

LAW
NR 8080 DATE 01. 03. 1996
ON
SECURITIES

Modified by the Law No. 8168 DT 05.12.1996 and the Law No. 8745 DT 22.02.2001

ARRANGEMENT OF ARTICLES

CHAPTER 1 GENERAL PROVISIONS

1. Object of Law
2. Interpretation

CHAPTER 2 SECURITIES COMMISSION

3. Establishment of Securities Commission
4. Functions of Commission
5. Membership of Commission
6. Term of office
7. Meetings of the Commission
8. Administration of Commission
9. Commission may establish committees
10. Disclosure of interest
11. Staff of Commission
12. Confidentiality
13. Funding of Commission
14. Financial year
15. Accounts
16. Annual report

CHAPTER 3 ORGANISATION OF SECURITIES MARKET

17. Deleted
18. Deleted
19. The Supervisory Board of the Securities Market
20. Activity of the Board
- 21.
22. The authority of the Commission to require amendment of rules
23. Information of the Commission

CHAPTER 4 OPERATION OF SECURITIES MARKET

- 24. Establishment of securities market
- 25. Application for securities market licence
- 26. Grant of securities market licence
- 27. Revocation of securities market licence
- 28. Disciplinary powers of Commission

CHAPTER 5 LICENSING OF PERSONS ENGAGED IN SECURITIES INVESTMENT BUSINESS

- 29. Licensing requirement
- 30. Application for licence
- 31. Grant of dealer's, investment manager's or adviser's licence
- 32. Grant of representative's licence
- 33. Power of Commission to impose restrictions
- 34. Revocation and suspension of licences
- 35. Rights of applicants
- 36. Register of licensees
- 37. Notification of change in particulars

CHAPTER 6 PUBLIC OFFERS OF CERTAIN SECURITIES

- 38. Offers of shares, debentures and warrants
- 39. Publication and registration of prospectus
- 40. Content of prospectus
- 41. Compensation for false or misleading prospectus
- 42. Continuing disclosure obligations

CHAPTER 7 CONDUCT OF SECURITIES INVESTMENT BUSINESS

- 43. Statements of principle
- 44. Code of conduct
- 45. Issue of contract notes
- 46. Accounts to be kept by licensed dealers and investment managers
- 47. Customers' property
- 48. Publications

CHAPTER 8 IMPROPER TRADING PRACTICES

- 49. Insider dealing
- 50. False trading and manipulation of the market
- 51. Use of deceptive statements, etc., as inducements
- 52. Fraudulent transactions
- 53. False or misleading statement in connection with sale of securities
- 54. Liability to pay damages

CHAPTER 9 TAKE-OVERS

- 55. Take-overs offers
- 56. When companies deemed to be related

57. Rules approved by the Commission

CHAPTER 10 INFORMATION, INSPECTION AND INVESTIGATION

58. Power of Commission to call for information

59. Power of Commission to inspect

60. Power of Commission to investigate

61. Destruction, etc., of document

62. Meaning of "document"

CHAPTER 11 MISCELLANEOUS

63. Offences and penalties

64. Disciplinary action against licensees

65. Transfer of securities

66. Rules

67. Guidance notes, etc.

68. Coming into effect

Temporary Provisions

This is the Law No. 8080 date 01.03.1996 "On securities", modified with the Law No. 8168 date 05.12.1996 and the Law No. 8745 date 22.02.2001.

In this version are introduced all the changes done in the law. The paragraphs and the articles modified are signed with a star ().*

REPUBLIC OF ALBANIA

PEOPLE'S ASSEMBLY

LAW

NR 8080 DATE 01. 03. 1996

ON

SECURITIES

Modified with the Law No. 8168 date 05.12.1996 and the Law No. 8745 date 22.02.2001

Pursuant to Article 16, of the Law No. 7491, dated 29.04.1991, "On the Main Constitutional Provisions", upon the proposal of the Council of Ministers,

PEOPLE'S ASSEMBLY
OF
THE REPUBLIC OF ALBANIA

DECIDED

CHAPTER 1

GENERAL PROVISIONS

Article 1

Object of Law

The object of this Law is to provide for the protection of investors in securities by establishing a Securities Commission, by regulating securities markets and persons engaged in securities investment business, and by controlling the public issue of and trading in securities.

Article 2

Interpretation

1. In this Law, unless the context otherwise requires -

"publication" includes every form of advertising, whether in a publication, by the display of notices, signs, labels or showcards, by means of circulars or other documents, by an exhibition of pictures or photographic or cinematographic films, by way of sound broadcasting or television, by the distribution of recordings, or in any other manner; *

"board", in relation to a securities market, means the governing body for the time being of the securities market;

"Commission" means the Securities Commission established by Article 3;

"company" means a joint-stock company established under the Law on Companies (Law No.7638, dt 19.11.1992);

"dealer's representative" means a physical person, in the employment of, or acting for or by arrangement with, a licensed dealer, who performs for that dealer any of the functions of a dealer (other than work ordinarily performed by accountants, clerks or cashiers) whether his remuneration is by way of salary, wages, commission or otherwise; and includes any director or officer of a company who performs any of those functions for the company;

"function" includes power and duty;

"investment representative" means a physical person, in the employment of, or acting for or by arrangement with, a licensed investment adviser and who performs for that investment adviser, any of the functions of an investment adviser (other than work ordinarily performed by accountants, clerks or cashiers) whether his remuneration is by way of salary, wages, commission or otherwise; and includes any director or officer of a company who performs any of those functions for the company;

"issuer", in relation to any securities, means the person by whom they have been or are to be issued;

"licensed dealer" means a company which is licensed to carry on a business of dealing in securities, whether as principal or agent;

*"licensed investment adviser" means an individual, a limited liability company or a joint-stock company, which is licensed to carry on a business of advising others concerning securities, including the arranging of purchases, sales or exchange of securities through a licensed dealer, but does not include -**

(i) a bank licensed by the Central Bank;

(ii) a licensed dealer or a licensed dealer's representative whose advice with respect to investments is solely incidental to the conduct of his business of or employment in dealing in securities; or

