unless otherwise agreed with the securities market supervisory agency of that Contracting State.

(4) If no securities market supervisory agency of a Contracting State exercises consolidated financial supervision over the consolidation group of an investment firm whose parent company is a third country investment firm and if, in the joint opinion of the Supervision Authority and other securities market supervisory agencies of relevant Contracting States, the supervision exercised over the consolidation group by the securities market supervisory agency of the third country is not equivalent to consolidated supervision conforming to the requirements established by EU legislation, financial supervision over the consolidation group of the investment firm shall be exercised by the Supervision Authority or the securities market supervisory agency of another relevant Contracting State under an agreement between them. The European Securities and Markets Authority shall be consulted when giving the joint opinion.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(5) If the provisions of subsection (4) of this section cannot be applied, the Supervision Authority has the right, under an agreement with other relevant securities market supervisory agency, to take other measures to ensure that the supervision exercised over the activities of an investment firm belonging to a consolidation group would be at an equivalent level with consolidation supervision conforming to the requirements established by EU legislation.

(6) The Supervision Authority shall inform other relevant securities market supervisory agencies, the European Commission and the European Securities and Markets Authority of the means used pursuant to subsection (5) of this section.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(7) The supervision activities of the Supervision Authority cover monitoring the liquidity and reporting of a branch of an investment firm of a Contracting State in co-operation with the securities market supervisory agency of the home country of the investment firm.

(8) If an investment firm is part of a financial conglomerate within the meaning of § 110¹ of the Credit Institutions Act, supplementary supervision over the investment firm as a unit of a financial conglomerate shall be exercised pursuant to the provisions of Chapter 9¹ of the Credit Institutions Act.

[RT I, 12.07.2013, 2 - entry into force 22.07.2013]

(9) If the parent undertaking of an investment firm is a financial holding company or a mixed-activity holding company for the purposes of point (20) or (21) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, supervision on a consolidated basis over the investment firm as an undertaking belonging to the consolidation group of a credit institution shall be exercised pursuant to the provisions of § 97 of the Credit Institutions Act.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 230². Supervision over market operator

The supervision activities of the Financial Supervision cover:

1) all market operators whose registered seat is in Estonia (hereinafter *Estonian market operators*);

2) subsidiaries of Estonian market operators located in foreign states through the operator, unless otherwise agreed upon by the securities market supervisory agency of the foreign states;

3) provision of cross-border services by market operators of Contracting States to the extent provided by this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 230³. Rights of Supervision Authority in obtaining information

(1) In order to exercise supervision, the Supervision Authority has the right to obtain information, documents and explanations from any natural or legal person and from government agencies, supervisory bodies and state and local government databases free of charge.

(2) In addition to the provisions of subsection (1) of this section, the Supervision Authority has the right to make an inquiry in the case provided for in subsection 230 (3) of this Act to obtain the information provided for in subsections 111¹(2) and (3) of the Electronic Communications Act.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

(3) In order to exercise supervision, the Supervision Authority has the right to directly and promptly obtain information from credit institutions and the registrar of the Estonian Central Register of Securities regarding the turnover and balances of the bank accounts and securities accounts of professional securities market participants, issuers, investors and insiders. Upon the existence of justified doubt of a violation of law, the Supervision Authority has the right to file a motivated petition with a court for restriction of the use of such accounts.

(4) The Supervision Authority has the right to submit an inquiry for information directly to a remote participator of a Contracting State in a market regulated by an Estonian market operator, and inform the securities market supervision agency of the Contracting State of such request for information.

(5) If necessary, the Supervision Authority may require that a person appear at the offices of the Supervision Authority at the time designated by the Supervision Authority in order to provide explanations.

(6) The persons specified in the first sentence of subsection (3) of this section have no right to forward information concerning the Supervision Authority's inquiry provided in subsection (3) of this section to their clients or the persons whom the inquiry concerns.

(7) At the request of a securities market supervision agency of a Contracting State, a person registered in Estonia who is a remote participator in a market regulated by a market operator of a Contracting State.

(8) If necessary, the Supervision Authority may issue an order whereby the Authority designates a term for the performance of obligations provided for in subsections (1), (3) or (5) of this section.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 231. Obtaining information and suspension of use of accounts

(1) [Repealed - RT I, 29.06.2012, 2 - entry into force 01.01.2013]

(2) The order to make the inquiries provided in subsection 230³ of this Act must be given by a member of the management board of the Supervision Authority pursuant to subsection 22¹(1) of the Financial Supervision Authority Act.

(3) The Supervision Authority need not submit the first inquiry for the information provided in subsections 230³(1)-(3) of this Act to the initial source of such information.

(4) [Repealed - RT I, 21.03.2011, 2 - entry into force 01.01.2012]

(5) Upon receiving the petition specified in subsection 230³(3) of this Act, the court shall review the petition within one working day after its receipt and rule on the seizure of the accounts.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 231¹. Grounds for refusal to provide explanations

A person obligated to provide explanation may refuse to provide explanations to the Supervision Authority on the bases provided for in §§ 71 and 73 of the Code of Criminal Procedure.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 231². Long-distance hearing of participant in proceedings and witness

(1) The Supervision Authority may organise long-distance hearing of a participant in proceedings and a witness if the direct hearing is complicated or involves excessive costs. Evidence obtained upon long-distance hearing is deemed to be equivalent to other evidence.

(2) For the purposes of this Act, long-distance hearing means hearing:

1) by means of a technical solution in the case of which the employees of the Supervision Authority see and hear the participant in proceedings providing explanations or the witness giving testimony outside the Supervision Authority directly via live coverage and may question the participant in proceedings or the witness;
2) by telephone in the case of which the employees of the Supervision Authority hear the participant in proceedings providing explanations or the witness giving testimony outside the Supervision Authority directly and may question the participant in proceedings or the witness.

(3) Long-distance hearing by telephone is permitted only with the consent of the participant in proceedings or witness.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 231³. Rights and obligations of participant in proceedings in supervision proceedings

(1) If necessary, the Supervision Authority shall explain the rights and obligations of a participant in proceedings in supervision proceedings to the participant in proceedings.

(2) Participants in proceedings have the right to access information concerning themselves which is collected by the Supervision Authority and to copy or make extracts of such information. The Supervision Authority has the right to refuse to submit information if this damages or may damage the legitimate interests of a third party or access to the information hinders or may hinder attainment of the objectives of supervision or may hinder the truth from being ascertained in criminal proceedings.

(3) In supervision proceedings, a participant in proceedings has the right to submit questions to witnesses through the Supervision Authority. The Supervision Authority has the right to refuse to forward questions to witnesses with good reason.

(4) If a participant in administrative proceedings fails to appear upon a summons without a legal impediment, the Supervision Authority may impose the following measures:

- 1) impose penalty payment to the participant in proceedings;
- 2) apply compelled attendance by a police escort.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 231⁴. Evidence obtained from foreign states

Evidence collected in a foreign state pursuant to the legislation of such state may be used in an administrative proceeding conducted pursuant to this Act unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of administrative procedure provided for in this Act and the Administrative Procedure Act.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 231⁵. Restriction on use and disposal of assets

(1) The Supervision Authority may, upon a suspicion of misuse of inside information, establish, by its precept, a prohibition on the use or disposal of assets or a restriction to ensure the preservation of assets for up to ten working days as of entry of the precept.

