Act CXXXVIII of 2007

on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities[1]

With a view to the alignment of Hungarian and Community regulations concerning investment service activities, to improving its transparency, to fostering international competitiveness, to protecting investors and clients, and to ensuring sound supervisory arrangements with regard to the sector, Parliament has adopted the following Act:

PART ONE

PRELIMINARY PROVISIONS

Chapter I

SCOPE

Section 1

Unless provided by international agreement or by this Act to the contrary, this Act shall apply to:

a) the following activities carried out in Hungary by persons and bodies established in Hungary:[2]

aa) investment service activities;

ab) ancillary services and investment activities (hereinafter referred to as "ancillary services");

ac) commodity exchange services;

b) The following services provided by companies established in the territory of Hungary in other Member States of the European Union or in States that are parties to the Agreement on the European Economic Area, in the form of cross-border services or operating as branch offices:[3]

ba) investment service activities; and

bb) ancillary services; and

c) the supervision of the operators mentioned in Paragraphs a) and b) in accordance with the provisions of this Act.

Section 2

This Act shall not apply to:

a) persons or bodies who do not provide any investment services or activities other than dealing on own account in financial instruments unless they are market makers or deal on own account

[1] Promulgated on 28 November 2007.

[2] Amended: by subparagraph a) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[3] Amended: by subparagraph b) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

outside a regulated market or multilateral trading facilities on an organized, frequent and systematic basis;

b) persons or bodies which provide investment services exclusively for their parent companies, for their subsidiaries or for other subsidiaries of their parent companies;

c) persons or bodies which provide investment services consisting exclusively in the administration of employee-participation schemes;

d) persons or bodies which provide investment services:

da) exclusively for their parent companies, for their subsidiaries or for other subsidiaries of their parent companies; and

db) consisting exclusively in the administration of employee-participation schemes;

e) persons or bodies providing investment advice in the course of providing another professional activity not covered by this Act provided that the provision of such advice is not specifically remunerated;

f)[4] persons or bodies dealing on own account in commodities and/or commodity derivatives, financial futures or options, swaps, or other derivatives, except if these persons or bodies form part of a group whose principal activity features the pursuit of investment service activities under this Act or the pursuit of financial service activities under the CIFE.

Section 3

(1)[5] Except for Sections 8, 13, 22, 24, 27-31, 37-39, 97-107, 121, 124-141, 155-170 and 172-175, the provisions on investment firms shall apply to investment service activities and ancillary services:

a) provided by the Magyar Nemzeti Bank (hereinafter referred to as "MNB") outside of its main functions as prescribed in the MNB Act;

b) provided by the treasury with respect to debt securities issued by the State.

(2)[6] Unless otherwise provided for in this Act, the provisions on investment firms - except for Subsection (5) of Section 8, Section 13, Sections 15-16, Subsections (1)-(3) of Section 22, Subsection (1) of Section 25, Sections 37-39, Section 60, Sections 97-99, Paragraph *e)* of Subsection (1) of Section 100, Sections 105-107, Section 121, Sections 124-135, Subsections (2)-(5) of Section 136, Sections 137-139 and Schedule No. 4 - shall apply to credit institutions engaged in investment service activities or providing ancillary services, with the exception that any reference made to investment firms shall be understood as credit institutions.

(3)[7] The investment fund managers defined in the Collective Investments Act may engage in investment service activities and provide ancillary services within the scope specified by the Collective Investments Act, with the exception that their such activities and services shall be subject to the provisions on investment firms, except for Paragraphs *a)-e)* of Subsection (5) of Section 8, Sections 22, 24-26, 37-39, 73-75, 100-107 and 124-139.

(4)[8] Except for the provisions set out in Subsection (1) hereof and in Subsection (1) of Section 25, the provisions on investment firms shall also apply to investment service activities and

[4] Established: by Section 114 of Act CL of 2009. In force: as of 1. 01. 2010.
[5] Established: by paragraph (1) Section 62 of Act CLI of 2012. In force: as of 28. 10. 2012.
[6] Established: by paragraph (2) Section 62 of Act CLI of 2012. In force: as of 28. 10. 2012.
[7] Established by paragraph (1) Section 164 of Act CXCIII of 2011. Amended by Paragraphs a) and b) of Subsection (3) of Section 278 of Act XVI of 2014.
[8] Enacted: by paragraph (3) Section 62 of Act CLI of 2012. In force: as of 28. 10. 2012.

ancillary services provided by the Államadósság Kezelő Központ Zrt. (hereinafter referred to as "ÁKK Zrt.") other than the management of public debt as provided for by law.

Chapter II

INTERPRETATIVE PROVISIONS

Section 4

(1) The abbreviations of legal regulations referred to in this Act are contained in Schedule No. 1.

(2) For the purposes of this Act and other legal regulations implemented under the authorization of this Act:

1. 'parent company' shall have the meaning defined in the Accounting Act;

2.[9] 'UCITS' shall have the meaning defined in the Collective Investments Act;

3. 'market maker' shall mean an investment firm that is willing to deal on own account by buying and selling financial instruments on a continuous basis at prices defined by it;

4. 'commodity' shall mean any goods of a fungible nature that are capable of being delivered, including natural resources that can be utilized as capital goods, exclusive of financial instruments;

5.[10] 'transferable securities' shall mean securities which are negotiable on the capital market, with the exception of instruments of payment;

6.[11] 'identification data':

a)[12] 'personal identification data of natural persons' shall mean the natural identification data, citizenship, residence address, type and number of identification document,

b)[13] 'identification data of companies' shall mean the name, abbreviated name, registered address, address of the Hungarian branch of a non-resident company, registered number, number of the resolution adopted on foundation (registration, admission into the register), registration number, name and position of authorized representatives of companies;

7.[14] 'investment credit or loan' shall mean the granting of loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction;

8.[15] 'investment research' shall mean investment recommendations made according to the CMA relating to financial instruments or the issuers of financial instruments, excluding investment advice;

9.[16] 'investment advice' shall mean the provision of personal recommendations to a client in respect of one or more transactions relating to financial instruments, not including publicly available information, facts, circumstances, studies, reports, analyses and advertisements, and the

---

[9] Established by paragraph (2) Section 164 of Act CXCIII of 2011. Amended by Paragraph b) of Subsection (3) of Section 278 of Act XVI of 2014.
[10] Established: by paragraph (1) Section 142 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[11] Enacted: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[12] Amended: by Section 391 of Act LVI of 2009. In force: as of 1. 10. 2009.
[13] Established by Subsection (1) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.
[14] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[15] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[16] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.

prior information investment firms are required to provide to their clients and any subsequent changes in that information as prescribed under this Act;

10.[17] 'investment firm' shall mean any legal person whose regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities for consideration by authorization granted under this Act, exclusive of what is contained in Section 3;

11.[18] 'qualifying interest' shall have the same meaning as qualifying holding as defined in the Banking Act;

12.[19] 'swap' shall mean a complex agreement for the exchange of a financial instrument which, in general, consists of a spot transaction and a futures transaction, and/or several futures transactions and, in general, it results in future cash flow exchanges;

13.[20] 'endowment capital' shall mean the capital provided permanently and without restrictions or encumbrances for the foundation and operation of a branch;

14.[21] 'EEA Member State' shall mean any Member State of the European Union and any State that is a party to the Agreement on the European Economic Area;

15.[22] 'parent investment firm in an EEA Member State' shall mean an investment firm which holds a dominant influence or participation in an investment firm, credit institution or financial institution, and in which an investment firm, credit institution or financial institution authorized in the same EEA Member State or of a financial holding company set up in the same EEA Member State does not have a dominant influence or participation;

16.[23] 'parent financial holding company in an EEA Member State' shall mean a financial holding company in which a credit institution, investment firm or financial holding company authorized in the same Member State does not have a dominant influence or participation;

17.[24] 'recognized clearing house' shall mean a financial institution set out in an EEA Member State or an OECD Member State and providing services related to clearing and settlement transactions, recognized as such under the law or by the competent supervisory authority of the same Member State, and the bodies providing clearing or settlement services according to the CMA, where - if engaged in the settlement of derivatives as well - they have a clearing mechanism whereby the customers of clearing and settlement services are subject to daily margin requirements which, in the opinion of the competent authorities of their home Member States, provide appropriate protection;

18.[25] 'recognized exchanges' shall mean exchanges which are recognized as such by the competent supervisory authorities and which meet the following conditions:

a) they function regularly;

b) they have rules, issued or approved by the appropriate supervisory authorities of the home country of the exchange, defining the conditions for the operation of the exchange, the conditions of access to the exchange as well as the conditions that shall be satisfied by a contract before it can effectively be dealt on the exchange; and

---

[17] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[18] Established by Subsection (1) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[19] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[20] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[21] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[22] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[23] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[24] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[25] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.

c) they have a clearing mechanism whereby futures contracts are subject to daily margin requirements which, in the opinion of the competent supervisory authorities, provide appropriate protection;

19.[26] 'dominant influence' shall have the meaning defined in the CIFE;

20.[27] 'senior executive officer' shall mean a member of the management of an investment firm, so designated under the investment firm's charter document;

21.[28]

22.[29] 'EU parent company' shall have the same meaning as defined in Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 [hereinafter referred to as "Regulation 575/2013/EU"];

23.[30] 'EU parent financial holding company' shall have the same meaning as defined in Regulation 575/2013/EU;

23a.[31] 'EU parent mixed financial holding company' shall have the same meaning as defined in Regulation 575/2013/EU;

24.[32] 'securities lending and securities borrowing' shall mean the conveyance of securities where the lender transfers securities to the borrower subject to a commitment that the borrower will return equivalent securities in terms of quantity and series at some future date stipulated by contract or when requested to do so by the transferor to the transferor, or to a third party designated by the transferor;

25.[33] 'securities custody account' shall mean an account for the safekeeping and administration of securities for the account of clients;

26.[34] 'securities account' shall have the meaning defined in the CMA;

27.[35] 'securities secrets' shall mean all data and information that is at the disposal of an investment firm, an operator of multilateral trading facilities or a commodity dealer concerning specific clients relating to their personal information, financial standing, business operations and investments, ownership and business relations, and their contracts and agreements with any investment firm or commodity dealer, and to the balance and money movements on their accounts;

27a.[36] 'Authority' shall mean the MNB acting within its function as supervisory authority of the financial intermediary system;

28.[37] 'supervisory authority' shall mean the body vested with powers to exercise supervision over investment firms and commodity dealers relating to their investment service activities and ancillary services, and to the activities in which commodity dealers may be authorized to engage in, this excluding the Authority;

---

[26] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[27] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[28] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[29] Established by Subsection (2) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[30] Established by Subsection (2) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[31] Enacted by Subsection (3) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[32] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[33] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[34] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[35] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[36] Enacted: by paragraph (1) Section 106 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[37] Established: by paragraph (2) Section 106 of Act CXLIII of 2013. In force: as of 1. 10. 2013.