(iii) a licensed investment manager;

"licensed investment manager" means a company which is licensed, whether under this Law or under the Law on Investment Funds (Law No.7979), to carry on a business of managing securities on behalf of others;

"licensed representative" means an individual who is licensed to act as a dealer's representative or investment representative, as the case may be;

"licensee" means a person licensed under Chapter 4, and "licensed" shall be construed accordingly;

"member" , in relation to a securities market, means a licensed dealer, which is admitted to membership of the securities market;

"rules" , means the rules governing the conduct of a securities market or of its members by whatever name called and wherever contained, listing rules and includes rules contained in the statute of the company licensed to operate a securities market; *

"securities" means -

(a) shares and stock in the share capital of a company ("shares");

(b) debentures, as an instrument creating or acknowledging indebtedness which is issued or proposed to be issued by a company including, in particular, debentures with an original maturity of more than one year;

(c) Government and public debt securities - loan stock, bonds and other instruments creating or acknowledging indebtedness issued by or on behalf of the Government of Albania or by a Public Company and the securities issued by the Bank of Albania;

(ç) warrants, any right (whether conferred by warrant or otherwise) to subscribe for shares or debt securities;

(d) any option to acquire or dispose of any other security ("options");

(dh) rights under a contract for the acquisition or disposal of any other security under which delivery is to be made at a future date and at a price agreed when the contract is made (including a date and a price determined in accordance with the contract) ("futures");

(e) rights under a contract which does not provide for the delivery of securities but whose purpose or pretended purpose is to secure a profit or avoid a loss by reference to fluctuations in -

(i) a share index or other similar factor connected with other securities;

(ii) the price of other particular securities; or

(iii) the interest rate offered on money placed on deposit ("contracts for differences"); or

(ë) any other instruments deemed by the Commission to be securities for the purposes of this Law,

but does not include -

(i) bills of exchange;

(ii) Treasury bills with an original maturity of less than three months;

(iii) promissory notes;

*(iv) certificates of deposit issued by a bank licensed by the Bank of Albania; **

"**securities market**" means a stock or securities exchange or other place at which, or a trading facility or system by means of which -

(a) offers to sell, purchase or exchange securities are regularly made or accepted;

(b) offers or invitations are regularly made, being offers or invitations that are intended, or may reasonably be expected, to result, whether directly, or indirectly, in the making or acceptance of offers to sell, purchase or exchange securities; or

(c) information is regularly provided concerning the prices at which, or the consideration for which, particular persons or particular classes of persons, propose, or may reasonably be expected, to sell, purchase or exchange securities; and

"**underwriting**" means either the purchase of newly issued securities for the purpose of public resale on behalf of the issuer, or the guaranteeing to an issuer that the unsold residue of the issuer's public issue or sale will be taken up.

*"depository", means a financial institution that safekeeps the property of the securities market intermediaries on behalf of the investors. **

*"Prospectus", means a printed document, composed by the securities issuer and approved by the Commission, that describes the main features of an enterprise and that is distributed to the investors, as a necessary document for their future making decision, according to the rules approved by the Commission. **

CHAPTER 2

SECURITIES COMMISSION

Article 3

Establishment of Securities Commission

1. There is hereby established an independent agency in the Republic of Albania to be known as the Securities Commission. The Commission has supervisory and licensing authority for the securities market, and with further developments of this market, the Commission will take the attributes of an independent agency with headquarters in the Republic of Albania.

2. The Commission enjoys all the attributions of the judicial person, in relation with the laws in force.

*3. The Commission consists of seven commissioners (**), which are appointed by the People's Assembly for a five year's term. Two of the commissioners are proposed by the President of the Republic, two by the People's Assembly, one by the Council of Ministers, one by the Chamber of Commerce and Industry and one by the Supervisory Council of Bank of Albania.*

Only the first term for the two commissioners proposed by the People's Assembly will last four years.

Only the first term for the commissioners proposed by the Council of the Ministers and by the Chamber of Commerce and Industry will last three years.

*If a commissioner is removed from his duty for various reasons, prescribed in this Law, or for other substantial reasons, the commissioner, who will substitute him, is appointed in the same way, as prescribed by this paragraph, and will exercise his functions only for the remaining of the term. The commissioners, whose term has expired, are eligible for reappointment. **

*4. The Commission conducts its activity through commissioners' meetings where the majority of the commissioners shall be present. **

5. The commissioners must fulfil this requirements:

- a. University education in the field of economic or in the field of law;*
- b. Distinguished for high professional and social ethics;*
- c. Should not be member of governor body of political organisations;*

*(ç) Should not participate in companies that are under the Commission supervision. **

*6. The Chairman of the Commission should, within a month, notify on a written form the People's Assembly for the vacations of appointment from the Commission. **

Article 4

Functions of Commission

1. The Commission shall have the following functions -

(a) to license, supervise and monitor the activities of securities markets and the providers of services for the clearing and settlement of securities transactions and securities depositories;

*(b) to license, supervise and monitor the activities of licensed dealers, investment advisers and their respective representatives, licensed investment managers and licensed investment fund; **

*(c) to approve the Statute and rules of companies licensed to operate a securities market, and the providers of services for the clearing and settlement of securities transactions, securities depositories, securities registrars and investment funds; **

(ç) to monitor and enforce rules for the conduct of licensees including the revocation and suspension of licences;

(d) to promote and encourage high standards of investor protection and integrity among licensees;

(dh) to support the operation of an orderly, fair and properly informed securities market;

(e) to take all reasonable steps to safeguard the interests of persons who invest in securities and to suppress illegal, dishonourable and improper practices in relation to dealings in securities;

(ë) to exercise and perform such other powers, authorities and duties as may be conferred or imposed upon it.

(f) to adopt, change, suspend and repeal rules and orders, such as they are authorised, or may be appropriate to carry out by this Law and may prescribe the terms used in this Law, in compliance with its provisions, thus, taking all the available steps to ensure that this Law and any rules made under this Law are complied with;

(g) to regulate the manner of trading and the range of securities traded on a securities market, and to approve the securities market rules with regard to membership, listing, margin, capital adequacy, disclosure, periodic reporting, the reporting of transactions and trade settlement and clearing.