(2) During a restriction on the use of an account, credit and financial institutions do not execute orders to use or dispose of the assets in the account, which are made by the account holder to whom the prohibition or restriction communicated by the Supervision Authority is addressed or by a third party.

(3) The Supervision Authority shall release assets from the prohibition or restriction specified in subsection (1) of this section after the expiry of the term specified in the same subsection. If the suspicion that inside information has been misused ceases to exist before expiry of the term specified in subsection (1) of this section, the Supervision Authority is required to release the assets immediately.

(4) The use or disposal of assets may be prohibited or restricted for a period which is longer than that set out in subsection (1) of this section only if criminal proceedings have been commenced in the matter. If criminal proceedings have been commenced in the matter, prohibitions and restrictions shall be made and assets shall be released pursuant to the procedure provided by the Acts regulating criminal procedure.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 231⁶. Rights of Supervision Authority in disclosure of regulated information

After hearing the opinion of an issuer, the Supervision Authority has the right to publish regulated information and other information if the issuer, persons controlling the issuer or persons controlled by the issuer are in violation of their obligations concerning the making public of such information.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 232. On-site inspection

(1) In order to exercise supervision, the Supervision Authority has the right to carry out on-site inspection of a professional securities market participant, and an issuer whose securities are traded on a regulated market or whose securities are subject to a public offer or have been subject to a public offer during the past five years. In order to exercise supervision, the Supervision Authority has the right to organise on-site inspection at the seat of a company belonging to the consolidation group of a credit institution or an Estonian branch of a foreign credit institution.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(2) An on-site inspection shall be carried out if:

- 1) it is necessary to verify the submitted information;
- 2) the Supervision Authority suspects that the provisions of this Act or legislation specified in subsections 2 (1) or (2) of the Financial Supervision Authority Act or on the basis thereof have been violated;
- 3) it is necessary to execute supervisory duties;
- 4) it is necessary based on a request by a securities market supervision agency of a Contracting State.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) In order to carry out an on-site inspection, the Supervision Authority shall issue an order which sets out the purpose, extent, duration of the period and time of the inspection. The order shall be delivered to the person to be inspected at least three working days before the inspection is commenced, unless giving such notice damages attainment of the objectives of the inspection. An on-site inspection shall be carried out by an employee authorised by the Supervision Authority, unless otherwise prescribed in this Act.

(4) During on-site inspection, the person carrying out the inspection has the right to:

- 1) enter all premises and take possession of data;
[RT I 2007, 58, 380 - entry into force 19.11.2007]
- 2) use the conditions and a separate room necessary for their work;
- 3) study documents and media necessary for exercising supervision, make extracts, transcripts and copies thereof and monitor the work processes without restrictions;
- 4) obtain oral and written explanations from the managers and employees of the management company. Minutes shall be taken of the explanations when necessary or at the request of the person providing the explanations.

(5) The management of a person being inspected is required to appoint a competent representative in whose presence the inspection is carried out and who shall provide the person carrying out the inspection with documents and other information necessary for the performance of his or her duties, including the sworn?? auditor's report concerning the reports of the person being inspected and the special reports of the auditor, and provide necessary explanations with regard to such documents and information.

[RT I 2010, 9, 41 - entry into force 08.03.2010]

(6) In the case specified in clause (2) 4) of this section, the Supervision Authority may authorise the securities market supervisory agency of a Contracting State or an auditor or expert appointed thereby to carry out the on-site inspection.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 232¹. Report concerning on-site inspection

(1) An inspector is required to prepare a report concerning the results of an on-site inspection within two months after completion of the on-site inspection and the Supervision Authority shall promptly deliver the report to the person being inspected.

(2) The manager and an employee of a person being inspected have the right to provide written explanations within one month after the date of delivery of the report.

(3) After the review of the written explanations of the person being inspected, but not later than within four months after the on-site inspection is completed, the Supervision Authority shall prepare a final report which is delivered to the person being inspected.

(4) In the event of disagreement with the facts indicated in a report, the person being inspected has the right to append a written dissenting opinion to the report.

(5) If, after the on-site inspection or the written explanations of the person being inspected, additional circumstances become evident or the Supervision Authority obtains additional information, the term for preparation of the report of the Supervision Authority or a final report specified in subsection (3) of this section may be extended by up to two months, and the new term for preparation of the report or the final report shall be communicated to the person being inspected and the reason for extension of the initial term shall be indicated.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 233. Assessment and special audit in supervisory proceedings

(1) In supervision proceedings, the Supervision Authority may involve experts in supervision proceedings in the cases where expertise is required to ascertain facts which are relevant to the matter.

(2) The Supervision Authority has the right to demand a special audit if:

- 1) there is reasonable doubt that a report or information submitted to the Supervision Authority or the public is misleading or inaccurate;
- 2) transactions have been entered into as a result of which significant damage may be caused or has been caused to an investment firm, an operator of a regulated market, an operator of a securities settlement system, an issuer or a company belonging to the same consolidation group with the issuer or their clients or investors;
- 3) other issues relevant to the financial situation of an investment firm, an operator of regulated market, an operator of a securities settlement system, an issuer, an investor or a company belonging to the same consolidation group with them need additional clarification in the supervision proceedings.

(3) The Supervision Authority shall involve an expert or, for a special audit, an auditor on its own initiative or at the request of a participant in the proceeding. The name of an expert or auditor and the reasons for involvement of the expert or auditor shall be communicated to a participant in the proceeding before involvement of the expert or auditor, unless proceedings regarding the matter need to be conducted quickly or communication of the information may impede attainment of the objectives of the assessment or special audit.

(4) If an expert or an auditor who performs a special audit ascertains facts relevant in the supervision proceedings and the Supervision Authority did not directly assign the task of ascertaining these facts to the expert or auditor, the expert or auditor shall also provide his or her opinion or assessment with regard to the facts.

(5) An expert or an auditor who performs a special audit has the right to exercise the rights provided for in subsection 232 (4) of this Act only in order to perform the tasks assigned thereto and request additional information and documents from the Supervision Authority and participants in proceedings. The expert or auditor who performs the special audit may exercise the right provided for in clause 232 (4) 1) of this Act only with the permission or in the presence of the inspected company. The expert is required to maintain the confidentiality of any confidential information which becomes known to him or her in connection with performance of the duties of an expert.

(6) Costs related to the conduct of an assessment or a special audit shall be covered from the budget of the Supervision Authority. If an expert or auditor is involved at the request of a participant in the proceeding, costs related to the conduct of an assessment or a special audit shall be covered by the participant in the proceeding. [RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 234. Precepts

(1) The Supervision Authority has the right to issue a precept:

- 1) if, as a result of supervision, violations of Acts or legislation established on the basis thereof have been discovered;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

- 2) to prevent violations of law or if the risks assumed by a professional securities market participant have increased significantly or if other circumstances emerge which endanger or may endanger the interests or reliability of investors or the securities market as a whole;
- 3) if this is necessary to protect the interests of investors or to ensure the transparency of the market.