29.[38] 'branch' shall have the meaning defined in the FCA and in the CRA;

30.[39] 'host Member State' shall mean the EEA Member State, other than the home EEA Member State, in which an investment firm has a branch or performs services and/or activities or the EEA Member State in which a regulated market provides appropriate arrangements so as to facilitate access to trading on its system by remote members or participants established in that same EEA Member State;

31.[40] 'third country' shall mean any country that is not an EEA Member State;

32.[41] 'initial capital' shall comprise capital subscribed at the time of foundation and capital and profit reserves;

33.[42] 'underwriting guarantee' shall mean a commitment for the subscription or purchase of securities on own account, or a commitment for the subscription or purchase of a certain amount of securities made under agreement in order to prevent the failure of the subscription of sales procedure;

34.[43] 'positions held with trading intent' shall mean the positions held intentionally for short-term resale and/or with the intention of benefiting from actual or expected short-term price differences between buying and selling prices or from other price or interest rate variations. The term "positions" shall include proprietary positions and positions arising from client servicing and market making;

35.[44] 'outsourcing' shall mean an arrangement of any form between an investment firm and a third party (outsourcing service provider) by which that service provider performs a process, a service or an activity which would otherwise be undertaken by the investment firm itself;

36.[45] 'collective investment trust' shall have the meaning defined in the Collective Investments Act;

37.[46] 'central credit information system' shall have the meaning defined in the Act on the Central Credit Information System (hereinafter the referred to as "KHR");

38.[47] 'central counterparty' shall have the meaning defined in the CMA;

39.[48] 'non-resident investment firm' shall mean an investment firm whose registered seat is not in Hungary;

40.[49] 'special purpose entity' shall mean an entity organized for carrying on a securitization or securitizations, as governed in specific other legislation, that may function in the form of a securitization fund or a securitization entity;

41.[50] 'retail client' shall mean a client who is not a professional client;

---

[38] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[39] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[40] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[41] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[42] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[43] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[44] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[45] Established by paragraph (3) Section 164 of Act CXCIII of 2011. Amended by Paragraph b) of Subsection (3) of Section 278 of Act XVI of 2014.
[46] Established: by paragraph (11) Section 24 of Act CXXII of 2011. In force: as of 11. 10. 2011.
[47] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[48] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009. Amended: by subparagraph c) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[49] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[50] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.

42.[51] ‘subsidiary’ shall mean any company over which a parent company effectively exercises a dominant influence. All subsidiaries of subsidiary companies shall be considered subsidiaries of the parent company;

43.[52] ‘custodianship’ shall mean the safekeeping of financial instruments for the account of clients, including disbursement;

44.[53] ‘safe custody services’ shall mean the administration of financial instruments for the account of clients, including the collection of dividends, interest and other payments and other related services such as collateral management;

45.[54] ‘limit order’ shall mean an order to buy or sell a financial instrument at its specified price limit or better and for a specified size;

46.[55] ‘execution of orders on behalf of clients’ shall mean acting to conclude agreements to buy or sell one or more financial instruments on behalf of clients;

47.[56] ‘tied agent’ shall mean a natural or legal person, who, under the full and unconditional responsibility of only one investment firm on whose behalf it acts, promotes investment and/or ancillary services to clients or prospective clients;

48.[57] ‘minister’ shall mean the minister in charge of the money, capital and insurance markets;

49.[58] ‘ministry’ shall mean the ministry governed by the minister;

50.[59] ‘financial analyst’ shall mean a person who produces the substance of investment research with the involvement of an investment firm or a tied agent of an investment firm, or on their behalf or under an outsourcing arrangement with the investment firm, who is considered a relevant natural person under the CMA, irrespective of the type of contractual relationship underlying the investment research;

51.[60] ‘money market instruments’ shall mean - with the exception of payment instruments - instruments, other than securities, issued as a series, which are liquid and normally dealt in on the money market;

52.[61] ‘placement of financial instruments’ shall mean the marketing of financial instruments and offering them to the public in accordance with the CMA;

53.[62] ‘portfolio management’ shall mean an activity where a client’s assets are managed in accordance with mandates given by clients on a discretionary client-by-client basis, meaning the investment of such assets under predetermined criteria into financial instruments, and to manage such investments on behalf of the client, where the risks related to such financial instruments and the yields produced by them (gains and losses) shall be borne directly by the client;

54.[63] ‘reference data’ shall have the meaning defined in the Act on the Central Credit Information System;

---

[51] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[52] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[53] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[54] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[55] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[56] Established by Subsection (2) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.
[57] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[58] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[59] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[60] Established: by paragraph (1) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.
[61] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[62] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[63] Established: by paragraph (11) Section 24 of Act CXXII of 2011. In force: as of 11. 10. 2011.

55.[64] ‘reference data provider’ shall mean an investment firm licensed to engage in investment lending operations, and/or in securities lending and securities borrowing operations;

56.[65] ‘systematic internalizer’ shall mean an investment firm which, on an organized, frequent and systematic basis, deals on own account to provide for the possibility for transactions on each trading day by executing client orders outside a regulated market or a multilateral trading facilities;

57.[66]

58.[67] ‘dealing on own account’ shall mean trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments;

59.[68] ‘regulated market’ shall have the meaning defined in the CMA;

60.[69] ‘professional client’ shall mean a client who meets the criteria laid down Section 49 or who is treated as such under Section 48;

61.[70] ‘derivative instrument’ shall mean an instrument the value of which is derived from the price of an underlying financial instrument and which may itself be traded;

62.[71] ‘home Member State’ shall mean:

a) if the non-resident investment firm is a natural person, the EEA Member State in which his temporary or permanent residence is situated;

b) if the investment firm or non-resident investment firm is a legal person, the EEA Member State in which the investment firm’s registered office is situated;

c) if the investment firm or non-resident investment firm is a legal person and under international law it has no registered office, the EEA Member State in which its head office is situated;

63.[72] ‘close link’ shall mean the situation in which two or more natural or legal persons are linked by dominant influence or participation. Where a company is linked to another company by way of a dominant influence, which constitutes a dominant influence over a third person, such third person shall also be regarded as closely linked with the person that is on the highest level. A situation in which two or more natural or legal persons are permanently linked to one and the same company by a control relationship shall also be regarded as a close link between such companies;

64.[73] ‘sponsor’ shall have the same meaning as defined in Regulation 575/2013/EU;

65.[74] ‘durable medium’ shall mean 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;

66.[75] ‘client’ shall mean a person who engages in any of the services governed under this Act;

67.[76] ‘client identification data’ shall mean:

---

[64] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[65] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[66] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[67] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[68] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[69] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[70] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[71] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[72] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[73] Established by Subsection (4) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[74] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[75] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.

a) concerning natural persons:

aa)[77] natural identification data;

ab)-ad)[78]

ae) nationality;

af) type and number of identification document;

b) concerning legal persons and business associations lacking the legal status of a legal person:

ba) name, abbreviated name;

bb) registered office;

bc) registered number of legal persons listed in the register for companies, or the number of the resolution adopted on the foundation (registration, admission into the register) of other legal persons, or their registration number;

68.[79] 'group of connected clients' shall have the meaning defined in the CIFE;

69.[80] 'client account' shall have the meaning defined in the CMA;

70.[81] 'business secret' shall have the meaning defined in the Civil Code;

71.[82] 'executive employee' shall mean:

a) executive officers, members of the board of directors and supervisory board members;

b) in the case of branches, the person appointed by the foreign-registered company to lead the branch, and his deputy; and

c) any person so designated in the charter document or in any internal policy on operations.

72.[83] 'group' shall have the meaning defined in the CMA;

73.[84] 'controlled company' shall mean any company,

a) in which a single person has a majority of the voting rights,

b) of which a single shareholder has the right to appoint or remove a majority of the company's decision-making, management or supervisory body,

c) of which a person alone controls a majority of the voting rights pursuant to an agreement entered into with other shareholders or members of the company in question, or

d) over which a person has the power to exercise, or actually exercises, dominant influence or control as fixed in its charter document or under an agreement;

74.[85] 'ancillary services company' shall have the meaning defined in the CMA;

75.[86] 'affiliated company' shall have the meaning defined in the CMA;

76.[87] 'close relative' shall mean the persons defined in the Civil Code, including domestic partners;

77.[88] 'most relevant market in terms of liquidity' shall have the meaning defined in Article 9 of Commission Regulation (EC) No. 1287/2006;

---

[76] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[77] Amended: by Section 391 of Act LVI of 2009. In force: as of 1. 10. 2009.
[78] Repealed: by Section 392 of Act LVI of 2009. No longer in force: as of 1. 10. 2009.
[79] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[80] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[81] Established and numbering amended: by paragraphs (1) and (4) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[82] Numbering amended: by paragraph (1) Section 130 of Act CIII of 2008. In force: as of 01. 01. 2009.
[83] Enacted: by paragraph (2) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.
[84] Enacted: by paragraph (2) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.
[85] Enacted: by paragraph (2) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.
[86] Enacted: by paragraph (2) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.
[87] Enacted: by paragraph (2) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.
[88] Enacted: by paragraph (2) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.

78.[89] 'company' shall mean any entity, regardless of its legal form, that is regularly engaged in an economic activity.