Article 5

Membership of Commission

*1. The People's Assembly on the President of the Republic proposal appoints one of the commissioners as the Chairman of the Commission simultaneously, with the appointment of the other commissioners. **

2. The Chairman delegates his competencies to one of the members of the Commission, who will act as a deputy Chairman. The Chairman is charged with the executive and administrative functions of the Commission, including the appointment and supervision of the Commission' staff, labour distribution between the staff and administrative units of the Commission as well as the funds' administration and management. In performing these functions, the Chairman shall be conducted by a general policy and regulating conclusion decided by the Commission.

3. If the chairman of the Commission is unable to act as chairman due to illness, is absent from Albania, or is impossible to perform his duty as a Chairman of the Commission, the deputy Chairman shall act as chairman in his place, within the competencies decided by the Chairman.

Article 6

Term of office

1. Upon the expiry of his period of appointment, every retiring member of the Commission shall, subject to this Article, be eligible for reappointment.

2. The office of a member shall be vacated -

(a) if he is convicted of an offence involving fraud or dishonesty;

(b) if he is absent from three consecutive meetings of the Commission without its permission;

(c) if he becomes mentally or physically incapable of performing his duties as a member;

*(ç) upon the expiry of one month's notice of his intention to resign his office given by him in writing to the People's Assembly; **

(d) upon his death.

3. The Commission may act notwithstanding any vacancy of office among its members.

Article 7

Meetings of the Commission

*1. Meetings of the Commission shall be held as often as may be necessary for the performance of its functions, and such meetings shall be held at such places, times and days as the Chairman may determine. **

2. The chairman may at any time call a meeting of the Commission and shall call a special meeting to be held within seven days of the receipt of a written request for that purpose addressed to him even from one of the members of the Commission.

3. At a meeting of the Commission -

(a) the chairman shall be chairman of the meeting;

(b) if the chairman is not present, the deputy chairman shall be chairman of the meeting.

4. Each member of the Commission present at a meeting of the Commission shall have a vote.

5. Every question for decision at a meeting of the Commission shall be determined by a majority of votes of the members present.

*In the event that voting is equally divided, the Chairman shall have a casting vote. **

6. Minutes of each meeting of the Commission shall be kept and shall be confirmed by members as soon as practicable at a subsequent meeting.

Article 8

Administration of Commission

The Commission shall organise and regulate its administration, procedure and business.

Article 9

Commission may establish committees

1. The Commission may, for the purpose of performing its functions under this Law, establish standing or special committees and may refer or assign to any such committee any matter for consideration, inquiry or management by the committee.
2. The Commission may appoint any person to be a member of any committee established under this Article, whether that person is a member of the Commission or not, and such persons shall hold office for such period as the Commission may determine.
3. Any reference or assignment under paragraph 1 and every appointment under paragraph 2 may be withdrawn or revoked by the Commission at any time, and no such reference or assignment shall prevent the performance by the Commission of any of its functions.
4. A committee established under this Article may elect any of its members to be chairman and, subject to any specific or general direction of the Commission, may regulate its own procedure and business.
5. Meetings of a committee shall be held at such times and places as the chairman of that committee may determine or as the Commission may direct.
6. Each committee shall keep minutes of its meetings and shall keep the Commission informed of its activities.

Article 10

Disclosure of interest

If any person is present at a meeting of the Commission or any committee of the Commission at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested, he shall as soon as practicable after the commencement of the meeting,

disclose the interest and shall not, unless the Commission or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

Article 11

Staff of Commission

1. The Commission may from time to time employ, on such terms and conditions as it thinks fit, such professional, technical and other officers, and such other staff, as may be necessary for the exercise and discharge of its functions.

2. The Commission shall appoint a Chief Executive Officer (which appointment shall be subject to the approval of the President of Republic) whose duty it shall be to assist the Commission in all respects and in such manner as the Commission may from time to time require in the discharge of its functions under this Law.

Article 12

Confidentiality

Every Commissioner and officer or employee of the Commission shall -

(a) at all times preserve and aid in preserving confidentiality with regard to all matters coming to his knowledge in the performance of any function under this Law; and

a. shall not at any time, without reasonable justification or excuse, communicate any such matter to any person nor permit any person to have access to any records in the possession, custody or control of the Commission.

*b. There is not considered to act against the first paragraph of this article if the Commission makes official exchange of data with other domestic or international regulators in base of a Memorandum of Understanding. In this case the Commission is obligated to maintain the confidentiality of the obtained information. **

*(c) There is not illegal acting in conformity with the first paragraph the official offering of data for the national authorities due to a legal obligation. If this information is obtained from a Memorandum of Understanding, the Commission should preliminary notify the origin regulator of the data. **

Article 13

Funding of Commission

The Commission shall be funded by -

(a) the state budget until the payment to the Commission of any prescribed fees or other charges to be adequate for its operation. Its funding by the government shall comply with the respective laws "For the state budget of the respective year".

The payment of the fees or other charges will be in relation to -

(i) any application to the Commission for any licence, approval, exemption, waiver or modification under this Law or rules made under this Law;

(ii) any other function performed under this Law by the Commission or by a committee established by the Commission;

(iii) any other matter with regard to which provision is made by or under this Law;

(iv) the approval of prospectuses in respect of public issues;

(v) monitoring;

(vi) anything done in the performance of a function relating to take-overs;

(b) the payment to the Commission of such a levy, in respect of every purchase and sale of securities recorded on a securities market or notified to it under its rules, as may be prescribed;

(c) such sums of money or such other assets as may accrue to or vest in the Commission from time to time, whether in the course of the exercise of its functions or otherwise; and

(c) such sums as may be paid to the Commission from time to time from moneys appropriated by Parliament for the purpose.

Article 14

Financial year

1. The financial year of the Commission shall be the period of twelve months ending on 31 December in each year, and its first financial year shall begin on the coming into operation of this Law and end on the following 31 December.