(1¹) The Supervision Authority has the right to require, by a precept, own funds exceeding the requirements provided for in subsection 94 (2) of this Act and Regulation (EU) No 575/2013 of the European Parliament and of the Council if all the risks of an investment firm are not sufficiently covered by own funds or risk management has not been organised in conformity to the requirements of this Act and legislation issued on the basis thereof.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) A precept of the Supervision Authority enters into force at the time indicated in the precept, but not before delivery of the precept to the addressee indicated in the precept.

(3) A precept shall be issued promptly to the recipient against a signature.

(4) The recipient of a precept shall, immediately after receipt of the precept, commence compliance therewith.

(5) An appeal against a precept may be filed with an administrative court pursuant to the provisions of the Code of Administrative Court Procedure.

(6) The filing of an appeal against a precept and proceedings regarding the appeal do not suspend the requirement to comply with the precept, unless otherwise provided by the Supervision Authority.
[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 234¹. Penalty payment

(1) In the event of failure to comply or inappropriate compliance with a precept issued pursuant to this Act or another administrative act, the Supervision Authority has the right to impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(2) In the event of failure to comply or inappropriate compliance with an administrative act, the upper limit for a penalty payment shall be, in the case of a natural person, up to 1200 euros for the first occasion and in total up to 3200 euros for each following occasion to enforce the performance of the same obligation, but, depending on whichever is the greater, in total up to 2,000,000 euros or up to twice the amount of the profits gained or losses avoided as a result of the violation if such profits or losses can be determined.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(3) In the event of failure to comply or inappropriate compliance with an administrative act, the upper limit for a penalty payment shall be, in the case of a legal person, up to 3200 euros for the first occasion and in total up to 32,000 euros for each following occasion to enforce the performance of the same obligation, but, depending on whichever is the greater, in total up to 10,000,000 euros or up to five per cent of the total annual turnover according to the last available annual accounts approved by the management body or up to twice the amount of the profits gained or losses avoided as a result of the violation if such profits or losses can be determined. In case the legal person is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated financial accounts, the total turnover specified in the previous sentence of this section shall be the total annual turnover or the total turnover of the corresponding type of income according to the last available consolidated annual accounts approved by the management body of the ultimate parent undertaking.
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 235. Rights upon issue of precepts

The Supervision Authority has the right to issue a precept to:

- 1) prohibit certain transactions or activities from being conducted or to establish restrictions on their volume;
- 2) prohibit, partially or wholly, any distributions from profits;
- 2¹) demand to reduce performance pays of members of the management board of an investment firm or managers of an issuer of shares, suspension of the payment thereof or reimbursement of any executed payments pursuant to the provisions of § 79¹ of this Act or in case the grounds specified in subsection 135²(7) of this Act arise;
[RT I, 24.03.2011, 1 - entry into force 03.04.2011]
- 3) demand that the issuer whose securities are offered publicly promptly disclose information, if the obligation to disclose such information arises from this Act;
- 3¹) demand the making public of regulated information or other information and documents through the means indicated by the Supervision Authority and within the term set by the Supervision Authority from the issuer specified in subsection 184 (1) of this Act, the managers and shareholders of such issuer and persons who, pursuant to subsection 10 (3) of this Act, hold voting rights arising from the securities of the issuer;
[RT I 2007, 58, 380 - entry into force 19.11.2007]
- 4) demand a restriction of the operating expenses of a professional securities market participant;
- 5) demand amendment of internal rules and rules of procedure of a professional securities market participant;
- 5¹) demand the change of the principles of remuneration of an investment firm and issuer of shares;
[RT I, 24.03.2011, 1 - entry into force 03.04.2011]
- 6) make a proposal to the supervisory board of a professional securities market participant to remove a member of the management board;
- 7) make a proposal to the general meeting of the shareholders of a professional securities market participant to remove a member of the supervisory board;
- 7¹) demand the suspension or termination of trading by an investment firm or an operator of regulated market;
[RT I 2007, 58, 380 - entry into force 19.11.2007]
- 7²) demand that anyone suspend or terminate violation of the requirements provided for in Chapters 19-21 of this Act;
- 7³) propose to the general meeting of the issuer of a security traded on a regulated market for the change of auditor;
- 7⁴) demand the termination of violation of the requirements of legislation of a foreign state from market operators, investment firms and issuers;
[RT I 2007, 58, 380 - entry into force 19.11.2007]
- 7⁵) prohibit market operators and investment firms of Contracting States to operate in Estonia, prohibit market operators and investment firms of Estonia to operate in Contracting States, and prohibit both to provide cross-border services;
[RT I 2007, 58, 380 - entry into force 19.11.2007]
- 7⁶) demand payment of a contribution prescribed by the Guarantee Fund Act;

7⁷) prohibit, in case of violation of the obligation to notify of the number of votes provided for in § 185 of this Act, a person who owns direct or indirect holding in the share capital of an issuer specified in subsection 184 (1) of this Act to exercise of the specified right to vote or other rights enabling control or to restrict this;

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

8) set other demands for compliance with the legislation governing the activity of of a professional securities market participant;

[RT I 2009, 61, 401 - entry into force 26.12.2009]

§ 236. Calling of and participation in meeting of directing bodies of professional securities market participant

(1) The Supervision Authority has the right to issue a precept in order to:

- 1) call a meeting of the management board or supervisory board of a professional securities market participant or to call the general meeting of a professional securities market participant;
- 2) include an issue on the agenda of a meeting of the management board or supervisory board or the general meeting if this is necessary in the opinion of the Supervision Authority.

(2) The Supervision Authority may send a representative to a meeting who has the right to present positions and make proposals and demand the recording thereof in the minutes of the meeting.

§ 236¹. Supervision over branches of foreign investment firms entered in Estonian commercial register, and over foreign investment firms and market operators providing services in Estonia

(1) The Supervision Authority may demand that a foreign investment firm whose branch is registered in Estonia or which provides its cross-border services in Estonia submit additional information and documents necessary for the exercise of supervision over the investment firm to the extent provided by this Act, and also data necessary for collection of statistical information but not to a larger extent than required from Estonian investment firms. The Supervision Authority has the right demand, by a precept, performance of the duties provided by clauses 85 1)–12), §§ 86–87⁶, 88¹–88⁸ and 89¹–91 of this Act and by the legislation established for specification of such duties, or elimination of the circumstances hindering performance of such duties with respect to an investment service provided by a foreign investment firm or a branch within the territory of Estonia or to persons residing or located in Estonia.

(2) An investment firm whose branch is registered in Estonia or which provides cross-border investment services in Estonia and whose activity licence has been suspended or revoked by a foreign securities market supervision agency shall not operate or provide services in Estonia.

(3) The Supervision Authority may demand that a foreign investment firm or operator of a regulated market of a Contracting State who has registered a branch in Estonia, or that a foreign investment firm or market operator of a Contracting State who provides cross-border services in Estonia terminate violation of the requirements provided for in the acts or legislation established on the basis these acts which apply to such investment firm or operator of a regulated market.

(4) If a foreign investment firm or its branch entered into the Estonian commercial register violates the requirement provided for in this Act or other legislation, the Financial Supervision Authority may apply the measures provided for in this Act to terminate the violation or revoke the authorisation for foundation of the branch or provision of the cross-border services.