79.[90] 'multilateral trading facility' shall mean a multilateral system which brings together multiple third-party buying and selling interests in financial instruments - in accordance with non-discretionary rules - in a way that results in a contract;

80.[91] 'security' shall have the meaning defined in the CMA;

81.[92] 'consolidating supervisor' shall have the meaning defined in the CMA;

82.[93] 'remuneration' shall mean any reward or recompense granted by an investment firm to its executive employee or member of staff under contract of employment, directly or indirectly, in money or in kind, or any other form of benefits;

83.[94] 'pay-for-performance principle' shall mean variable remuneration paid by the investment firm to an executive employee or member of staff above and beyond the basic remuneration for performance exceeding the functions laid down in the employment contract, or for carrying out job functions not fixed therein;

84.[95] 'discretionary pension benefits' shall have the same meaning as defined in the Banking Act;

85.[96] 'risk of excessive leverage' shall have the same meaning as defined in Regulation 575/2013/EU;

86.[97] 'capital conservation buffer' shall mean the own funds that an investment firm is required to maintain so as to enhance its ability to absorb losses;

87.[98] 'institution-specific countercyclical capital buffer' shall mean the own funds that an investment firm is required to maintain in order to reduce the potential for pro-cyclicality connected to investment activities, in an amount equivalent to the risk exposure calculated in accordance with the position of the client of the exposure;

88.[99] 'systemically important investment firms' are:

a) EU parent companies,

b) EU parent financial holding companies;

c) EU parent mixed financial holding companies; or

d) investment firms;

the failure or malfunction of which could lead to systemic risk;

89.[100] 'global systemically important investment firm' shall mean any systemically important investment firm that may not be the subsidiary of:

a) an EU parent company,

b) an EU parent financial holding company,

c) an EU parent mixed financial holding company, and

---

[89] Enacted: by paragraph (2) Section 116 of Act CL of 2009. In force: as of 1. 01. 2010.
[90] Established: by paragraph (2) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.
[91] Enacted: by paragraph (2) Section 142 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[92] Enacted: by paragraph (2) Section 142 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[93] Enacted: by paragraph (2) Section 142 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[94] Established by Subsection (5) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[95] Established by Subsection (5) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[96] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[97] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[98] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[99] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[100] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.

that is a global systemically important institution, and the failure or malfunction of which could lead to a global systemic risk;

90.[101] 'capital buffer requirement relating to global systemically important investment firms' shall mean the own funds that a global investment firm that is subject to potential risks is required to maintain in order to reduce the probability of insolvency and potential risk exposure;

91.[102] 'other systemically important investment firm' shall mean any systemically important investment firm the failure or malfunction of which could lead to systemic risk at the EEA or national level;

92.[103] 'capital buffer requirement relating to other systemically important investment firms' shall mean the own funds that a Hungarian or EU investment firm that is subject to significant risks is required to maintain in order to reduce the probability of insolvency and potential risk exposure;

93.[104] 'systemic risk buffer' shall mean the own funds that an institution is required to maintain in order to prevent and mitigate systemic risks;

94.[105] 'recovery plan' shall mean a plan laying down potential courses of action for investment firms in the case of adverse developments which constitute a serious threat to liquidity or solvency designed to restore the investment firm's financial stability without benefiting from any extraordinary public financial support;

95.[106] 'basic remuneration' shall mean remuneration paid by the investment firm to an executive employee or member of staff under contract between the investment firm and the executive employee or member of staff on a regular basis in the form of wages, which should appropriately reflect relevant professional experience and responsibility as set out in an employee's job description as part of the terms of employment, including other benefits which are paid to other employees as well;

96.[107]

97.[108] 'management body in its managerial function' shall mean the management body defined in the charter document or articles of association acting in its role of decision-making;

98.[109] 'management body in its supervisory function' shall mean the management body defined in the charter document or articles of association acting in its role of overseeing and monitoring decision-making by the management body in its managerial function;

99.[110] 'management body' shall mean the executive board and supervisory board of the investment firm, including their members and directors, covering also the executive employees of investment firms incorporated as branches;

100.[111] 'public-interest investment firm' shall mean any investment firm that operates in the form of a public limited company, and any investment firm whose balance sheet total for the preceding financial year exceeded five hundred billion forints;

---

[101] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[102] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[103] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[104] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[105] Established by Subsection (1) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[106] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[107] Repealed by Subsection (16) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[108] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[109] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[110] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[111] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.

101.[112] ‘emergency action plan’ shall mean a plan worked out by the investment firm containing clearly defined procedures and arrangements and the relevant deadlines and officers, so as to ensure lawful operation;

102.[113] ‘systemic risk’ shall mean a risk of disruption in the financial system with the potential to have serious negative consequences for the financial system and the economy;

103.[114] ‘internal approach’ shall mean the internal ratings based approach defined in Regulation 575/2013/EU;

104.[115] ‘model risk’ shall have the same meaning as defined in the Banking Act;

105.[116] ‘leverage’ shall have the same meaning as defined in the Banking Act;

106.[117] ‘total risk exposure’ shall have the same meaning as defined in Regulation 575/2013/EU.

PART TWO

TAKING UP THE BUSINESS OF INVESTMENT FIRMS AND COMMODITY DEALERS

Chapter III

INVESTMENT SERVICE ACTIVITIES AND ANCILLARY SERVICES

Section 5

(1) Investment service activities shall cover the following services provided within the framework of regular business activities relating to financial instruments:

a) receiving and transmitting client orders;

b) execution of orders on behalf of clients;

c) dealing on own account;

d) portfolio management;

e) investment advice;

f) placement of financial instruments, including a commitment for the purchase of assets (securities or other financial instruments) (underwriting guarantee);

g) placement of financial instruments without any commitment for the purchase of assets (financial instruments); and

h) operation of multilateral trading facilities.

(2) ‘Ancillary services’ shall mean:

a) safekeeping and administration of financial instruments for the account of clients;

b) safe custody services relating to securities for the account of clients, including the safekeeping and administration of printed securities for the account of clients;

c) granting credits and loans to investors;

---

[112] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[113] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[114] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[115] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[116] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[117] Enacted by Subsection (6) of Section 77 of Act CCXXXVI of 2013, effective as of 1 January 2014.

d) advice to companies on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of companies;

e)[118] foreign exchange services where these are connected to the provision of investment services;

f) investment research and financial analysis;

g) services related to underwriting guarantees;

h) investment services and activities as well as ancillary services related to the underlying instruments of the derivatives included under Paragraphs e)-g), j) and k) of Section 6.

Section 6

Financial instruments are:

a) transferable securities;

b) money-market instruments;

c) securities issued by collective investment trusts;

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

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

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

g) options, futures, swaps, forwards (carried out on an OTC basis or exchange-traded) and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in Paragraph f) and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognized clearing houses or are subject to regular margin calls;

h) derivative instruments for the transfer of credit risk;

i) financial contracts for differences;

j) options, futures, swaps, forward rate agreements and any other derivative contracts and instruments relating to climatic variables, freight rates, greenhouse gas emission allowance units and other rights of emission of air polluting substances, inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default);

k) any other derivative contracts and instruments relating to assets, rights, obligations, indices and measures not otherwise mentioned under Paragraphs a)-j), which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or multilateral trading facilities, are cleared and settled through recognized clearing houses or are subject to regular margin calls, furthermore, the derivative contracts referred to in Article 39 of Commission Regulation (EC) No. 1287/2006.

Section 7

[118] Established: by Section 117 of Act CL of 2009. In force: as of 1. 01. 2010.

(1) Unless otherwise provided for in this Act, only investment firms and credit institutions may engage in investment service activities.

(2) Investment service activities may be taken up and pursued subject to the conditions set out in this Act and in specific other legislation.

(3)[119] An investment firm established in a third country shall be allowed to provide services or perform the activities in Hungary through the establishment of a branch.

(4)[120] An investment firm established in another EEA Member State may engage in operations in the territory of Hungary in the form of cross-border services.

Section 8

(1)[121] Investment service activities may be carried out and ancillary services may be provided subject to authorization by the Authority, in due observation of what is contained in Subsections (2)-(4).

(2) A non-resident investment firm - other than the investment firm mentioned in Subsection (3) - may engage in investment service activities or provide ancillary services through a branch if authorized by the competent supervisory authority of the country where established for the activities in question.

(3)[122] An investment firm established in another EEA Member State may engage in cross-border activities or establish a branch in the territory of Hungary if authorized by the competent supervisory authority for the activity in question and if the conditions set out in Subsection (5) of Section 27 and in Subsection (8) of Section 27 are satisfied.

(4) An authorization for providing ancillary services may not be granted in itself, without an authorization to engage in investment service activities, with the exception of clearing houses governed by the CMA and central depositories.

(5) In addition to engaging in investment service activities and providing ancillary services, an investment firm may only perform the following:

a) the services listed under Subsection (1) of Section 9;

b) keeping registers of shareholders;

c) providing nominee shareholder services;

d)[123] intermediation of financial services under Paragraph *h)* of Subsection (1) of Section 3 of the CIFE;

e) insurance mediation under the Insurance Act, acting as an agent;

f) securities lending and/or borrowing; and

g) supply of data and information relating to financial instruments for consideration.

h)[124] group financing activities specified in Subsection (1) of Section 6 of the Banking Act;

Section 9

---

[119] Amended: by subparagraph c) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[120] Amended: by subparagraph c) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[121] Established: by Section 107 of Act CXLIII of 2013. In force: as of 1. 10. 2013.

[122] Amended: by subparagraphs c) and d) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[123] Established: by Section 118 of Act CL of 2009. In force: as of 1. 01. 2010.

[124] Enacted by Section 143 of Act CLIX of 2010. Amended by Paragraph a) of Section 111 of Act CCXXXVI of 2013.

(1) Commodity dealers may provide the following services within the framework of regular business activities relating to the instruments specified in Subsection (2):

a) receiving and transmitting client orders;

b) execution of orders on behalf of clients;

c)[125] dealing on own account;

d)[126] intermediation of financial services under Paragraph *h)* of Subsection (1) of Section 3 of the CIFE;

e) insurance mediation under the Insurance Act, acting as an agent;

f) intermediation of investment services and ancillary services, acting as a tied agent.

(2) Commodity exchange services may pertain to:

a) goods, including warehouse warrants and dockets detached from warehouse warrants, marketable rights, and their derivatives;

b) options, futures and any other derivative contracts relating to greenhouse gas emission allowance units and other rights of emission of air polluting substances; and

c) the financial instruments defined under Paragraphs e)-g) of Section 6.

Section 10

(1) Commodity exchange services may be provided by commodity dealers and investment firms, in due observation of what is contained in Subsection (3).

(2) Operations to provide commodity exchange services may commence on condition that, as laid down under this law and in specific other legislation:

a) all personnel criteria has been satisfied;

b) all requirements relating to technical equipment, information technology and security systems have been satisfied; and

c) the required internal policies and protocols concerning organizational structure, operations, administration, accounting, records and control systems have been adopted.

(3)[127] A non-resident investment firm shall be allowed to provide commodity exchange services in Hungary only through the establishment of a branch.

Section 11

(1) Commodity exchange services may be provided subject to authorization by the Authority, in due observation of what is contained in Subsection (2).

(2) A non-resident investment firm may provide commodity exchange services through a branch if authorized by the competent supervisory authority of the country where established for the activities in question.

(3)[128] The persons referred to in Article 18(2) and (3) of Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community [hereinafter referred to as "Commission Regulation (EU) No.

[125] Established: by Section 119 of Act CL of 2009. In force: as of 26. 12. 2009.
[126] Established: by Section 119 of Act CL of 2009. In force: as of 26. 12. 2009.
[127] Amended: by subparagraph c) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[128] Enacted: by Section 88 of Act XCVIII of 2013. In force: as of 29. 06. 2013.

1031/2010”] shall be eligible to bid under these provisions only if authorized by the Authority to provide commodity exchange services relating to the assets specified in Paragraph *b)* of Subsection (2) of Section 9 of this Act as pertaining to the activities defined in Paragraphs *a)* and *b)* of Subsection (1) of Section 9.