2. The Commission shall not later than 31 November in each financial year submit to the People's Assembly for his approval, estimates of its income and expenditure for the next financial year.

Article 15

Accounts

The Commission shall cause proper accounts to be kept of its assets and liabilities and of its income and expenditure for each financial year, in full compliance with the "Law on Accounting".

Article 16

Annual report

The Commission shall, not later than six months after the end of each financial year of the Commission, prepare a report on its activities during that financial year and send a copy of the report to the Parliament.

CHAPTER 3

ORGANISATION OF SECURITIES MARKET

Article 17

*Deleted **

Article 18

*Deleted **

Article 19

*The Supervisory Board of the Securities Market **

*The securities market has a Supervisory Board subject to the approval of the Commission and in full compliance with the Law No. 7638, dt. 19.11.1992, "On Commercial Companies". **

Article 20

- 1. The Supervisory Board of the Securities Market, established under Article 11, will consist of 5 members. **
- 2. The members of the Supervisory Board shall have good reputation, with respective education and professional experience in banking and commercial activity. **
- 3. The Supervisory Board will operate in accordance with "Rules on Conduct of Business of the Supervisory Board of the Securities Market", approved by the Commission. **

4. Subject to the approval of the Commission, the Board shall make such rules, as it considers necessary or desirable for the proper and efficient regulation, operation, management and control of the securities market.

5. Where the Supervisory Board wishes to make any amendment to its rules shall submit a draft of the proposed amendment to the Commission for approval. *

6. The Commission shall, within 14 days, by notice in writing to the Board approve the amendment or disapprove the whole or any specified part of the amendment in question. The proposed and approved amendments under this paragraph, shall come into effect from the day of their approval. If the proposed amendments shall not be rejected within 14 days, this amendment will be considered approved and shall come into effect at the end of 14 days. *

Article 21

Where the *Commission* (*) is satisfied that it is appropriate for the protection of investors or for the proper regulation of a securities market, the *Commission* (*) may issue directions to the securities market -

- (a) with respect to trading on or through the facilities or systems of the securities market generally or with respect to the trading of a particular security on that market;
- (b) with respect to the manner in which the market carries on any aspect of its business, including the manner of reporting off-market trades by members; or
- (c) with respect to any other matter that the *Commission* (*) considers necessary for the effective administration of this Law.

Article 22

The authority of the *Commission* (*)

to require amendment of rules

Where the *Commission* (*) considers it necessary for the protection of investors, it may by notice in writing require the Board to make or to amend any rule. The *Commission* (*) shall specify the amendments and the dates those amendments shall have force and effect. The Board shall comply with the requirement as soon as practicable after receipt of the notice from the *Commission* (*).

Article 23

The board shall provide such assistance to the *Commission* (*) as it reasonably requires for the performance of its functions, including the furnishing of returns and providing information in respect of dealings in securities or any other specified information as the Commission may require for the proper administration of this Law.

CHAPTER 4

OPERATION OF SECURITIES MARKETS

Article 24

*Establishment of securities market **

*The securities markets are licensed by the Commission in full compliance with the articles of this law. **

Article 25

Application for securities market licence

1. Only a company may apply to the Commission for a licence to operate a securities market.
2. An application under paragraph 1 shall be made in the prescribed form and accompanied by the prescribed fee.

Article 26

Grant of securities market licence

1. Upon receipt of an application duly made under Article 25, the Commission may grant a securities market licence if it is satisfied that -
 - (a) the interests of the public will be served by the grant of a licence; and
 - (b) the applicant satisfies the conditions specified in paragraph 2.
2. The conditions to be satisfied by the applicant are that -
 - (a) the objects contained in the Statute of the applicant shall include the establishment and operation of a securities market;

- (b) the applicant can provide and maintain, to the satisfaction of the Commission, adequate and properly equipped facilities or systems for the conduct of the business of a securities market;
- (c) the applicant shall have not less than 3 members who are engaged in the business of dealing in securities independently of and in competition with each other;
- (ç) the rules and practices proposed to be followed by the applicant must be such as will ensure that business conducted by means of its facilities or systems will be conducted in an orderly manner and so as to accord proper protection to investors;
- (d) the applicant has made such arrangements as the Commission considers satisfactory for -
 - (i) the clearing and settlement of dealings in securities to ensure the performance of transactions effected on the securities market, and for the recording and publication of such transactions;
 - (ii) market surveillance;
 - (iii) the effective monitoring and enforcement of compliance with its rules, this Law and rules made under this Law; and
 - (iv) investigating complaints in respect of business transacted by any of its members.

Article 27

Revocation of securities market licence

The Commission may revoke a securities market licence granted to a company under Article 26 if -

- (a) the company ceases to operate a securities market;
- (b) the company is being wound up; or
- (c) the company is operating in a manner detrimental to the public interest.

Article 28

Disciplinary powers of Commission

1. Where a securities market reprimands, fines, suspends, expels or otherwise takes disciplinary action against a member, the Board shall, within 7 days, give to the Commission in writing particulars of the name of the member, the reason for and the nature of the action taken.

2. *After the written notification it is without prejudice to the power of the Commission to take such actions as it sees fit with regard to the member's licence. **

LICENSING OF PERSONS ENGAGED IN SECURITIES

INVESTMENT BUSINESS

Article 29

Licensing requirement

1. No person shall carry on, or purport to carry on, securities investment business unless he is licensed to do so by the Commission under this Chapter.
2. For the purposes of this Law, "securities investment business" means the business of engaging in one or more of the following activities -
 - (a) buying, selling, subscribing for or underwriting securities or offering or agreeing to do so, either as principal or as an agent;
 - (b) managing, or offering or agreeing to manage, securities belonging to another person, whether or not at the discretion of the manager;
 - (c) giving, or offering or agreeing to give, to investors or potential investors advice on the merits of the purchasing, selling, subscribing for or underwriting securities;
 - (c) providing services for the clearing and settlement of securities transactions;
 - (d) providing securities depository and registration services; and **
 - (dh) any other activity that the Commission deems to constitute securities investment business for the purpose of this Law.