(5) If a foreign investment firm or market operator of a Contracting State continues to violate the requirements provided for in legislation applicable to such investment firm or operator of a regulated market, the Supervision Authority shall inform the securities market supervisory agency of the Contracting State thereof.

(6) If the measures applied by the securities market supervision agency of the foreign country are not sufficient, the Supervision Authority may apply, by a precept, the measures specified in this Act for termination of the violation or prohibit, by a precept, the foreign investment firm or market operator of a Contracting State from operating in Estonia or providing investment services to persons residing or located in Estonia, and give prior notice thereof to the securities market supervision agency of the foreign country.

(7) The Supervision Authority shall inform a foreign investment firm of the measures taken. A foreign investment firm may file a complaint against the applied measures with Tallinn Administrative Court directly or through a branch.

(8) In exceptional cases, the Supervision Authority may, in order to protect investors and the public interest, apply measures provided for in legislation with regard to a foreign investment firm or market operator of a Contracting State without informing the securities market supervision agency of the foreign country of the measures beforehand.

(9) The Supervision Authority shall promptly inform the European Commission, the European Securities and Markets Authority and the securities market supervisory agency of the foreign country of the measures applied on the basis of subsections (6) or (8) of this section.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(10) The Supervision Authority shall cooperate with the securities market supervision agency of a Contracting State if:

- 1) the market operations of the market operator of such Contracting State are of significant importance from the viewpoint of the functioning of the Estonian securities market and the protection of investors;
- 2) the market operations of the operator of the Estonian market are of significant importance from the viewpoint of the functioning of the securities market of such Contracting State and the protection of local investors.

[RT I 2010, 7, 30 - entry into force 26.02.2010]

§ 236². Supervision over investment firms which have founded branches in foreign states and investment firms providing cross-border services

(1) If an investment firm which has founded a branch in a foreign state or which provides cross-border services in a foreign state violates the requirements of legislation established in a foreign state, the Supervision Authority shall promptly apply measures for termination of the violation on the proposal of the foreign securities market supervisory agency. The Supervision Authority shall inform the foreign securities market supervisory agency of the applied measures.

(2) The Supervision Authority shall immediately notify the securities market supervisory agency of the foreign state where the branch of the investment firm is founded or where the investment firm provides cross-border services of revocation of the activity licence of the investment firm and a permission for the foundation of a branch in a foreign state, and of precepts specified in subsection 64 (8) and 65 (7) of this Act.

(3) A branch of an investment firm or an investment firm which provides cross-border services shall, at the request of a foreign securities market supervisory agency, submit information which is necessary for the exercise of supervision over the activities of the branch or investment firm in the state.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 236³. Supervision in matters of market abuse

(1) The Supervision Authority shall immediately notify the securities market supervisory agency of a Contracting State of its suspicion and the circumstances relating thereto if the Supervision Authority has good reason to believe that provisions of the Directive 2003/6/EC of the European Parliament and of the Council on insider dealing and market manipulation (market abuse) (OJ L 96/16, 12.04.2003, p. 16-25) are or were violated in the territory of the Contracting State, and the violation affects financial instruments traded on the regulated market of the Contracting State.

(2) The Supervision Authority shall commence supervision proceedings when it receives a notification similar to that of subsection (1) of this section from the securities market supervisory agency of a Contracting State. In such case, the Supervision Authority shall notify the securities market supervisory agency of the Contracting State which sent the notice of the interim stages and results of supervision proceedings.

[RT I 2005, 13, 64 - entry into force 01.04.2005]

§ 236⁴. Supervision over third country issuer and issuer whose host Contracting State is Estonia

(1) If a third country issuer whose securities are offered to the public in Estonia or are traded on a regulated market and whose home Contracting State is Estonia violates the requirements established in this Act or other legislation regarding issuers, the Supervision Authority may apply measures for termination of the violation provided for in this Act or prohibit, by its precept, the public offer of securities of the issuer or trade in the securities on a regulated market.

(2) If an issuer whose securities are offered to the public in Estonia or whose securities are traded on a regulated market and whose host Contracting State is Estonia violates the requirements established in this Act or other legislation regarding issuers, the Supervision Authority shall inform the securities market supervisory agency of the home Contracting State of the issuer and the European Securities and Markets Authority of the violation. The notification shall be provided also in case a financial institution or other person responsible for the offering to the public violates the requirements established in respect thereto by this Act or other legislation.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(2¹) If an issuer whose securities are traded on the regulated market of Estonia as the host Contracting State, a shareholder, an owner of other securities or a person who, pursuant to subsection 10 (3) of this Act, is deemed to be the owner of the voting rights arising from the shares of an issuer violates the requirements established therefor by this Act and other legislation, the Supervision Authority shall inform the securities market supervision agency of the home Contracting State thereof.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(3) If the measures applied by the securities market supervisory agency of the home Contracting State of an issuer are insufficient, in order to protect investors the Supervision Authority may, by its precept, apply measures provided for in this Act for the termination of the violation or prohibit, by its precept, the public offer of securities of the issuer or trade in the securities on a regulated market, and shall inform the securities market supervisory agency of the home Contracting State of the issuer and the European Securities and Markets Authority thereof beforehand.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(4) The Supervision Authority shall inform the issuer of the measures applied thereby.

(5) The Supervision Authority shall promptly inform the European Commission and the European Securities and Markets Authority of the measures taken on the basis of subsection (3) of this section.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

§ 236⁵. Supervision over issuer whose home Contracting State is Estonia

If an issuer whose securities are offered to the public in a foreign state or are traded on a regulated market and whose home Contracting State is Estonia violates the requirements of legislation of a foreign state regarding issuers, the Supervision Authority shall promptly apply measures for termination of the violation on the proposal of the foreign securities market supervisory agency. The Supervision Authority shall inform the foreign securities market supervisory agency of the applied measures.

[RT I 2005, 59, 464 - entry into force 15.11.2005]

§ 237. List

(1) The Supervision Authority shall maintain a list of:

1) valid public offer prospectuses, trading prospectuses and listing particulars registered by the Supervision Authority;

[RT I 2005, 59, 464 - entry into force 15.11.2005]

2) takeover bids approved by the Supervision Authority;

2¹) mergers of investment firms;

3) investment firms registered in Estonia which hold a valid activity licence;

3¹) persons holding valid permits provided for in subsection 119⁴(10) of the Ambient Air Protection Act;

[RT I, 12.07.2013, 1 - entry into force 01.08.2013]

4) persons having a qualifying holding in investment firms registered in Estonia;

4¹) market-makers;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

4²) investment agents;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

5) operators of regulated markets who are registered in Estonia and who hold a valid activity licence;

6) operators of securities settlement systems who are registered in Estonia and who hold a valid activity licence;

7) information on members of the management board and supervisory board of legal persons specified in clauses 3), 5) and 6) of this subsection;

[RT I 2007, 58, 380 - entry into force 19.11.2007]

8) branches established abroad by investment firms registered in Estonia;

9) representative offices established abroad by investment firms registered in Estonia;

10) branches established in Estonia by foreign investment firms;

11) foreign investment firms who have permission to provide cross-border services;

[RT I 2010, 7, 30 - entry into force 26.02.2010]

12) representative offices established in Estonia by foreign investment firms;

13) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

14) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(1¹) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(1²) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(1³) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(1⁴) [Repealed - RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(1⁵) The Supervision Authority shall publish on its website the list of registration certificates of public offer prospectuses, trading prospectuses and listing particulars and the list of certificates pertaining to the registration of supplements thereto, and, if available, also electronic reference to the abovementioned documents, which are

published on the website of the issuer or regulated market. The published list shall be updated and each entry shall be kept on the website for at least 12 months.
[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(2) The information specified in this section shall be published pursuant to the provisions of subsection 53 (4) of the Financial Supervision Authority Act.