Chapter IV

REQUIREMENTS CONCERNING THE EQUIPMENT AND TECHNICAL FACILITIES OF INVESTMENT FIRMS AND COMMODITY DEALERS

IT Systems

Section 12

(1) Investment firms engaged in the investment service activities specified under Paragraphs a)-d), f) and g) of Subsection (1) of Section 5 and in providing the ancillary services specified under Paragraphs a)-b) of Subsection (2) of Section 5, and the commodity dealers engaged in the activities defined in Subsection (1) of Section 9 are required to set up a regulatory regime concerning the security of their information systems used for providing their respective services, and to provide adequate protection for the information system consistent with existing security risks.

(2) The regulatory regime referred to in Subsection (1) shall contain provisions concerning requirements of information technology, and the assessment and handling of security risks in the fields of planning, purchasing, operations and control.

(3) The investment firms and commodity dealers referred to in Subsection (1) shall review and update the security risk assessment profile of the information system whenever necessary, or at least every other year.

(4) The investment firms and commodity dealers referred to in Subsection (1) shall draw up organization and operation protocol in light of the security risks inherent in the use of information technology, as well as the rules governing responsibilities, records and the disclosure of information, and the control procedures and regulations integrated into the system.

(5) The investment firms and commodity dealers referred to in Subsection (1) shall install an information technology control system to monitor the information system for security considerations, and shall keep this system operational at all times.

(6) Based on the findings of the security risk analysis, the following utilities shall be installed as consistent with the existing security risks:

a) clear identification of major system constituents (tools, processes, persons) and keeping logs and records accordingly;

b) self-protect function of the information technology security system, checks and procedures to ensure the closure and complexity of the protection of critical components;

c) frequently monitored user administration system operating in a regulated, managed environment (access levels, special entitlements and authorizations, powers and responsibilities, entry log, extraordinary events);

d) a security platform designed to keep logs of processes which are deemed critical for the operation of the information system and that is capable of processing and evaluating these log entries regularly (and automatically if possible), or is capable of managing irregular events;

e) modules to ensure the confidentiality, integrity and authenticity of data transfer;

f) modules for handling data carriers in a regulated and safe environment;

g) virus protection consistent with the security risks inherent in the system.

(7) Based on their security risk assessment profile the investment firms and commodity dealers referred to in Subsection (1) shall implement protection measures to best accommodate their activities and to keep their records safe and current, and shall have adopted the following:

a) instructions and specifications for using their information system, and plans for future improvements;

b) all such documents which ensure the secure and ongoing operation of the information system designed to support business operations, whether directly or indirectly, independent of the status of the supplier or developer of the system (whether existing or defunct);

c) an information system that is necessary to provide services and equipment kept in reserve to ensure that services can be provided without any interruption, or in the absence of such equipment, solutions used in their stead to ensure the continuity of activities and/or services;

d) an information system that allows running applications to be safely separated from the environment used for development and testing, as well as proper management and monitoring of upgrades and changes;

e) the software modules of the information system (applications, data, operating system and their environment) with backup, save and archiving features (type of backups, saving mode, reload and restore tests, procedure), to allow the system to be restored within the restoration time limit deemed critical in terms of the services provided;

f) a data storage system capable of frequent retrieval of records specified by law to provide sufficient facilities to ensure that archived materials are stored for the period defined by legal regulation, or for at least five years, and that they can be retrieved and restored at any time; and

g) an emergency response plan for extraordinary events which are capable of causing any interruption in services.

(8) The investment firms and commodity dealers referred to in Subsection (1) shall maintain a safe and fireproof place to store the back-up copies referred to in Paragraph e) of Subsection (7) separately according to risk factors, and the protection of access at the same levels as the source files must be provided for.

(9) The investment firms and commodity dealers referred to in Subsection (1) shall have available at all times:

a) operating instructions and models for the inspection of the structure and operation of the information system they have developed themselves or that was developed by others on a contract basis;

b) the syntactical rules and storage structure of data in the information system they have developed themselves or that was developed by others on a contract basis;

c) the scheme of classification of information system components into categories defined by the service provider or the bodies providing clearing and settlement services;

d) a description of the order of access to data;

e) the documents for the appointment of the data manager and the system administrator;

f) proof of purchase of the software used; and

g) comprehensive and updated records of administration and business software tools comprising the information system.

(10) All software referred to in Subsection (7) shall collectively comprise an integrated system:

a) that is capable of keeping records of the data and information required for regular operations and as prescribed by law;

b) that is capable of keeping reliable records of funds and financial instruments;

c) that has facilities - in the case of investment firms - to keep consolidated and up-to-date records on financial instruments and commodities dealt on the exchange market separately for each client;

d) that has facilities to connect directly or indirectly to national information systems appropriate for the activities of investment firms;

e) that is designed for the use of checking stored data and information; and

f) that has facilities for logic protection consistent with security risks and for preventing tampering.

(11) The internal policies of investment firms and commodity dealers referred to in Subsection (1) shall contain provisions concerning the knowledge required in the field of information technology for filling certain positions.

Initial Capital

Section 13

(1) Subject to the exceptions set out in Subsections (2)-(3), investment firms must possess an initial capital of seven hundred and thirty thousand euros for their commencement of operations.

(2)[129] Where an investment firm is not authorized to carry out the investment service activities provided for in Paragraphs c) and f) of Subsection (1) of Section 5, but licensed to perform either (one or more) of the investment service activities provided for in Paragraphs a), b) and d) of Subsection (1) of Section 5, and under the authorization:

a) the investment firm is allowed to hold the financial instruments and funds of clients, the initial capital must be at least one hundred and twenty-five thousand euros;

b) the investment firm is not allowed to hold the financial instruments and funds of clients, the initial capital must be at least fifty thousand euros.

(3)[130] Where an investment firm is granted authorization to carry out either of the investment service activities referred to in Paragraph *a)* or *e)* of Subsection (1) of Section 5, and under the authorization the investment firm is not allowed to carry out the ancillary services provided for in Paragraphs *a)* and *b)* of Subsection (2) of Section 5 or to hold client financial instruments and client funds, the initial capital must be at least fifty thousand euros, or it must have professional indemnity insurance covering the whole territory of the EEA Member States, representing at least one million euros applying to each claim and in aggregate one million five hundred thousand euros per year for all claims.

Section 14

The initial capital requirement for commodity dealers to take up their activities is:

a) at least twenty million forints if incorporated as limited companies or branches; or

b) at least ten million forints if incorporated as private limited-liability companies or set up as cooperative societies.

Section 15

[129] Established by Section 78 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[130] Established by Section 78 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(1) The subscribed capital of investment firms must be paid up in cash only, taking also into consideration the provisions set out in Subsection (2).

(2) Any increase in the subscribed capital of an investment firm by way of transfer of funds from other assets apart from its subscribed capital, and when the subscribed capital is determined in connection with merger, fusion or takeover shall be treated as paid up in cash in accordance with Subsection (1).

(3) The subscribed capital of investment firms and commodity dealers may be deposited exclusively at a credit institution which is not participating in the foundation, and/or in which the founder has no participating interest and/or which has no participating interest in the founder.

(4) As regards the investment firms and commodity dealers operating as branches - with the exception set out in Subsection (5) - subscribed capital shall be understood to mean endowment capital.

(5) The endowment capital requirement shall not apply to the branch of an investment firm that is established in another EEA Member State.

(6)[131] The euro amount of the initial capital or the indemnity insurance referred to in Section 13 shall be translated to forint by the official MNB exchange rate in effect on the given day.

Chapter V

ORGANIZATIONAL REGULATIONS OF INVESTMENT SERVICE PROVIDERS AND COMMODITY DEALERS

Section 16

(1) Investment firms may only operate in the form of public limited companies or branches, and commodity dealers may only operate in the form of public limited companies, private limited-liability companies, cooperative societies or branches.

(2)[132] In respect of investment firms and commodity dealers operating as business associations, and for commodity dealers operating in the form of cooperatives the provisions of the Civil Code on legal persons shall apply, and in respect of the branches of foreign companies the provisions of the FCA shall apply, subject to the exceptions laid down in this Act.

(3)[133] An investment firm that is established in the territory of Hungary must also have its head office in the territory of Hungary.

Section 17

(1)[134] Investment firms shall structure their organization to contain separate divisions governed by a set of regulations and policies arranged under a structural scheme of operations with facilities to ensure the adequacy and effectiveness of their systems, internal control mechanisms and arrangements, and to take appropriate measures to address any deficiencies, having regard to the investment firm’s size, scale of operations and to the range of activities:

---

[131] Established by Section 79 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[132] Established by Subsection (3) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.
[133] Amended: by subparagraph e) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[134] Established: by paragraph (3) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.

a) to ensure that the activities and functions listed under Section 5 can be carried out and discharged independently and that the relevant powers and authorities are defined clearly and predictably;

b) to define a system for management and department heads to function independently from one another, without superior and subordinate positions, with a view to reducing the eventuality of any corruption among personnel;

c) to permit access to information only for authorized personnel, with a view to reducing the possibility of misuse of any information obtained through internal administrative channels;

d) to function in a transparent environment;

e) to strengthen the control procedures incorporated into operating procedures, and thereby to increase objectivity;

f) to ensure that their relevant executive employees and members of staff are aware of the procedures which must be followed for the proper discharge of their responsibilities;

g) to establish effective internal reporting and communication of information at all relevant levels of the investment firm.

(2)[135] Investment firms that are subject to supervision on a consolidated basis shall also satisfy the requirements set out in this Section and in Section 100 jointly with any credit institution or investment firm in which they have a dominant influence.

(3)[136] Investment firms are required to have comprehensive, sound and robust governance arrangements with respect to the principle of proportionality, having regard in particular to the diversity in size and scale of operations and to the range of investment service activities and ancillary services, and to the applied business model, comprising also the internal control functions provided for in Subsection (4), which shall include:

a) the investment firm's organizational structure clearly documented in the internal policies;

b) well defined, transparent and consistent lines of responsibilities and functions;

c) adequate internal control mechanisms to monitor, prevent and avoid of conflicts of interest;

d) effective processes to identify, measure, manage, monitor and report the risks the investment firm is or might be exposed to;

e) adequate internal control mechanisms, including sound administrative and accounting procedures in compliance with the relevant legislation;

f) remuneration policies and practices that are consistent with and promote sound and effective risk management in accordance with the principles laid down in Schedule No. 4;

g) functions to promote the smooth and effective operation of the organization, to maintain confidence in the institution, and protect the economic interests and social goals of the owners and clients relating to the institution.

(4)[137] With a view to implementing the provisions set out in Paragraphs *d)* and *e)* of Subsection (3), hence carrying out the internal control functions, investment firms shall in their internal policies clearly define the business unit or units responsible for carrying out the internal control functions.

(5)[138] In accordance with Subsection (1) of Section 19/A, risk-taking by investment firms shall be based on sound and well-defined criteria fixed in the internal policies.

---

[135] Amended by Paragraph b) of Section 112 of Act CCXXXVI of 2013.
[136] Enacted by Section 80 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[137] Enacted by Section 80 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[138] Enacted by Section 80 of Act CCXXXVI of 2013, effective as of 1 January 2014.