Article 30

Application for licence

1. An application for a licence under this Chapter shall be made to the Commission in the prescribed form and manner and shall be accompanied by the prescribed fee.
2. An application shall specify the type of securities investment business that the applicant proposes to carry on and the services, which he will hold himself out as able to provide in the carrying on of that business.
3. The Commission may require an applicant to provide it with such further information as the Commission thinks necessary.

Article 31

Grant of dealer's, investment manager's or adviser's licence

1. A dealer's licence and an investment manager's licence shall only be granted to a company which company shall at all times employ at least one person who holds the appropriate representative's licence granted under this Chapter.
2. The Commission may, on an application duly made in accordance with Article 30, grant or refuse the application.
3. The Commission shall grant the application if the applicant satisfies him that he is a fit and proper person to carry on the securities investment business and provide the services described in the application, but otherwise the Commission shall refuse the licence.
4. In considering whether an applicant is a fit and proper person to be licensed the Commission shall have regard to, in respect of an applicant if he is an individual, and in the case of an applicant company in respect of each of its directors and officers -
 - (a) his financial status;
 - (b) his educational or other qualifications or experience having regard to the nature of his application;
 - (c) his ability to perform his proposed function efficiently, honestly and fairly; and
 - (c) his reputation, character, financial integrity and reliability.
5. For the purposes of this Article, the Commission may have regard to any information in its possession whether furnished by the applicant or not.
6. For the purposes of paragraph 3, the Commission may take into account any matter relating to -
 - (a) any person who is or is to be employed by, or associated with, the applicant for the purposes of the business to which the application relates;
 - (b) any person who will be acting as a representative in relation to such business; and
 - (c) where the applicant is a company, any substantial shareholder, director or officer of the company.
7. In paragraph 6, "substantial shareholder", in relation to a company, means a person who has an interest in shares in the company -
 - (a) the nominal value of which is equal to or more than 10% (*) of the issued share capital of the company; or
 - (b) which entitles the person to exercise or control the exercise of 10% (*) or more of the voting power at any general meeting of the company.

Article 32

Grant of representative's licence

1. A representative's licence shall only be granted to an individual, as for the companies, to the individual that has the representative's right with the third party.
2. The Commission shall grant a dealer's representative's licence or investment representative's licence if after consideration of the application it does not have any reason to believe that the applicant will not perform the duties of the holder of a representative's licence efficiently, honestly and fairly, but otherwise the Commission shall refuse the licence.

Article 33

Power of Commission to impose restrictions

1. The Commission may grant a licence subject to such conditions or restrictions as it thinks fit and the Commission may, at any time, by written notice served on the licensee, vary any condition or restriction for the time being attached to his licence or impose further conditions or restrictions.
2. The Commission may require as a condition for granting a representative's license as a manager, that the person undergoes tests administered by or under the supervision of the Commission, in accordance with the Law, Rules of the Securities Commission defined in Article 4 of the Law.

Article 34

Revocation and suspension of licences

1. The Commission may revoke a licence granted to an individual under this Chapter if the individual -
 - (a) is shown by medical evidence to have become mentally or physically incapable of performing the activities to which the licence relates;
 - (b) has been adjudged a bankrupt, in Albania or elsewhere;
 - (c) is convicted, whether in Albania or elsewhere, of an offence involving fraud or dishonesty, or other penal offence, which provides privation of liberty over 10 years;
 - (ç) is convicted of an offence against this Law or is in breach of a rule made under this Law;
 - (d) contravenes or fails to comply with any condition or restriction applicable in respect of the licence;

- (dh) ceases to carry on the business for which he is licensed; or
- (e) is the holder of a representative's licence and the licence of the dealer or investment adviser whom he represents is revoked or suspended.
2. The Commission may revoke a licence granted to a company under this Chapter if -
- (a) the company goes into liquidation or is ordered to be wound up;
- (b) a receiver or manager of the property of the company is appointed;
- (c) the company ceases to carry on the business for which it is licensed;
- (ç) the Commission has reason to believe that the company, or any of its directors or employees, has not performed his duties efficiently, honestly and fairly;
- (d) the company contravenes or fails to comply with any condition or restriction applicable in respect of the licence;
- (dh) the company is in breach of a rule made under this Law;
- (e) the company does not continue to employ at least one person who holds a representative's licence granted under this Chapter.
3. The Commission may, if it thinks it appropriate to do so, instead of revoking a licence, suspend the licence for such specified period, or until the happening of a specified event, as he may determine.
4. The Commission may revoke a licence at the request of the licensee.
5. A person whose licence is revoked or suspended under this Article shall, for the purpose of this Law, be deemed not to be licensed from the date that the Commission revokes or suspends the licence, as the case may be.
6. The suspension or revocation of a licence under this Article does not operate so as to -
- a. avoid or affect any agreement, transaction or arrangement relating to a dealing in securities entered into by the person whose licence has been suspended or revoked, whether the agreement, transaction or arrangement was entered into before or after the suspension or revocation of the licence;
 - or
 - b. affect any right, obligation, or liability arising under any such agreement, transaction or arrangement.

Article 35

Rights of applicant

The Commission shall not -

- (a) refuse to grant a licence; or
- (b) revoke or suspend a licence;

unless it notifies the applicant or licensee, as the case may be, of its intention to do so, including a statement of its reasons, and gives him an opportunity of being heard.

Article 36

Register of licensees

*1. The Commission shall maintain a register of persons holding licences under this Chapter. **

2. For each licensed dealer, investment manager or investment adviser, the register shall record -

- (a) the name of the licensee;
- (b) the date on which the licence was granted;
- (c) in the case of a dealer's or investment manager's licence, or in the case of an investment adviser's licence granted to a company, the name of each director, and of the secretary, of the company and the names and respective shareholdings of each shareholder; and
- (c) such other matters as may be prescribed.

3. For each licensed representative, the register shall record -

- (a) the name of the person licensed and the date of issue of the licence;
- (b) the name and address of the business of the dealer or investment adviser in relation to whom the representative is licensed; and
- (c) such other matters as may be prescribed.