(3) [Repealed - RT I 2005, 59, 463 - entry into force 15.11.2005]

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[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹. Violation of requirement to register prospectus

(1) Upon public tender of securities, admission of securities to trading on a regulated market or listing of securities on the exchange, failure to register a public offer prospectus, a trading prospectus or listing particulars beforehand with the Supervision Authority or another competent securities market supervisory agency or an offer of securities without a prospectus, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237². Violation of requirement to make prospectus public

(1) Violation of requirements to make a public offer prospectus, a trading prospectus or listing particulars public which are provided for in §§ 15 and 132² of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³. Violation of procedure for announcement or suspension of offer

(1) Violation of the procedure for the announcement or suspension of an offer of securities by an issuer or an offeror is punishable by a fine of up to 300 fine units.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁴. Violation of obligation to inform investors

(1) Provision of incorrect or inaccurate information to possible investors in a prospectus or in any other manner by an issuer or an offeror and violation of the requirement to inform all potential investors on equal terms during an offer of securities is punishable by a fine of up to 300 fine units.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁵. Violation of requirements for advertising

(1) A fine of up to 300 fine units shall be imposed on an issuer or an offeror who advertises an offer of securities before announcing the offer, publishes misleading advertising about an offer, presents information in an advertisement which has not been presented in the prospectus, or fails to submit advertising material concerning an offer to the Supervision Authority prior to the publication of such material.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁶. Violation of obligation to repurchase securities

(1) Violation of the obligation to repurchase securities provided for in § 35 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁷. Violation of requirements for annexes to prospectuses

(1) A fine of up to 200 fine units shall be imposed on an issuer or an offeror who fails to present information concerning changes made during the period of an offer to the information presented in a prospectus which affect or may affect the price of the securities, or any other relevant information, in a supplement to the prospectus.
[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁸. Failure to submit report, information, explanation or other document

(1) Failure to submit, refusal to submit or late submission of a report, information, an explanation or any other document, or submission of incorrect or deficient information to the Supervision Authority, or violation of the obligation to make reports public, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁹. Violation of requirement to maintain and protect assets of clients

A fine of up to 32,000 euros shall be imposed on an investment firm, credit institution or other provider of investment services who fails to perform the duties related to the safekeeping or protection of the assets of a client.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹⁰. Violation of application of internal rules

A fine of up to 32,000 euros shall be imposed on an investment firm, credit institution or management company providing investment services or an operator of a regulated market who fails to establish or apply the internal rules provided by this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹¹. Violation of requirements for receipt of reward

A fine of up to 32,000 euros shall be imposed on an investment firm, credit institution or management company providing investment services who unlawfully provides the investment service within the meaning of § 85² of this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹². Violation of notification obligation of credit institutions and management companies

(1) A fine of up to 32,000 euros shall be imposed on a credit institution who, upon provision of investment services, fails to provide or incorrectly provides the information provided in §§ 86–87¹, 87⁴, 88¹ and 89¹ of this Act.

(2) A fine of up to 32,000 euros shall be imposed on a management company who, upon provision of investment services, fails to provide or incorrectly provides the information provided in §§ 86–87¹ ja 89¹ of this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹³. Violation of notification obligations of investment firms

(1) A fine of up to 32,000 euros shall be imposed on an investment firm who fails to provide or incorrectly provides the information provided in §§ 86–87¹, 87⁴, 88¹ and 89¹ of this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹⁴. Violation of requirements for making limit price orders public

A fine of up to 32,000 euros shall be imposed on an investment firm or credit institution who fails to make public a limit price order provided in § 87⁶ of this Act, delays such publication or publishes such order inaccurately, unless the Supervision Authority has released the investment firm or credit institution from the obligation to make such information public.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹⁵. Violation of obligation to register and preserve data

A fine of up to 32,000 euros shall be imposed on an investment firm, credit institution or another provider of investment services who, upon provision of investment services, violates the obligation to register and store information, and on the operator of a regulated market who violates the obligation to register the transactions performed on the regulated market.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹⁶. Violation of requirement to give notice of securities transactions

A fine of up to 32,000 euros shall be imposed on an investment firm, credit institution or other provider on investment services who fails to perform the obligation to notify of securities transactions provided by this Act or incorrect performance of such obligation.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹⁷. Violation of requirements of rules and regulations

Violation of the requirements of the rules and regulations or failure to obtain the approval of the Supervision Authority regarding the amendment of the of rules and regulations by an operator of a regulated market in the part of the market or a multilateral trading facility or, by an investment firm or credit institution in the part of a multilateral trading facility is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹⁸. Violation of requirements for equal application of rules and regulations

Non-equal application of the rules and regulations by an operator of a regulated market in the part of the market or a multilateral trading facility or, by an investment firm or credit institution in the part of a multilateral trading facility is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237¹⁹. Violation of requirements to make trading information public

Failure to publish, delay in or incorrect publication of trading information by an operator of a regulated market in the part of the market or a multilateral trading facility or, by an investment firm or credit institution in the part of a multilateral trading facility is punishable by a fine of up to 32,000 euros unless the Supervision Authority has released the operator of a regulated market, investment firm or credit institution from the obligation to make such information public.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²⁰. Violation of requirement to disclose rules and regulations

A fine of 32,000 euros shall be imposed on an operator of a regulated market which fails to perform the obligation to disclose the rules and regulations.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²¹. Violation of requirements for market participators and issuers of securities traded on market

(1) A fine of up to 300 fine units shall be imposed on a market participator or an issuer of securities traded on the market which fails to perform the obligations provided for in this Act or in the rules and regulations established on the basis of this Act.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²². Violation of requirement to maintain confidentiality of information not subject to disclosure

(1) A fine of up to 300 fine units shall be imposed on a member or employee of a body of an operator of a regulated market who violates the requirement to maintain the confidentiality of information not subject to disclosure.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²³. Violation by insider of obligation to submit information

(1) A fine of up to 300 fine units shall be imposed on an insider who fails to submit information concerning acquisition or transfer of securities of the issuer or concerning the circumstances relating thereto to the Supervision Authority despite the Supervision Authority having demanded that such information be submitted.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²⁴. Violation of notification obligation by issuer

A fine of up to 32,000 euros shall be imposed on an issuer who fails to submit or incorrectly submits the information provided for in § 187⁵ of this Act.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 237²⁵. Violation of requirements for takeover bids

(1) A fine of up to 300 fine units shall be imposed on an offeror who treats the holders of shares of the same type unequally within the framework of a takeover bid, or on an offeror or target issuer who fails to provide the target persons with relevant, correct, accurate, complete and identical information for informed consideration of the takeover bid or who provides misleading, incorrect or inaccurate information or provides different information to different target persons or hinders consideration of the takeover bid by the target persons.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²⁶. Violation of rules for takeover bids