Section 18

(1) Investment firms and commodity dealers are required to comply with the following requirements regarding their arrangements, processes and mechanisms, and their records and registers:

a) they must keep such records and accounts as are necessary to enable them at any time and without delay to distinguish financial instruments or funds held for or belonging to one client from financial instruments or funds held for or belonging to any other client, and from the investment firm's and commodity dealer's own assets, and to ensure the safeguarding of clients' rights in relation to financial instruments and funds belonging to them;

b) they must have facilities to record and monitor transactions and exposures (positions) on an ongoing basis;

c) they must introduce measures to prevent the investment firm or the commodity dealers, or their employees engaged under contract of employment or otherwise from using the financial instruments held on behalf of or belonging to clients - in the absence of the prior consent of the client - as their own in any way or form; or

d) they must take the necessary steps to prevent the use of any confidential information pertaining to securities without proper authorization, or for reasons other than for which such information was intended;

e) they must have facilities to keep records of transactions conducted by their employees engaged under contract of employment or otherwise;

f) they must have facilities to ensure compliance with regulations relating to computerized records and registers, data protection, archiving and data processing; and

g) they must have facilities to ensure compliance with the relevant regulations and policies, including the requirements of consistency, transparency and controllability.

(2) The accounting, records and information systems of investment service providers and commodity dealers must have sufficient facilities:

a) to provide information on the investment firm's or commodity dealer's financial situation on a daily basis;

b) to provide information at any given time concerning the value of financial instruments and the balance of funds held on behalf of or belonging to clients;

c) to keep records of data disclosed by the investment firm or commodity dealer as prescribed by law.

Department of Internal Control

Section 19

(1) Investment firms and commodity dealers must set up a department of internal control, independent from all other departments, and shall draw up procedures and policies for the department of internal control with a view:

a) to enforce the Authority's resolutions and the regulations of the investment firm or commodity dealer, and to improve efficiency in the licensed operations and to provide an adequate flow of information for the management of the investment firm or commodity dealer;

b) to control compliance with the Authority's resolutions and the regulations of the investment firm or commodity dealer, and to reveal any infringement of regulations and any discrepancies; and

c) to prevent any infringement of the Authority's resolutions and the regulations of the investment firm or commodity dealer, and to restore operations within the framework of the law in the event of any infringement.

(2) Investment firms and commodity dealers shall appoint an internal controller to direct the department of internal control (hereinafter referred to as "internal controller"), and shall notify the Authority accordingly.

(3)[139] An investment firm shall not be required to set up its own independent department of internal control if:

a) the average value of the orders the investment firm has executed in a given month during the previous calendar year did not exceed five billion forints; and

b) the total value of the orders the investment firm has executed during the previous calendar year did not exceed sixty billion forints.

Responsibilities Pertaining to the Treatment of Risks and to Risk Taking[140]

Section 19/A.[141]

(1) The investment firm's management body in its supervisory function shall be responsible for the investment firm's risk exposures.

(2) The management body in its supervisory function shall devote sufficient time to learn about risks and to consideration of risk issues, and shall ensure that adequate resources are allocated to the management of all material risks as well as in the valuation of assets, the use of external credit ratings and internal models relating to those risks so as to ensure that the relevant strategic decisions are fully prepared and properly substantiated.

(3) The investment firm shall set up and operate an appropriate information system so as to establish reporting lines to the management body that cover all material risks the investment firm is or might be exposed to, and to supply up-to-date information through the management information system on risk management policies and changes thereof.

Section 20

(1)[142] Save where Subsection (2) applies, investment firms are required to set up a department of risk-taking and risk management, which shall be inter alia responsible:

a) for enforcing the provisions set out in Subsection (1) of Section 100; and

b) for drawing up the procedures and rules provided for in Section 101;

and shall report to the investment firm's management and supervisory board at least once a year on these activities.

(2) A department of risk management is not required for an investment firm that is engaged exclusively in the activity described in Paragraph a) of Subsection (1) of Section 5, or:

a) if the average value of the orders executed in a month during the previous calendar year did not exceed five billion forints; and

b) if the total value of the orders executed during the previous calendar year did not exceed sixty billion forints.

---

[139] Enacted: by Section 120 of Act CL of 2009. In force: as of 1. 01. 2010.
[140] Established by Section 81 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[141] Enacted by Section 81 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[142] Established by Section 82 of Act CCXXXVI of 2013, effective as of 1 January 2014.

Section 20/A.[143]

(1) Investment firms whose balance sheet total for the previous year exceed two hundred billion forints are required to establish a risk exposure and management committee that shall monitor continuously the risk strategy and the risk appetite of the investment firm.

(2) The members of the risk exposure and management committee shall be members of the management body in its managerial function whom are not engaged under employment contract with the investment firm concerned. If the management body in its managerial function of the investment firm does not have at least three members whom are not engaged under employment contract with the investment firm concerned, independent members of the management body in its supervisory function may participate in the risk exposure and management committee.

(3) Members of the risk exposure and management committee shall have appropriate knowledge and expertise to carry out the functions provided for in Subsection (4).

(4) The tasks of the risk exposure and management committee shall inter alia include the following:

a) advise the executive employees on the investment firm's overall current and future risk appetite and risk strategy,

b) assist the management body in its managerial function in overseeing the implementation of the risk strategy,

c) review whether prices of investment services and ancillary services offered to clients take fully into account the investment firm's business model and risk strategy, and

d) examine the remuneration policy as to whether incentives provided by the remuneration system take into consideration the investment firm's risk, capital, liquidity and the likelihood and timing of earnings.

(5) If the risk exposure and management committee finds in carrying out the functions provided for in Paragraph *c)* of Subsection (4) that the prices do not properly reflect risks in accordance with the business model and risk strategy, the risk exposure committee shall present a remedy plan to the management body in its managerial function.

(6) The investment firm shall provide access for the risk exposure and management committee and the management body in its supervisory function, in the performance of their duties, to the risk management function and to external expert advice.

(7) The management body in its supervisory function shall, in the performance of its duties, have adequate access to information on the risk situation of the investment firm, to the risk management function and to external expert advice.

(8)[144] Public-interest investment firms may set up and operate an audit committee in accordance with Section 3:291 of the Civil Code.

(9)[145] Subsection (8) shall not apply if the public-interest investment firm has a body that meets the conditions laid down in Subsections (2) and (4) of Section 3:291 of the Civil Code, and this body performs the functions set out in Subsection (1) of Section 3:291 of the Civil Code. In such a case the public-interest investment firm shall disclose on its own website which body carries out the functions set out in Subsection (1) of Section 3:291 of the Civil Code, and the composition of that body.

---

[143] Enacted by Subsection (1) of Section 83 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[144] Established by Subsection (2) of Section 83 of Act CCXXXVI of 2013, effective as of 15 March 2014.
[145] Established by Subsection (2) of Section 83 of Act CCXXXVI of 2013, effective as of 15 March 2014.

Section 20/B.[146]

(1) Investment firms whose balance sheet total for the previous year exceed two hundred billion forints are required to set up and operate an effective, comprehensive and independent business unit responsible for the risk management function covering all material risks of the investment firm.

(2) Investment firms that are significant in terms of their size, and the nature, scope and complexity of their activities shall establish a business unit responsible for the risk management function composed of members with appropriate knowledge, skills and expertise, which shall have sufficient resources, authority, and access to information necessary for carrying out such duties.

(3) The business unit responsible for the risk management function shall:

a) ensure that all material risks are identified, measured and properly reported;

b) be actively involved in elaborating the risk strategy and in all material risk management decisions; and

c) deliver a complete view of the whole range of risks of the investment firm.

(4) The business unit responsible for the risk management function may report directly to the management body in its supervisory function, and can raise concerns and warn that body, where appropriate, where specific risk developments affect or may affect the investment firm's operations.

(5) Taking into account the regulations of this Act on conflicts of interest, the investment firm shall appoint an independent senior manager with sufficient knowledge and expertise, vested with distinct responsibility for exercising and directing the risk management function, where the nature, scale and complexity of the activities of the investment firm so justify. The prior approval of the management body in its supervisory function is required to terminate the employment of the head of the risk management function with or without notice.

Compliance Function and Compliance Officer

Section 21

(1) An investment firm shall appoint a manager to ensure compliance with the relevant legal regulations, and to ensure that the investment firm's policies and protocols are in harmony with legal regulations (hereinafter referred to as "compliance officer"). This manager:

a) must be independent from all other department heads within the investment firm, without superior and subordinate positions; and

b) must have the necessary authority, resources, expertise and access to all relevant information in order to discharge his responsibilities properly.

(2) The employees of the investment firm directed by the compliance officer:

a) must not be involved in the performance of investment service activities or in the provision of ancillary services which they monitor; and

b) the method of determining their remuneration must not compromise their objectivity and must not be likely to do so.

(3) However, an investment firm shall not be required to comply with Paragraph a) or b) of Subsection (2) if it is able to demonstrate that in view of the nature, scale and complexity of its

[146] Enacted by Subsection (1) of Section 83 of Act CCXXXVI of 2013, effective as of 1 January 2014.

business, and the nature and range of investment services and activities, the requirement under that Paragraph is not proportionate and that its compliance function continues to be effective.

(4) Investment firms shall notify the Authority concerning the appointed compliance officer.

General Liability[147]

Section 21/A.[148]

(1) The management body in its managerial function shall be responsible:

a) to ensure the integrity of the accounting and financial reporting systems, including financial and operational controls and compliance with the law and relevant standards; and

b) to oversee the process of data disclosure and communications.

(2) The investment firm's management body in its managerial function shall approve and periodically review the strategies and policies for the segregation of duties in the organization and the prevention of conflicts of interest, for taking up, managing, monitoring and mitigating the risks the investment firm is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle.

(3) The management body in its managerial function shall have responsibility for the implementation of the strategies and policies provided for in Subsection (2).

(4) The management body in its managerial function, if it finds any discrepancies in carrying out the review provided for in Subsection (2), shall take the measures necessary to eliminate and remedy such discrepancies, and shall take the decisions required.

Chapter VI

PERSONNEL CRITERIA RELATING TO THE OPERATIONS OF INVESTMENT FIRMS AND COMMODITY DEALERS

Section 22

(1)[149] The investment firms incorporated as public limited companies shall be managed under contract of employment by at least two officers with three years of professional experience, who shall produce an official certificate for the purpose of verification of having no prior criminal record with respect to the criminal offenses specified in Subsection (5) hereof.

(2) The staff of executive employees of the Hungarian branches of non-resident investment firms - exclusive of the branches of investment firms established in other EEA Member States - shall include at least one Hungarian citizen who is considered a resident according to foreign exchange laws and who has had a permanent residence in Hungary for at least one year.