4. The register required to be maintained under paragraph 1 shall, during usual office hours, be open to inspection free of charge by members of the public.

Article 37

Notification of change in particulars

1. Where -

- (a) a licensed dealer, investment manager or investment adviser ceases to carry on the business to which the licence relates;

(b) a licensed representative ceases to be a representative of the dealer or investment adviser in relation to whom the representative's licence was granted; or

(c) a change occurs in any matter particulars of which are required by Article 35 to be entered in the register of licensees,

the licensee shall within 14 days give to the Commission, in the prescribed form, particulars in writing of the event concerned.

2. Rules made under this Law may require a licensee to furnish the Commission with additional information by way of periodic report or otherwise.

CHAPTER 6

PUBLIC OFFERS OF CERTAIN SECURITIES

Article 38

Offers of shares, debentures and warrants

1. This Chapter applies only to securities which are shares, debentures or warrants.

2. For the purposes of this Chapter, a person offers securities if he invites another to enter into an agreement for or with a view to subscribing for or otherwise acquiring or underwriting any securities, or he invites a person to make such an offer.

3. An offer of securities is a public offer of securities if the offer is made to more than *50 (*)* persons.

4. An advertisement, other than a prospectus, announcing a public offer of securities for which a prospectus is required under this Chapter shall not be issued to the public in Albania unless it states that a prospectus has been published and gives an address in Albania from which it can be obtained.

Article 39

Publication and registration of prospectus

1. Where a public offer of securities is to be made in the Republic of Albania the offeror shall publish a prospectus by making it available to the public, free of charge, at an address in Albania, from the time the securities are first offered until the end of the period during which the offer remains open.

2. The offeror shall, not less than 21 days before the time of publication of the prospectus, submit a copy of it to the Commission for registration.
3. No person shall publish a prospectus until it has been registered by the Commission.
4. Where a person who makes a public offer of securities has, within 12 months preceding the date on which the offer is first made, published a prospectus, he may publish a prospectus which contains only the differences which have arisen since the publication of the previous prospectus and which are likely to influence the value of the securities provided that the new prospectus is accompanied by a copy of the previous prospectus.

Article 40

Content of prospectus

The Commission may register a prospectus only if-

- (a) it contains all such information as investors and their professional advisers would reasonably require, and reasonably expect to find there, for the purpose of making an informed assessment of -
 - (i) the assets and liabilities, financial position, profits and losses, and prospects of the issuer of the securities; and
 - (ii) the rights attaching to those securities; and
- (b) it contains in addition such other information and particulars, and complies with such other requirements, as may be prescribed.

Article 41

Compensation for false or misleading prospectus

Every director of an issuer, and any other person who is responsible for a prospectus, shall be liable to pay compensation to any person who has acquired any of the securities to which the prospectus relates and suffered loss in respect of them as a result of any untrue or misleading statement in the prospectus or the omission from it of any matter required to be included by or under Article 40.

Article 42

Continuing disclosure obligations

1. Every issuer of securities that are the subject of a public offer, or which are publicly held, shall keep the Commission, members of the issuer and other holders of its securities informed as soon as reasonably practicable of any information relating to the issuer and its subsidiaries, if any, that -

- (a) is necessary to enable them and the public to appraise the financial position of the issuer and of its subsidiaries;
 - (b) is necessary to avoid the establishment of a false market in its securities; or
 - (c) might reasonably be expected materially to affect market activity in the price of its securities.
2. For the purposes of this Article, securities are publicly held if the issuer has more than 50 holders of its securities, irrespective of when the securities were issued.
3. In addition to the requirements of paragraph 1, the issuer shall also comply with such further obligations and requirements as may be prescribed by the Council of Ministers after consultations with the Commission.

CHAPTER 7

CONDUCT OF SECURITIES INVESTMENT BUSINESS

Article 43

Statements of principle

In the conduct of securities investment business, a licensee shall at all times act according to the principles of best practice and, in particular, shall -

- (a) observe a high standard of integrity and fair dealing;
- (b) act with due skill, care and diligence;
- (c) observe high standards of market conduct;
- (c) seek from customers' information about their circumstances and investment objectives, which might reasonably be expected to be relevant in enabling the licensee to fulfil a licensee's responsibilities to the customer;
- (d) take reasonable steps to give every customer the licensee advises, in a comprehensible way, any information needed to enable the customer to make a balanced and informed investment decision;
- (dh) avoid any conflict of interest with customers and, where such a conflict unavoidably arises, to ensure fair treatment to the customer by complete disclosure or by declining to act; furthermore the interests of the licensee should never be unfairly placed above those of the customer;

(e) protect properly, by way of segregation and identification, those customer assets for which the licensee is properly responsible;

(ë) maintain adequate financial resources to meet the securities business commitments of the licensee and withstand the risks to which the business is subject;

(f) organise and control internal affairs in a responsible manner;

(g) keep proper records;

(gj) have adequate arrangements to ensure that all staff employed are suitable, adequately trained and properly supervised, together with well-defined compliance procedures; and

(h) *deal with the Commission in an open and co-operative manner and keep the Commission informed of anything concerning the licensee that might reasonably be expected to be disclosed to it.* *

Article 44

Code of conduct

1. The Council of Ministers, after consultations with the Commission, may make rules prescribing a code for the conduct of securities investment business by licensees.

2. Where any contract for the sale or purchase of securities is entered into in contravention of the code of conduct prescribed by rule under this Article, the contravention is actionable at the suit of any person who suffers loss as a result of the contravention.

Article 45

Issue of contract notes

1. A licensed dealer shall, in respect of every contract for the purchase, sale or exchange of securities entered into by him, whether as principal or agent, not later than the end of the next trading day after the contract was entered into, make out a contract note which complies with paragraph 2 and -

(a) where the contract was entered into by the dealer as agent, deliver the original contract note to the person on whose behalf it entered into the contract; or

(b) where the contract was entered into by the dealer as principal, retain the contract note for itself.