(1) A fine of up to 300 fine units shall be imposed on an offeror, a member of the supervisory board or management board of an offeror which is a legal person or of a body substituting for the management or supervisory board, a target issuer, a member of the supervisory board or management board of the target issuer, a person acting in concert with such persons, or a shareholder of the target issuer, who violates the rules for takeover bids or the provisions regulating takeover bids for the shares of target issuers.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²⁷. Violation of prudential requirements

Violation by an investment firm of the prudential norms provided for in this Act or on the basis thereof is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²⁸. Violation of procedure for acquisition of qualifying holding in investment firm or operator

(1) Acquisition or transfer of a holding in an investment firm or operator of a regulated market, or turning an investment firm or operator of a regulated market into a controlled company without giving prior notice thereof to the Financial Supervision Authority pursuant to this Act or in violation of a precept specified in subsection 75 (2) of this Act, or exercise of voting rights or other rights granting control in an investment firm or operator of a regulated market in violation of a precept of the Financial Supervision Authority is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237²⁹. Violation of requirements for management of firm

(1) Violation of the rights for the calling or carrying out of a meeting or general meeting of shareholders of an issuer of securities trades in a regulated market, or the requirements for voting or restriction of voting rights in such meeting is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³⁰. Violation of requirements to provide information on transactions

(1) A fine of up to 300 fine units shall be imposed on the manager or a person close to him or her for violation of the obligation provided for in this Act to notify an issuer of transactions concluded with shares, derivatives or financial instruments linked to such derivative instruments of the issuer on own account.

(2) The same act, if committed by a connected legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³¹. Violation of obligation to notify of number of votes

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(1) Violation of the obligation to notify of number of votes provided for in § 185 of this Act is punishable by a fine of up to 300 fine units.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³². Failure to make annual financial report public

A fine of up to 32,000 euros shall be imposed on an issuer who fails to make public or makes public in a non-conforming manner an annual financial report.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³³. Failure to make half-yearly report public

A fine of up to 32,000 euros shall be imposed on an issuer of shares who fails to make public or makes public in a non-conforming manner a half-yearly report.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³⁴. Violation of obligation to disclose report on payments made to governmental authorities

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(1) A fine of up to 300 fine units shall be imposed on an issuer who violates the obligation to disclose a report on payments made to governmental authorities.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 237³⁵. Violation of requirements of equal treatment

A fine of up to 32,000 euros shall be imposed on an issuer who violates the requirements for equal treatment provided in §§ 187⁶ or 187⁷ of this Act.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³⁶. Violation of requirements to make conflict of interests public

Violation of the requirements to make public a conflict of interests, or failure to keep the register specified in subsection 82⁴(10) of this Act, enter data on such register or entry of incorrect data in such register is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³⁷. Violation of requirements to ground conflict of interests

A fine of up to 32,000 euros shall be imposed on an investment firm, credit institution or other provider of investment services who fails to establish or apply measures to prevent conflict of interests which may arise upon provision of investment services or in relation to the preparation and dissemination of investment recommendations by such persons.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³⁸. Violation of requirements for preparation and dissemination of investment recommendations

(1) Violation of the requirements provided for in this Act for the production and dissemination of investment recommendations by a producer or disseminator is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237³⁹. Violation of requirements for maintenance of list of insiders

(1) Absence or premature destruction of a list of insiders, and submission of incorrect or inaccurate information or omission of information required in this Act or legislation issued on the basis thereof in the list of insiders is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁴⁰. Violation of requirements to make inside information public

A fine of up to 32,000 euros shall be imposed on an issuer of financial instruments who fails to perform the obligation to promptly make public inside information directly pertaining to such issuer, makes public incorrect or misleading information or initially makes public inside information through a channel not prescribed for such purposes.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁴¹.

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 237⁴². Failure to report doubt of market abuse

A fine of up to 32,000 euros shall be imposed on a person engaged in the provision of investment services as a permanent activity or an operator of a regulated market who fails to report a doubt of market abuse or the content of such doubt to the Supervision Authority.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁴³.

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 237⁴⁴. Violation of confidentiality of supervision and hindering of supervision activities

A fine of up to 32,000 euros shall be imposed on an investment firm, a credit institution, the Estonian Central Register of Securities or a provider of telecommunications services who gives notice of the inquiry by the Supervision Authority provided in subsection 230³(2) of this Act to a client thereof or a person whom the inquiry concerns.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 237⁴⁵. Interconnection between provision of financial and investment services and mandatory funded pension

(1) Failure to comply with the requirements established for the provision of financial and investment services in subsection 14 (5¹), subsection 25 (2¹) and the second sentence of subsection 37 (2) of the Funded Pensions Act by an investment firm or the manager or employee of other provider on investment services or other person acting in the interests of the investment firm is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I, 18.02.2011, 1 - entry into force 01.08.2011]

§ 237⁴⁶. Violation of requirements of Regulation on short selling

(1) Violation of the requirements provided for in Articles 3–8 and 12–15 of Regulation (EU) No 236/2012 of the European Parliament and of the Council is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I, 26.04.2013, 2 - entry into force 06.05.2013]

§ 237⁴⁷. Violation of requirements of Regulation on OTC derivatives

(1) Violation of the requirements provided for in Title II of Regulation (EU) No 648/2012 of the European Parliament and of the Council is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I, 26.04.2013, 2 - entry into force 06.05.2013]

§ 237⁴⁸. Failure to appear by participant in proceedings or witness

A fine of up to 20 fine units shall be imposed on a participant in the proceedings or a witness who, when summoned by the Supervisory Authority in the course of administrative proceedings, fails to appear without good reason.

[RT I, 26.04.2013, 2 - entry into force 06.05.2013]

§ 237⁴⁹. Additional grounds for termination of proceedings

For reasons of expediency, misdemeanour proceedings provided by this Act initiated in the matter of market abuse may be terminated with respect to a person who was the first to file a written report concerning the market abuse or suspicion thereof to the Supervision Authority before or immediately after the market abuse took place.
[RT I, 26.04.2013, 2 - entry into force 06.05.2013]

§ 237⁵⁰.

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 237⁵¹. Violation of limitations on investment

(1) Violation of limitations arising from this Act on investment of assets is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 237⁵². Proceedings

Extra-judicial proceedings concerning the misdemeanours provided for in this Chapter shall be conducted by the Financial Supervision Authority.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 238.–§ 262.[Repealed - RT I 2002, 63, 387 - entered into force 01.09.2002]

Part 7 IMPLEMENTATION OF ACT

Chapter 26 IMPLEMENTING PROVISIONS

§ 263. [Omitted from this text]

§ 264. Validity of activity licences

(1) Activity licences of professional securities market participants which are valid at the time this Act enters into force shall remain valid until the expiry of their term of validity or until they are revoked pursuant to the procedure prescribed in this Act.

(2) The provisions of this Act regarding investment firms shall apply to securities brokers prescribed in the Securities Market Act which is valid until the entry into force of this Act.