(3) Investment firms shall appoint one of the executive employees to the post of senior executive officer to oversee operations.

---

[147] Enacted by Section 84 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[148] Enacted by Section 84 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[149] Established: by paragraph (4) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph d) paragraph (17) Section 62 of Act CLXXXI of 2012. In force: as of 1. 01. 2013.

(4)[150] Any credit institution that is engaged in investment service activities shall appoint a person with three years of professional experience, who shall produce an official certificate for the purpose of verification of having no prior criminal record with respect to the criminal offenses specified in Subsection (5) hereof, to manage investment service activities.

(5)[151] For the purposes of Subsections (1) and (4) of this Section, Section 23, Subsection (2a) of Section 37, Paragraph *d)* of Subsection (4) of Section 37 and Paragraph *a)* of Subsection (1) of Section 116 the following criminal offenses shall be taken into account:

a) any infringement of certain provisions under Chapter XV, Tile III of Act IV of 1978 on the Criminal Code (hereinafter referred to as "Act IV/1978") in force until 30 June 2013, specifically, false accusation (Act IV/1978, Section 233), misleading of authority (Act IV/1978, Section 237), perjury (Act IV/1978, Section 238), subornation of perjury (Act IV/1978, Section 242), suppressing extenuating circumstances (Act IV/1978, Section 243), harboring a criminal (Act IV/1978, Section 244), the criminal offenses specified in titles VII and VIII of Chapter XV of Act IV/1978, acts of terrorism (Act IV/1978, Section 261), violation of international economic sanctions (Act IV/1978, Section 261/A), seizure of an aircraft, of any means of railway, water or road transport or of any means of freight transport (Act IV/1978, Section 262), illegal possession of explosives and destructive devices (Act IV/1978, Section 263), criminal misuse of firearms and ammunition (Act IV/1978, Section 263/A), criminal misuse of military items and services, and dual-use items (Act IV/1978, Section 263/B), affiliation with organized crime (Act IV/1978, Section 263/C), crimes in connection with nuclear energy (Act IV/1978, Section 264/B), criminal misuse of weapons prohibited by international convention (Act IV/1978, Section 264/C), taking the law into one's own hands (Act IV/1978, Section 273), the criminal offenses specified in Title III of Chapter XVI of Act IV/1978, and the criminal offenses specified in Chapters XVII and XVIII of Act IV/1978,

b) crimes in connection with atomic energy (Criminal Code, Section 252), misuse of classified information (Criminal Code, Section 265), false accusation (Criminal Code, Section 268), misleading of authority (Criminal Code, Section 271), perjury (Criminal Code, Section 272), subornation of perjury (Criminal Code, Section 276), suppressing extenuating circumstances (Criminal Code, Section 281), harboring a criminal (Criminal Code, Section 282), the criminal offenses specified in Chapter XXVII of the Criminal Code, acts of terrorism (Criminal Code, Sections 314-316), failure to report a terrorist act (Criminal Code, Section 317), terrorist financing (Criminal Code, Section 318), unlawful seizure of a vehicle (Criminal Code, Section 320), participation in a criminal organization (Criminal Code, Section 321), criminal misuse of explosives or blasting agents (Criminal Code, Section 324), criminal misuse of firearms and ammunition (Criminal Code, Section 325), crimes with weapons prohibited by international convention (Criminal Code, Section 326), violation of international economic sanctions (Criminal Code, Section 327), misprision of violation of international economic sanctions (Criminal Code, Section 328), criminal misuse of military items and services (Criminal Code, Section 329), criminal misuse of dual-use items (Criminal Code, Section 330), and the criminal offenses defined in Chapters XXXIII and XXXV-XLIII of the Criminal Code.

Section 23[152]

[150] Established: by paragraph (5) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph d) paragraph (17) Section 62 of Act CLXXXI of 2012. In force: as of 1. 01. 2013.

[151] Established: by paragraph (1) Section 304 of Act CCXXIII of 2012. In force: as of 1. 07. 2013.

The commodity dealer shall appoint a person with two years of professional experience, who shall produce an official certificate for the purpose of verification of having no prior criminal record with respect to the criminal offenses specified in Subsection (5) of Section 22, to direct business operations.

Section 24

(1)[153] For the purposes of Subsections (1) and (4) of Section 22 and Section 23, the criteria of experience may be satisfied by employment in the fields of investment and finances:

a) at an investment firm;
b) at a financial institution;
c) at a stock exchange or commodities exchange;
d) at a body providing clearing or settlement services;
e) at an investment fund manager;
f) at a venture capital fund manager;
g) at the MNB;
h) at the ÁKK Zrt. or at the Treasury;
i) at an administrative agency;
j) at a commodity dealer;
k) at the central depository; or
l) at a central counterparty;
m)[154] at an insurance company or pension fund;

acting in the capacity of an officer, civil servant, government official or employee.

(2) Professional experience earned in a foreign country may be recognized if gained through employment in an institution or international financial institution equivalent to the organizations specified under Subsection (1).

Section 24/A.[155]

In addition to the requirements set out in Section 22, members of the investment firm's management body in its managerial function shall be of sufficiently good repute.

Section 24/B.[156]

Investment firms shall devote adequate human and financial resources to the induction and training of members of the management body in its managerial function.

Section 24/C.[157]

---

[152] Established: by paragraph (7) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph d) paragraph (17) Section 62 of Act CLXXXI of 2012. In force: as of 1. 01. 2013.
[153] Established: by Section 42 of Act V of 2012. In force: as of 1. 03. 2012.
[154] Enacted: by Section 63 of Act CLI of 2012. In force: as of 28. 10. 2012.
[155] Enacted by Subsection (1) of Section 85 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[156] Enacted by Subsection (1) of Section 85 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[157] Enacted by Subsection (1) of Section 85 of Act CCXXXVI of 2013, effective as of 1 January 2014.

All members of the management body in its managerial function shall commit sufficient time to perform their functions in the investment firm.

Section 24/D.

(1) Investment firms whose balance sheet total for the previous year exceed two hundred billion forints are required to establish a nomination committee.

(2) The members of the nomination committee shall be members of the management body in its managerial function whom are not engaged under employment contract with the investment firm concerned. If the investment firm's management body in its managerial function does not have at least three members whom are not engaged under employment contract with the investment firm concerned, independent members of the management body in its supervisory function may also participate in the nomination committee.

(3) The nomination committee shall:

a) identify and recommend candidates to fill management body vacancies;

b) prepare a description of the roles and capabilities for a particular appointment to the management body, and assess the time commitment expected;

c) evaluate the balance of knowledge, skills and experience of individual members of the management body;

d) evaluate the balance of knowledge, skills and experience of the management body collectively at least annually, and report to the management body accordingly;

e) periodically, and at least annually, assess the structure, size, composition and performance of the management body and make recommendations with regard to any discrepancies;

f) decide on a target for the representation of genders in the management body and prepare a policy on how to meet that target;

g) periodically review the policy of the management body for selection and appointment of senior management of the investment firm and make recommendations to the management body in its managerial function based on its findings; and

h) take account, periodically, to ensure that the management body's decision making is not unduly influenced.

(4) In recommending candidates the nomination committee shall take account to ensure that the person recommended has the highest qualification possible, and to this end it shall develop internal policies.

(5) The Authority shall prepare analyses and comparisons relying on the policies referred to in Subsection (4) on the practices of investment firms, and shall send it to the European Banking Authority (hereinafter referred to as "EBA").

(6) Investment firms shall make public the ratio of genders provided for in Paragraph *f)* of Subsection (3), and the strategy used to determine such ratio and the means used for the implementation of that strategy.

(7) Investment firms shall make available to the nomination committee the resources that it considers to be appropriate for carrying out the tasks provided for in Subsection (3), access to data and information, including external advice where deemed necessary.

Section 24/E.[158]

[158] Enacted by Subsection (1) of Section 85 of Act CCXXXVI of 2013, effective as of 1 January 2014.

In respect of investment firms, employer's rights over the managing directors shall be exercised by the management body in its managerial function.

Section 24/F.[159]

The management body in its supervisory function is a body consisting of at least three but not more than nine members, whose members - with the exception of the employees' representatives - may not be in the employment of the investment firm.

Reporting of Breaches[160]

Section 24/G.[161]

(1) Investment firms shall establish effective and reliable mechanisms to encourage reporting of potential or actual breaches of the provisions of this Act, regulations pertaining to prudent operation, including Regulation 575/2013/EU, by executive officers and employees.

(2) The mechanisms referred to in Subsection (1) shall include at least:

a) procedures for the receipt of reports on breaches and their follow-up;

b) appropriate protection for employees who report breaches committed within the investment firm against discrimination or other types of unfair treatment; and

c) protection of personal data concerning both the person who reports the breaches committed within the investment firm and the natural person who is allegedly responsible for a breach.

(3) Investment firms are required to have in place appropriate procedures for their employees to report breaches internally through a specific and independent channel.

Conflict of Interest

Section 25

(1) The executive employees, or the close relative of the executive employees of investment firms and commodity dealers:

a) may not hold any share, whether directly or indirectly, as a natural person in another investment firm;

b) may not function as an executive employee of a body that holds any share, whether directly or indirectly, in another investment firm;

c) may not function as an executive employee or employee of another investment firm;

d)[162] may not function as an executive employee or employee of an issuer - other than the investment firm itself and other companies in the same group with the investment firm - of securities admitted to trading on a regulated market.

(2) Where a credit institution is authorized to engage in investment service activities, the head of the department whose profile covers such activities, or the competent director vested with decision-making powers may not hold a similar position in another department of that credit institution, in another credit institution or in an investment firm.

---

[159] Enacted by Subsection (1) of Section 85 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[160] Enacted by Subsection (2) of Section 85 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[161] Enacted by Subsection (2) of Section 85 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[162] Amended by Paragraph b) of Section 111 of Act CCXXXVI of 2013.

(3) In connection with any conflict of interest arising as defined under Subsections (1) and (2), the person concerned must forthwith notify the investment firm, credit institution or issuer affected, and shall simultaneously notify the Authority as well.

(4) In connection with any conflict of interest, the person concerned shall terminate the grounds of incompatibility within ninety days following the notification referred to in Subsection (3).

Section 26

(1) The conditions for engaging in business operations and for keeping the relevant records relating to the executive employees, employees and other personnel of an investment firm engaged in any other form of work related relationship shall be laid down in the investment firm's internal policies.

(2) Investment firms shall keep records on the persons engaged in the activities referred to in Subsection (1), indicating the type of activities as well.

Section 26/A.[163]

(1) Investment firms whose balance sheet total for the previous year exceed two hundred billion forints, members of the management body shall not hold more than one of the following combinations of directorships at the same time:

a) one executive directorship with two non-executive directorships; or

b) four non-executive directorships.