2. The contract note shall include -

(a) the name or style under which the dealer carries on business as a dealer and the address of the principal place at which it so carries on business;

(b) where the dealer is acting as principal, a statement that it is so acting;

- (c) the name and address of the person, if any, to whom the dealer is required to give the contract note and, where different, the name of the person for whom the transaction was undertaken;
- (ç) the date of the contract, and the date on which the contract note is made out;
- (d) the quantity and description of the securities the subject of the contract;
- (dh) the price per unit of the securities;
- (e) the amount of consideration payable under the contract or, in the case of an exchange, sufficient particulars of the securities exchanged to identify them;
- (ë) the rate or amount of commission payable in respect of the contract;
- (f) the amount of stamp duty (if any), payable in connection with the contract and, where applicable, in respect of the transfer;
- (g) the date of settlement;
- (gj) such other information as may be prescribed to ensure that there shall be a complete audit trail for the execution of customer instructions and the settlement of market transactions.

Article 46

Accounts to be kept by licensed dealers and investment managers

1. A licensed dealer or investment manager shall keep such accounting and other records as will sufficiently explain the transactions and financial position of all business relating to the licence and enable true and fair profit and loss accounts and balance sheets to be prepared from time to time, and shall keep those records in such manner and form as to enable them to be conveniently and properly audited.
2. Without limiting the generality of paragraph 1, a licensee shall maintain such accounts and other records, and file such financial statements and reports, as may be prescribed by the Council of Ministers, after consultations with the Commission.

Article 47

Customers' property

1. The Commission may make rules with respect to the segregation and safekeeping of customers' money or securities which licensees hold on their behalf.
2. Without prejudice to the generality of paragraph 1, rules may -
 - (a) require customers' money to be paid forthwith into a bank account the title of which contains the word "customer";

(b) make provision with respect to the opening and keeping of customers' accounts, including provision as to the circumstances in which money other than customers' money may be paid into such accounts and the circumstances in which and the persons to whom money held in such accounts may be paid out;

(c) require the keeping of accounts and records in respect of customers' money or securities; and

(ç) require the accounts and records to be examined by a certified public accountant and require the accountant to report to the Commission whether in his opinion the provisions of the rules have been complied with and on such other matters as may be specified in the rules.

3. Money or other property held by a licensee on account of a customer shall not be available for payment of the debts of the licensee or liable to be paid or taken in execution under an order or process of any court.

Article 48

Publications *

*The Council of Ministers, after consultations with the Commission, may make rules with respect to the form and content of publications relating to securities investment business, and which may restrict who may issue such publications. **

CHAPTER 8

IMPROPER TRADING PRACTICES

Article 49

Insider dealing

*1. Dealing, advising or procuring another person to deal in securities of a company, taking advantage of one's knowledge of non public information which, materially affect the price of the securities for his own or a third person benefit, commits the offence of insider dealing and is sentenced with fine or up to 3 years of imprisonment. **

2. This Article applies to -

(a) any director, officer or employee of the company concerned;

(b) any person associated in a professional capacity with that company; and

(c) any person who obtains such information from any of the persons mentioned in paragraphs (a) or (b) of this paragraph.

3. No dealing shall be void or voidable by reason only that it was entered into in contravention of this Article.

Article 50

False trading and manipulation of the market

1. No person shall create or cause to be created, or do anything with the intention of creating -

(a) a false or misleading appearance of the volume of trading in any securities on any securities market; or

(b) a false or misleading appearance of the market for, or the price of, any such securities.

2. No person shall, by means of the purchase or sale of any securities that does not involve a change in the beneficial ownership of those securities, or by any fictitious transaction or device, maintain, inflate, express or cause fluctuations in the market price of any securities.

3. A purchase or sale of securities does not, for the purposes of paragraph 2, involve a change in the beneficial ownership if a person who had an interest in the securities before the purchase or sale, or a person associated with him in relation to those securities, holds an interest in the securities after the purchase or sale.

Article 51

Use of deceptive statements, etc., as inducements

No person shall induce or attempt to induce another person to deal in securities -

(a) by making or publishing any statement, promise or forecast that he knows to be misleading, false or deceptive;

(b) by any dishonest concealment of material facts; or

(c) by recklessly or dishonestly making or publishing any statement, promise or forecast that is false or misleading.

Article 52

Fraudulent transactions

No person shall, directly or indirectly, in connection with any transaction with any other person involving the purchase, sale or exchange of securities -

- (a) employ any device, scheme or artifice to defraud that other person; or
- (b) engage in any act, practice or course of business, which operates as a fraud or deception, or is likely to operate as a fraud or deception, on that other person.

Article 53

False or misleading statement in connection with sale of securities

No person shall, directly or indirectly, for the purpose of inducing the sale or purchase of the securities of any company, make with respect to those securities, or with respect to the operations or the past or future performance of the company -

- (a) any statement which is false or misleading with respect to any material fact; or
- (b) any statement which is rendered false or misleading by reason of omission of that fact.

Article 54

Liability to pay damages

1. A person who is convicted of an offence under this Chapter shall, in addition to criminal liability for the offence, be liable, at the suit of any person who has sustained pecuniary loss as a result of having purchased or sold securities at a price affected by the act or transaction which comprises or is the subject of the offence, to an action for damages in respect of the loss concerned.
2. Nothing in paragraph 1 limits or diminishes any civil liability, which any person may incur under any other law.

CHAPTER 9

TAKE-OVERS

Article 55

Take-over offers

1. In this Chapter, a "take-over offer" means an offer to acquire by or on behalf of a company ("the offeror") -

(a) all the shares, or all the shares of any class, in another company ("the offeree company") other than shares which at the date of the offer are already held by the offeror; or

(b) such shares in the offeree company, which results in the offeror acquiring effective control of the offeree company.

2. For the purposes of paragraph 1, "acquiring effective control" means the acquiring of shares in an offeree company which (together with shares, if any, already held by the offeror or by any other company that is deemed by virtue of Article 56 to be related to the offeror) carry the right to exercise, or control the exercise of, not less than 50% of the rights attached to the voting shares of the offeree company.