§ 265. Bringing activities into compliance

(1) Professional securities market participants which hold a valid activity licence at the time this Act enters into force shall bring their activities and documents into compliance with the provisions of this Act within six months as of the entry into force of this Act, unless otherwise prescribed in subsection (2) of this section.

(2) The share capital of professional securities market participants which hold a valid activity licence at the time this Act enters into force shall be at least 125,000 euros by 1 June 2002 at the latest and shall meet the requirements prescribed in clause 93 (1) 2) and subsection 152 (1) of this Act by 1 June 2003 at the latest.

(3) The notification requirement provided for in § 91 of this Act applies to investment firms as of 1 January 2004.

[RT I 2002, 102, 600 - entry into force 26.12.2002]

§ 265¹. Transitory provisions upon calculation of prudential norms after entry into force of version passed on 24 October 2007

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(1) The permissions regarding the calculation of prudential ratios granted by the Supervision Authority before 31 December 2008 remain in force to the extent in which they are not contrary to this Act and legislation issued on the basis thereof.

[RT I 2008, 31, 193 - entry into force 09.07.2008]

(2) Until 31 December 2008, an investment firm may apply the legal provisions in force before the entry into force of the version passed on 24 October 2007 upon calculation of risk-weighted assets.

[RT I 2008, 31, 193 - entry into force 09.07.2008]

(3) Until 31 December 2010, the prudential norms provided by this Act do not apply to investment firms whose main activity is trading in the securities specified in subsection 2 (11) of this Act or provision of other investment services related to such securities.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

(4) In the part not specified in this section, the transitory provisions established by §§ 141¹–141⁴ of the Credit Institutions Act apply to investment firms upon calculation of capital requirements and own assets.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 265². Validity of activity licences after entry into force of version passed on 24 October 2007

(1) Investment firms, credit institutions and management companies holding an activity licence valid at the time of entry into force of the version passed on 24 October 2007 must submit a notice which sets out the investment services and ancillary services specified in subsection 43 (1) and § 44 of this Act provided thereby to the Supervision Authority not later than within six months after the entry into force of the version passed on 24 October 2007.

(2) After submission of the notice specified in subsection (1) of this section, the investment firms, credit institutions and management company may only provide the investment services and ancillary services specified in that notice unless they have been granted permission to provide such services.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 265³. Bringing into conformity of activity related to provision of investment services with version passed on 24 October 2007

(1) Investment firms, credit institutions, operators of regulated markets and management companies are required to bring their activity into conformity with the requirements of the version passed on 24 October 2007 (hereinafter in this section *this version*) by the time this version enters into force.

(2) Investment firms, credit institutions and operators of regulated markets shall bring their activity which is equivalent to operating a multilateral trading facility into conformity with the requirements of this version by the time this version enters into force.

(3) Investment firms, credit institutions and management companies shall bring their activity which is equivalent to investment consultation into conformity with the requirements of this version by the time this version enters into force.

(4) If, before the entry into force of this version, a market operator engaged in an activity equivalent to the operation of a multilateral trading facility, the Supervision Authority shall grant such operator an activity licence for the operating a multilateral trading facility based on a corresponding application submitted before 31 July 2008 without applying the procedure for application for a supplementary activity licence, provided that the activity of the operator of the market is in conformity with the requirements of this version.

(5) If, before the entry into force of this version, an investment firm, credit institution or management company engaged in an activity equivalent to investment consulting, the Supervision Authority shall grant such person an activity licence for investment consulting based on a corresponding application submitted before 31 July 2008 without applying the procedure for application for a supplementary activity licence, provided that the activity of the investment firm, credit institution or management company is in conformity with the requirements of this version.

(6) The provisions of subsection 134 (3) of this Act do not apply to the market participators and remote participators who participated in the market already before the entry into force of this version.

(7) If an investment firm, credit institution or management company, using assessment methods based on the expertise, experience and knowledge of clients has classified a client as a professional client before the entry into force of this version, then such classification shall remain valid also after the entry into force of this version. The investment firms, credit institutions and management companies shall inform their clients of the

prerequisites for classification as retail client, professional client or eligible counterparty and of the possibility to change their classification.

[RT I 2007, 58, 380 - entry into force 19.11.2007]

§ 265⁴. Bringing into conformity by version passed on 24 October 2007 of activities related to regulated information

(1) [Repealed - RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(2) The issuers specified in Article 9 of Regulation No 1606/2002/EC of the European Parliament and of the Council are not required, during the financial year that started in 2006, to perform the obligation provided in subsection 184¹¹(3) of this Act to publish financial statements in conformity to Regulation No 1606/2002/EC of the European Parliament and of the Council.

(3) An issuer whose registered office is in a third country and whose home Contracting State is Estonia pursuant to this Act is not required to prepare the financial statements specified in §§ 184¹⁰ and 184¹¹ of this Act pursuant to the specified sections, if such issuer prepares its financial statements in conformity to the internationally accepted standards specified in Article 9 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

(4) An issuer whose home Contracting State is Estonia pursuant to this Act is not required, within a period of ten years beginning from 1 January 2005, to observe the provisions of § 184¹¹ of this Act with respect to debt securities of these debt securities have been admitted to trading on a regulated market of a Contracting State before 1 January 2005 or, if the home Contracting State had decided to apply, at the time of admission of such debt securities to trading, the derogation provided by the legislation established based on Article 27 of the Prospectus Directive to such issuer.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 265⁵. Bringing activities and documents of investment firms and issuers of shares into conformity with version of this Act passed on 23 February 2011

(1) Investment firms and issuers of shares are required to bring their activities and documents into conformity with the requirements provided for in § 79¹, subsection 85 (2), subsection 85³(1) and § 135² of the version of this Act passed on 23 February 2011 at the latest by 30 June 2011. Until bringing into conformity with the aforementioned version, the activities and documents of investment firms and issuers of shares shall comply with regard to the aforementioned requirements with the legislation in force until the entry into force of the said version.

(2) The term specified in subsections 109 (3) and 110 (1) of this Act for submission and disclosure of the annual reports and documents shall not apply to the documents of investment firms prepared for 2010. The submission and disclosure of the annual reports and documents prepared for 2010 shall be governed by the terms in force until the entry into force of the version specified in subsection (1) of this section.

[RT I, 24.03.2011, 1 - entry into force 03.04.2011]

§ 265⁶. Application of wording of this Act which entered into force on 1 July 2012 to activities and documents related to public offers and prospectuses

(1) The law in effect prior to 1 July 2012 shall apply to prospectuses, the application for the registration of which has been filed with the Supervision Authority and which the Supervision Authority has not registered prior to 1 July 2012, unless otherwise provided for in this section.

(2) The law in effect as of 1 July 2012, which stipulates the following obligations, shall apply to the obligations of issuers, offerors and persons asking for admission to trading, which arise from the law in effect prior to 1 July 2012, including the obligations pertaining to the registration of a prospectus. The provisions of the first sentence of this subsection shall also apply to the investor's right to demand to cancel the subscription or repurchase the securities provided for in subsections 35 (2) and (3) of this Act.

[RT I, 28.06.2012, 5 - entry into force 01.07.2012]

§ 265⁷. Transitional provisions upon application of § 184⁴

(1) The obligation to disclose the choice of the home Contracting State provided for in subsection 184⁴(1) of this Act shall not apply if an issuer chooses Estonia as the home Contracting State pursuant to § 13¹ of this Act and notify the Supervision Authority of such choice before 27 November 2015, excluding if the issuer chooses a new home Contracting State after 27 November 2015.