(2) For the purposes of Subsection (1), the following shall count as a single directorship:

a) executive or non-executive directorships held within the same group;

b) executive directorships held within:

ba) institutions which are members of the same institutional protection scheme, or

bb) companies in which the investment firm mentioned in Subsection (1) holds a qualifying holding.

(3) The restriction provided for in Subsection (1) shall not apply to directorships in organizations which do not pursue commercial objectives.

(4) The Authority may authorize the director of the investment firm specified in Subsection (1) to hold one additional non-executive directorship, above and beyond the restriction provided for in Subsection (1).

PART THREE

AUTHORIZATION OF INVESTMENT SERVICE ACTIVITIES, COMMODITY EXCHANGE SERVICES, AND AUTHORIZATION OF THE ACQUISITION OF A HOLDING IN INVESTMENT FIRMS AND COMMODITY DEALERS

Chapter VII

AUTHORIZATION OF INVESTMENT SERVICE ACTIVITIES

[163] Enacted by Section 86 of Act CCXXXVI of 2013, effective as of 1 January 2014.

Section 27

(1) The Authority shall grant authorization to engage in activities or to provide services separately for each activity or service, or collectively in a single authorization, provided that the applicant is able to comply with the provisions set out in this Act and in other legal regulations implemented by authorization of this Act, there is no legal impediment that would prevent the Authority from the effective exercise of its supervisory functions over the applicant.

(2) The Authority's authorization is not required for carrying out the activity or providing the service referred to in Section 5, for any non-resident investment firm established in another EEA Member State in the form of cross-border services or through Hungarian branches, and if authorized by the competent supervisory authority of the country where established for the activities in question.

(3) The authorization issued by the Authority under this Act pertaining to the relevant activities and services shall constitute an entitlement to engage in investment service activities and to provide ancillary services in other EEA Member States in due observation of what is contained in Subsections (4) and (5).

(4) Where an investment firm that is authorized by the Authority to engage in investment service activities and/or to provide ancillary services wishes to provide cross-border services in another EEA Member State, it shall notify the Authority before the commencement of operations and shall provide in the notice:

a) an indication of the Member State in which it wishes to provide services;

b) an indication of the investment service activities and the ancillary services which it wishes to carry out or provide; and

c) a statement as to whether or not it plans to appoint tied agents.

(5) An investment firm that has been authorized by the Authority to engage in investment service activities and/or to provide ancillary services may commence operations in another EEA Member State if:

a) the notice sent to the Authority in accordance with Subsection (4) has been delivered to the competent supervisory authority of the Member State referred to in Paragraph a) of Subsection (4), and if the investment firm was notified thereof; or

b) one month has elapsed since receipt of the notice sent to the Authority in accordance with Subsection (4).

(6) The provisions contained in Subsections (4) and (5) shall also apply if the investment firm makes any changes in its investment service activities.

(7)[164] Where an investment firm that is authorized by the Authority to engage in investment service activities and/or to provide ancillary services wishes to set up a branch in another EEA Member State, it shall notify the Authority before setting up the branch and shall provide in the notice:

a) an indication of the Member State in which it wishes to provide services, plus an address in this Member State at which documents can be obtained;

b) an indication of the investment service activities and the ancillary services which it wishes to carry out or provide; and,

c) a statement as to whether or not it plans to appoint tied agents;

d) an indication of the appointed managers of the branch.

---

[164] Established: by paragraph (1) Section 122 of Act CL of 2009. In force: as of 1. 01. 2010.

In cases where the branch of the investment firm wishes to use a tied agent whose registered office, home address (temporary residence) is located in an EEA Member State other than where the investment firm is established, such tied agent shall be subject to the provisions of this Act relating to branches.

(8) The branch of an investment firm that has been authorized by the Authority to engage in investment service activities and/or to provide ancillary services may commence operations in another EEA Member State if:

a) following receipt of the notice referred to in Subsection (7) by the Authority, the competent supervisory authority of the Member State referred to in Paragraph a) of Subsection (7) has notified the investment firm of its consent; or

b) two months have elapsed since receipt of the notice sent by the Authority to the competent supervisory authority of the Member State referred to in Paragraph a) of Subsection (7), and if the said supervisory authority failed to respond during this period.

(9)[165] If the Authority refuses to communicate the information referred to in Subsection (7) to the competent supervisory authority of the host Member State, it shall give reasons for its refusal to the investment firm concerned within three months of receiving all the information referred to in Subsection (7).

(10)[166] The provisions contained in Subsections (7) and (8) shall also apply if the branch of the investment firm makes any changes in its investment service activities.

Section 28

(1) Applications for authorization to engage in investment service activities shall have attached the following:

a) the charter document or any amendments of the charter document;

b) a copy of the register of shareholders;

c) proof of payment of the initial capital in the amount prescribed and a declaration, with the relevant documentary evidence attached, that the funds used to pay up the subscribed capital or finance the purchase of shares are part of the founder's or buyer's legitimate income, or the indemnity insurance policy;

d) a description of the activity for which the authorization is requested and the organizational and operational procedures that contain a description of the applicant's decision-making and management structure;

e)[167] a statement on having a main office in the territory of Hungary from which to direct the operations of the investment firm;

f) if having several business locations, a description of the equipment and technical facilities featured in the location where the activity is planned to be performed;

g) the name of any business association in which the applicant has a participating interest, indicating the company's address and scope of activities and the extent or percentage of the share;

h) a description of its accounting policy and accounting system;

i) the draft regulations concerning its business records;

j) the draft regulations concerning its revision and control regime;

---

[165] Enacted: by paragraph (2) Section 122 of Act CL of 2009. In force: as of 1. 01. 2010.

[166] Numbering amended: by paragraph (2) Section 122 of Act CL of 2009. In force: as of 1. 01. 2010.

[167] Amended: by subparagraph c) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

k) a business plan;

l) a detailed description of the equipment and technical facilities prescribed by this Act and by specific other legislation;

m) copies of the documents verifying compliance with the organizational requirements prescribed in this Act;

n) copies of documents to verify compliance with the requirements concerning personnel qualifications prescribed by this Act and by specific other legislation;

o) drafts of the standard terms and conditions, standard service agreement, internal regulations for the prevention of money laundering operations, internal regulations for the handling of money and valuables, and drafts of the execution policy and the conflict of interest policy;

p)[168]

q) the auditor's confirmation stating that the investment firm's information and computer system has sufficient facilities to satisfy the requirements laid down in Subsection (2) of Section 18;

r) drafts of internal regulations for monitoring, weighting, controlling and handling risks;

s) a draft of the internal regulations relating to the trading book;

t) in the case of investment firms that are subject to supervision on a consolidated basis or supplementary supervision, a description of the apparatus for the disclosure of information related to supervision on a consolidated basis or supplementary supervision and a statement from the persons with a close link to the investment firm guaranteeing to provide the data, facts and information that are necessary for supervising the investment firm on a consolidated basis or for supplementary supervision;

u)[169] a statement from each natural person closely affiliated with the investment firm containing his consent to have the personal data he has disclosed to the investment firm processed and released for the purposes of supervision on a consolidated basis or supplementary supervision;

v) the identification data of persons or bodies with a close link to any parent company of any investment firm that is subject to supervision on a consolidated basis or supplementary supervision;

w)[170] certificate of the Investor Protection Fund in proof of having submitted an application for admission and in proof of payment of the affiliation fee, if the application pertains to an insured activity and if joining the Fund is prescribed as mandatory by law;

x)[171] the rules of procedure, approved by the executive board, to be applied in the event of an emergency situation seriously jeopardizing the liquidity or solvency of the investment firm, and - if the credit institution is not covered by supervision on a consolidated basis - a recovery plan drawn up according to Section 102.

(2) Persons applying for authorization to provide safe custody services shall enclose, in addition to what is contained in Subsection (1), internal regulations concerning security, account management and depository procedures.

(3) Persons applying for authorization to engage in investment lending operations shall enclose, in addition to what is contained in Subsection (1), proof of having joined the KHR.

(4) Non-resident persons applying for authorization to engage in the activities of investment firms shall, in addition to what is contained in Subsections (1)-(3):

---

[168] Repealed: by subparagraph e) paragraph (5) Section 84 of Act CXLVIII of 2009. No longer in force: as of 1. 01. 2010.

[169] Established: by paragraph (1) Section 24 of Act LXXXIII of 2013. In force: as of 22. 06. 2013.

[170] Enacted: by paragraph (1) Section 132 of Act CIII of 2008. In force: as of 01. 01. 2009.

[171] Enacted by Subsection (2) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

a) indicate the places where they carry out activities;

b) specify the decision-making powers of its executive employees, and of the bodies whose consent is mandatory for certain decisions.

(5) Non-resident persons applying for authorization to engage in investment service activities shall enclose a statement of the competent supervisory authority of the home state in evidence of there being no grounds for exclusion regarding the executive employee - of citizenship other than Hungarian - filling and occupying such office.

(6)[172] Where an investment firm is seeking an authorization to extend its business to other activities, the application shall have enclosed the documents not previously submitted under Subsection (1).

Section 29

The Authority shall request the opinion of the competent supervisory authorities of other EEA Member States concerned prior to issuing an authorization to engage in investment service activities or to provide ancillary services if the applicant investment firm:

a) is a subsidiary of an investment firm, credit institution or insurance company established in another EEA Member State;

b) is a subsidiary of the parent company of an investment firm, credit institution or insurance company established in another EEA Member State;

c) has an owner, whether a natural or legal person, with a dominant influence in an investment firm, credit institution or insurance company that is established in another EEA Member State.

Section 30

(1) The Authority shall refuse to grant authorization to engage in investment service activities if:

a) the applicant fails to comply with the requirements set out in this Act or in specific other legislation adopted by authorization of this Act;

b) the applicant fails to provide sufficient proof of compliance with the requirements set out in Paragraph a);

c) the applicant has close ties with a person or body established in a third country where there are legal impediments liable to prevent the Authority from the effective exercise of its supervisory functions over the investment firm, or there are difficulties involved in their enforcement; or

d) the applicant has provided misleading or false information.

(2) In respect of the branches of non-resident investment firms, the Authority shall refuse to grant authorization to engage in investment service activities if:

a) there is no valid and effective international cooperation agreement - based on mutual recognition of supervisory authorities which covers the supervision of branches - between the Authority and the supervisory authority competent for the place where the applicant is established;

b) the country in which the applicant is established does not have legal regulations on money laundering that conform to the requirements prescribed under Hungarian law;

---

[172] Enacted: by paragraph (2) Section 132 of Act CIII of 2008. In force: as of 01. 01. 2009.

c) the applicant does not have adequate data management protocol that conforms to the requirements prescribed under Hungarian law;

d) the applicant fails to supply a statement in which it offers full guarantees for the liabilities incurred by its branch under its corporate name;

e) the applicant fails to submit the permit for the foundation of a branch issued by the supervisory authority competent for the place where he is established, and/or its declaration of approval or acknowledgment;

f) the legal system of the country where the applicant is established fails to guarantee prudent and sound management; or

g) the applicant's main office is not in the country where he is established.