Article 56

When companies deemed to be related

Where a company -

(a) is the holding company of another company;

(b) is the subsidiary of another company; or

(c) is a subsidiary of the holding company of another company,

that first-mentioned company and that other company shall for the purposes of this Chapter be deemed to be related to each other.

Article 57

1. The Commission may make rules with respect to the making and conduct of take-over offers.

2. Where the Commission has made rules under paragraph 1, no person shall make or pursue a take-over offer except under and in accordance with such rules.

CHAPTER 10

INFORMATION, INSPECTION AND INVESTIGATION

Article 58

Power of Commission to call for information

1. The Commission may by notice in writing require any licensee to furnish him with such information as it may reasonably require for the exercise of its functions under this Law.
2. The Commission may require that the information shall be furnished within such reasonable time and verified in such manner as it may specify.

Article 59

Power of Commission to inspect

1. For the purpose of ascertaining whether a person who is, or at any time has been, a licensee is complying or has complied with any provision of or requirement under this Law, rules made under this Law or the terms and conditions of his licence, the Commission may from time to time inspect under conditions of secrecy any document relating to the business to which the licence applies.
2. The Commission may require the licensee or any other person, whom it reasonably believes is in possession of or has under its control any document referred to in paragraph 1, to produce it.

Article 60

Power of Commission to investigate

1. Where the Commission has reason to believe that -
 - (a) an offence under this Law or rules made under this Law has been committed;
 - (b) a person may have committed a breach of trust, fraud or misconduct -
 - (i) in dealing in securities;
 - (ii) in the management of investment in securities; or
 - (iii) in giving advice as regards the acquisition, disposal, purchase or sale, or otherwise investing in, any security;
 - (c) the manner in which a person has engaged or is engaging in any of the activities referred to in paragraph (b) is not in the interest of the investing public or the public interest,

the Commission may in writing appoint a person ("the investigator") to investigate any matter referred to in sub-paragraphs (a) to (c) and to report the results of the investigation to the Commission.

2. Any person who is reasonably believed or suspected by the investigator to have in his possession or under his control any document which contains, or which is likely to contain, information relevant to an investigation under this Article, or who is so believed or suspected of otherwise having such information in his possession or under his control, shall -

(a) produce to the investigator, within such time and at such place as he may reasonably require, any document specified by the investigator which is, or may be, relevant to the investigation, and which is in his possession or under his control;

(b) if so required by the investigator, give to him such explanation or further particulars in respect of a document produced in compliance with a requirement under sub-paragraph (a) as the investigator shall specify;

(c) attend before the investigator at such time and place as he may require in writing, and answer truthfully and to the best of his ability such questions relating to the matters under investigation as the investigator may put to him; and

(ç) give to the investigator all assistance in connection with the investigation, which he is reasonably able to give.

Article 61

Destruction of document

A person who destroys, falsifies, conceals or otherwise disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any document, which is relevant to an inspection under Article 59 or an investigation under Article 60, commits an offence.

Article 62

Meaning of "document"

In this Law "document" includes information recorded in any form. References to its production include references to producing a copy of the information in legible form.

CHAPTER 11

MISCELLANEOUS

Article 63

Offences and penalties

A person who contravenes any provision of this Law commits an offence and is liable on conviction

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(a) in the case of a person not being a company, a fine of *30,000 to 1,000,000 leks*; *

(b) in the case of a company, a fine of *50,000 - 5,000,000 leks*. *

Article 64

Disciplinary action against licensees

1. A licensee who contravenes any provision of this Law, or of any rule made under this Law, commits a disciplinary offence and is liable to disciplinary proceedings by the Commission irrespective of any other action, whether civil or criminal, that may be taken against the licensee in respect of the same conduct.

2. The Commission shall establish a standing Disciplinary Committee.

3. The composition and procedure of the Disciplinary Committee shall be determined by the Commission.

4. The Disciplinary Committee may, where it is satisfied after due inquiry that a licensee has committed a disciplinary offence, exercise in relation to that licensee any one of the following sanctions as it deems appropriate in the circumstances of the offence -

(a) issue a private warning or reprimand;

(b) issue a notice of public censure;

(c) impose a fine in such amount as it considers appropriate but in any event not exceeding 10,000 leks;

(ç) suspend the licence granted under Part IV or revoke the licence granted under Part IV.

Article 65

Transfer of securities

1. Notwithstanding the provisions of the Law on Commercial Companies (Law No.7638, dt 19.11.1992), the Commission may, with regard to securities which are listed or proposed to be listed, make provision by rules for enabling ownership of securities to be evidenced and transferred without a written instrument.

2. Rules made by the Commission -

(a) may make provision for procedures for recording and transferring title to securities;

(b) may make provision for the regulation of those procedures and the persons responsible for or involved in their operation;

(c) shall contain such safeguards as appear to the Commission appropriate for the protection of investors and for ensuring that competition is not restricted, distorted or prevented;

(ç) may include such supplementary, incidental and transitional provisions as appear to the Commission to be necessary or expedient.

3. In this Article "listed" securities, means securities that are quoted, listed or admitted to dealing on a licensed securities market.

Article 66

Rules

1. The Commission may make rules for or with respect to any matter that by this Law is required or permitted to be prescribed, or that is necessary or convenient to be prescribed for carrying out or giving effect to this Law.
2. Without prejudice to the generality of paragraph 1, the Commission may make rules requiring the licensing of clearing houses, securities depositories and persons providing securities registration or custodian services.

Article 67

Guidance notes, etc.

The Commission may from time to time issue such guidance notes, bulletins, advice or other regulatory statements as it may consider necessary or desirable for the administration of this Law.

Article 68

This Law shall come into effect 15 days after published in the Official Gazette.

Temporary Provisions *

The Ministry of Finance and the Ministry of Public Economy and Privatisation are responsible to take the necessary steps for the transformation of Tirana Stock Exchange into a joint-stock company within six months from the coming into effect of this law.

*According to this article, Tirana Stock Exchange shall stand as dependent entity of Bank of Albania, until it will be transformed as a joint-stock company. **

(*) Modified with the Law No. 8745 date 22.02.2001

() Modified with the Law No. 8168**