(2) If an issuer's securities have been admitted to trading on a regulated market in Estonia before 27 November 2015 and the issuer has not disclosed the choice of the home Contracting State before 27 November 2015,

the running of the three-month term provided for in subsection 184⁴(2) of this Act shall commence as of 27 November 2015.

[RT I, 14.11.2015, 1 - entry into force 24.11.2015]

§ 266. Application for permission for qualifying holding

(1) A person who has acquired a qualifying holding provided for in § 73 of this Act and who does not have permission for the qualifying holding as provided for in the same section shall apply for permission in accordance with this Act within six months as of the entry into force of this Act.

(2) If a person does not perform the obligation prescribed in subsection (1) of this section, the person shall transfer the holding in excess of the threshold specified in § 73 of this Act by 31 May 2002. As of 1 June 2002, the person may not use the voting rights arising from such holding.

§ 267. [Repealed - RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 268. Takeover bid committee

(1) Until 1 September 2002, the approval of takeover bid and grant of exceptions shall be within the exclusive competence of the committee approving takeover bids which operates at an exchange operator appointed by the Supervision Authority (hereinafter *takeover bid committee*).

(2) The takeover bid committee has the right to demand information from the offeror and target issuer regarding the takeover bid.

(3) Damage caused by the takeover bid committee in the course of its activities shall be compensated by the state on the bases and pursuant to the procedure prescribed by legislation. The state has the right of recourse in the case of compensating damage.

(4) The organisational structure, rights and obligations of the takeover bid committee shall be set out in the rules and regulations of the operator of the exchange.

§ 269. Composition of takeover bid committee

(1) The takeover bid committee shall consist of five members, of which three are appointed by the operator of the exchange and two by the chairman of the management board of the Supervision Authority. The members of the takeover bid committee shall elect the chairman of the committee from among themselves who shall co-ordinate the activities of the committee.

(2) A member of the takeover bid committee shall not participate in deciding on the approval of a takeover bid or the grant of an exception if he or she is directly or indirectly interested in the outcome or if there are justified doubts as to his or her impartiality.

(3) If a member of the takeover bid committee cannot participate in person in the work of the takeover bid committee because of the existence of circumstances set out in subsection (2) of this section or due to any other extraordinary circumstances, the operator of the exchange or the chairman of the management board of the Supervision Authority who appointed the member shall appoint a replacement for him or her.

(4) Members of the takeover bid committee are required to maintain indefinitely the confidentiality of any confidential information obtained by reason of their activities in the takeover bid committee, unless the disclosure of confidential information is prescribed by law.

§ 270. Resolution of takeover bid committee

(1) Each member of the takeover bid committee has one vote. Members do not have the right to refuse to vote or abstain, except in cases where they may not participate in the voting because of a conflict of interests.

(2) A resolution of the takeover bid committee is adopted if at least three members of the takeover bid committee vote in favour.

§ 271. Supervision of takeover bids

(1) Until 1 September 2002, an operator of an exchange appointed by the Supervision Authority shall monitor the compliance of takeover bids with legislation in co-operation with the Supervision Authority and shall advise and provide services to the takeover bid committee.

(2) Subject to approval by the Supervision Authority, an operator of an exchange specified in subsection (1) of this section has the right to establish a service fee on an offeror for carrying out the procedure of approving a takeover bid and to cover the operating costs of its takeover bid committee.

§ 272. Special rules applicable to securities settlement system operators

(1) Until such time as a person has been issued an activity licence to operate as an operator of a securities settlement system on the basis of §§ 217 and 218 of this Act, the registrar of the Estonian Central Register of Securities may operate as an operator of a securities settlement system.

(2) The registrar of the Estonian Central Register of Securities, while it is operating as an operator of a securities settlement system, does not have the right to guarantee the performance of claims and obligations arising on the basis of transfer orders or to assume other additional financial risks.

(3) An activity license of the operator of a securities settlement system who holds the activity license valid through 30 June 2011 shall remain effective until the expiry of the term of the respective activity license or until the revocation thereof under the procedure provided for in this Act.
[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

(4) A transfer order which was entered in a securities settlement system before 30 June 2011, but the settlements related to which take place subsequently, shall be considered a transfer order for the purposes of the version of this Act that entered into force on 30 June 2011.
[RT I, 29.06.2011, 1 - entry into force 30.06.2011]

§ 272¹. Bringing activities and documents of investment firms into conformity with version of this Act passed on 16 April 2014

In the implementation of subsection 94 (1) of the version of this Act passed on 16 April 2014, the investment firms shall be governed by the provisions of subsections 141⁹(1)–(3), (5) and (6) of the Credit Institutions Act.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

Chapter 27 AMENDMENTS TO OTHER ACTS

§ 273.–§ 276.[Omitted from this text.]

Chapter 28 ENTRY INTO FORCE OF ACT

§ 277. Entry into Force of Act

(1) This Act enters into force on 1 January 2002.

(2) Sections 38, 64, 65 and 69 and subsections 70 (2)-(4) enter into force upon Estonia's accession to the European Union.

¹ Directive 98/26/EC of the European Parliament and of the Council on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45–50), last amended by Directive 2010/78/EU (OJ L 331, 15.12.2010, p. 120–161); Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.02.2003, p. 1–27), last amended by Directive 2013/36/EU (OJ L 176, 27.06.2013, p. 338–436); Directive 2003/6/EC of the European Parliament and of the Council on insider dealing and market manipulation (market abuse) (OJ L 96, 12.4.2003, p. 16–25), last amended by Directive 2010/78/EU (OJ L 331, 15.12.2010, p. 120–161); Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64–89), last amended by Directive 2013/50/EU (OJ L 294, 06.11.2013, p. 13–27); Commission Directive 2003/124/EC implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the definition and public disclosure of inside information and the definition of market manipulation (OJ L 339, 24.12.2003, p. 70–72); Commission Directive 2003/125/EC implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the fair presentation of investment recommendations and the disclosure of conflicts of interest (OJ L 339, 24.12.03, p. 73–77); Commission Directive 2004/72/EC implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions (OJ L 162, 30.04.2004, p. 70–75); Directive 2004/25/EC of the European Parliament and of the Council on takeover bids (OJ L 142, 30.4.2004, p. 12–23), last amended by Regulation (EC) No. 219/2009 (OJ L 87, 31.3.2009,

p. 109–154); Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.04.2004, p. 1–44), last amended by Directive 2010/78/EU (OJ L 331, 15.12.2010, p. 120–161); Directive 2004/109/EC of the European Parliament and of the Council relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2013, p. 38–57), last amended by Directive 2013/50/EU (OJ L 294, 06.11.2013, p. 13–27); Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p. 338–436); Commission Directive 2006/73/EC implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 241, 2.09.2006, p. 26–58); Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (OJ L 69, 9.03.2007, p. 27–36), last amended by Directive 2013/50/EU (OJ L 294, 06.11.2013, p. 13–27).
[RT I, 14.11.2015, 1 - entry into force 24.11.2015]