Section 31

(1) The Authority shall withdraw the authorization for investment service activities if:

a) the conditions and requirements based on which it was issued are no longer satisfied, and cannot be remedied within a period of six months;

b)[173] the Authority has withdrawn the authorization of the credit institution, or the authorization of the fund manager specified in Subsection (1) of Section 229 of the CMA, or the authorization of the insurance company specified in Subsection (1) of Section 63 of the Insurance Act, except for the case described under Subsection (3) of this Section;

c) the investment firm fails to pay any of its undisputed debts within five days of the date on which they are due and its holdings (assets) do not provide cover for satisfying the known claims of creditors;

d) the authorized operator fails to commence within twelve months the activities to which the authorization pertains, or it has not engaged in such activities for more than six consecutive months;

e) the authorized operator retires from the activity to which the authorization pertains;

f) the authorized operator repeatedly or seriously violates the provisions laid down in this Act and in specific other legislation regarding the activity to which the authorization pertains, or the obligations specified in the regulations of the Investor Protection Fund;

g) the authorization of the founder of the branch has been revoked by the supervisory authority responsible for the place where the founder is established;

h) the investment firm fails to comply with any recapitalization obligations within the deadline prescribed by the Authority;

i) the investment firm fails to comply with any capital adequacy requirement within the deadline specified by the Authority;

j) authorization was obtained by misleading the Authority or through any other illegal conduct.

(2) With the exception set out in Paragraph b) of Subsection (1), the Authority shall withdraw the authorization it has granted to authorize investment service activities when the authorized operator has settled all undisputed debts owed to clients, or if his contractual liabilities are carried forward by commitment from another investment firm. The Authority may stipulate certain conditions and requirements, which must be satisfied - according to the relevant regulations - before the investment firm is permitted to terminate operations.

(3) If the Authority has withdrawn the authorization of a credit institution that is also authorized to engage in investment service activities, and this credit institution is in compliance

[173] Amended by Paragraph c) of Section 112 of Act CCXXXVI of 2013.

with the requirements on investment firms at the time of withdrawal of the authorization, such credit institution may be transformed to function as an investment firm in accordance with the relevant provisions of the CIFE.

(4) The Authority shall suspend the authorization to engage in investment service activities for a predetermined period if the conditions and requirements based on which it was issued are no longer satisfied, however, they can be remedied within a period of six months.

(5)[174] The activity license of an investment firm under resolution as provided for in Act XXXVII of 2014 on the Development of the Institutional Framework Intended to Enhance the Security of Members of the Financial Intermediary System (hereinafter referred to as "Resolution Act") shall not be withdrawn before the resolution procedure is terminated.

Chapter VIII

AUTHORIZATION OF COMMODITY EXCHANGE SERVICES

Section 32

The Authority shall grant authorization to engage in activities separately for each activity or service, or collectively in a single authorization, provided that the applicant is able to comply with the provisions set out in this Act and other legal regulations implemented by authorization of this Act.

Section 33

(1) Applications for authorization to engage in the activities referred to in Subsection (1) of Section 9 shall have attached the following:

a) the charter document and any amendments of the charter document;

b) proof of payment of the initial capital in the amount prescribed and a declaration, with the relevant documentary evidence attached, that the funds used to pay up the subscribed capital or finance the purchase of shares are part of the founder's or buyer's legitimate income;

c) a description of the activity for which the authorization is requested and the organizational and operational procedures that contain a description of the applicant's decision-making and management structure;

d) the name of any business association in which the applicant commodity dealer has a participating interest, indicating the company's address and scope of activities and the extent or percentage of the share;

e) a description of its accounting policy and accounting system;

f) the draft regulations concerning its business records;

g) the draft regulations concerning its revision and control regime, which comprises the control department and its procedures as well as the requirements for the subsequent control of management integrated into these procedures;

h) drafts of the standard terms and conditions, standard service agreement, internal regulations for the prevention of money laundering operations, internal regulations for the filing system, internal control policies and internal regulations relating to administrative procedures;

---

[174] Enacted by Subsection (3) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

i) copies of documents to verify compliance with the requirements concerning personnel qualifications and credentials;

j) a detailed description of the equipment and technical facilities prescribed by this Act and by specific other legislation;

k) the auditor's confirmation stating that the investment firm's information and computer system has sufficient facilities to satisfy the requirements laid down in Subsection (2) of Section 18;

l)[175] a detailed description of compliance with the requirements set out in Article 59 of Commission Regulation (EU) No. 1031/2010, if the activity under Paragraph *c)* for which the applicant has requested authorization pertains to Subsection (3) of Section 11.

m) in the case of commodity dealers operating as branches, a certificate of the competent supervisory authority of the home state in evidence of being authorized for the activity in question;

n) in the case of commodity dealers operating as branches, a description of the decision-making and management powers of executive employees.

(2) Non-resident persons applying for authorization to engage in the activity specified in Subsection (1) of Section 9 shall, in addition to what is contained in Subsection (1):

a) indicate the places where they carry out activities;

b) specify the decision-making powers of its executive employees and of the bodies whose consent is required for certain decisions.

(3) Non-resident persons applying for authorization to engage in the activity specified in Subsection (1) of Section 9 shall enclose a statement of the competent supervisory authority of the home state in evidence of there being no grounds for exclusion regarding the executive employee - of citizenship other than Hungarian - filling and occupying such office.

Section 34

The Authority shall request the opinion of the competent supervisory authorities of other EEA Member States concerned prior to issuing an authorization to commodity dealers to engage in activities if the applicant commodity dealer:

a) is a subsidiary of an investment firm, credit institution or insurance company established in another EEA Member State;

b) is a subsidiary of the parent company of an investment firm, credit institution or insurance company established in another EEA Member State;

c) has an owner, whether a natural or legal person, with a dominant influence in an investment firm, credit institution or insurance company that is established in another EEA Member State.

Section 35

(1) The Authority shall refuse to grant authorization to commodity dealers to engage in activities if:

a) the applicant fails to comply with the requirements set out in this Act or in specific other legislation adopted by authorization of this Act;

b) the applicant fails to provide sufficient proof of compliance with the requirements set out in Paragraph a); or

[175] Established: by Section 89 of Act XCVIII of 2013. In force: as of 29. 06. 2013.

c) the applicant has provided misleading or false information.

(2) In respect of the branches of non-resident commodity dealers, the Authority shall refuse to grant authorization to engage in activities if:

a) there is no valid and effective international cooperation agreement - based on mutual recognition of supervisory authorities which covers the supervision of branches - between the Authority and the supervisory authority competent for the place where the applicant is established;

b) the country in which the applicant is established does not have legal regulations on money laundering that conform to the requirements prescribed under Hungarian law;

c) the applicant does not have adequate data management protocol that conforms to the requirements prescribed under Hungarian law;

d) the applicant fails to supply a statement in which it offers full guarantees for the liabilities incurred by its branch under its corporate name;

e) the applicant fails to submit the permit for the foundation of a branch issued by the supervisory authority competent for the place where he is established, and/or its declaration of approval or acknowledgment;

f) the legal system of the country where the applicant is established fails to guarantee prudent and sound management of service providers; or

g) the applicant's main office is not in the country where he is established.

Section 36

(1) The Authority shall withdraw the authorization of commodity dealers to engage in activities if:

a) the conditions and requirements based on which it was issued are no longer satisfied, and cannot be remedied within a reasonable period of time;

b) the commodity dealer's entitlement for trading in the regulated market has been terminated;

c) the authorized operator fails to commence within twelve months the activities to which the authorization pertains, or it has not engaged in such activities for more than six consecutive months;

d) the authorized operator retires from the activity to which the authorization pertains;

e) the authorized operator repeatedly or seriously violates the provisions laid down in this Act and in specific other legislation regarding the activity to which the authorization pertains, or the obligations specified in the regulations of the Investor Protection Fund;

f) the authorization of the founder of the branch has been revoked by the supervisory authority responsible for the place where the founder is established;

g) the commodity dealer fails to comply with any recapitalization obligation within the deadline specified by the Authority;

h) the authorization was obtained by misleading the Authority or through any other illegal conduct.

(2) The Authority shall − in consideration of the provisions set out in Subsection (3) − withdraw the authorization it has granted to authorize the operations of a commodity dealer when the authorized operator has settled all undisputed debts owed to clients, or if his contractual liabilities are carried forward by commitment from another commodity dealer.

(3) The Authority may stipulate certain conditions and requirements, which must be satisfied - according to the relevant regulations - before the commodity dealer is permitted to terminate operations.

(4) The Authority shall suspend the authorization of commodity dealers to engage in activities for a predetermined period if the conditions and requirements based on which it was issued are no longer satisfied, however, they can be remedied within a reasonable period of time.

Chapter IX

AUTHORIZATION OF THE ACQUISITION OF QUALIFYING INTEREST[176]

Acquisition of a Qualifying Interest in an Investment Firm[177]

Section 37[178]

(1) The Authority's prior consent is required for the acquisition of a qualifying interest in an investment firm.

(2) The application for the authorization referred to in Subsection (1) shall have the following enclosed:

a) the applicant's natural identification data;

b) evidence concerning the legitimacy of the financial means for acquiring the qualifying interest;

c) documents issued within thirty days to date to verify of having no outstanding debts owed to the competent tax authority, customs authority or to the social security system of the applicant's country of origin;

d) proof that other holdings and business activities of the applicant are not harmful to the prudent management of the financial institution;

e)[179]

f) the applicant's statement in which he declares that he meets the conditions set out in Subsections (4) and (5);

g) if the applicant is other than a natural person, the complete text of the applicant's charter document as amended to date, a certificate issued within thirty days to date in proof that the applicant was established (registered) in compliance with the relevant national regulations and is not adjudicated in bankruptcy, liquidation or dissolution proceedings, and its executive employees are not subject to any disqualifying factors;

h)[180] the applicant's statement in which he declares that following the acquisition of a qualifying interest the head office of the investment firm located in the territory of Hungary shall not loose its function to direct operations;

i) if the applicant is other than a natural person, a detailed description of the applicant's ownership structure;

j) the statements prescribed in Paragraphs *t)* and *u)* of Subsection (1) of Section 28;

---

[176] Established: by paragraph (1) Section 133 of Act CIII of 2008. In force: as of 01. 01. 2009.
[177] Established: by paragraph (1) Section 133 of Act CIII of 2008. In force: as of 01. 01. 2009.
[178] Established: by paragraph (8) Section 63 of Act CX of 2009. In force: as of 1. 01. 2010. Shall be applied after this date.
[179] Repealed: by subparagraph b) paragraph (1) Section 191 of Act CXCIII of 2011. No longer in force: as of 1. 01. 2012.
[180] Amended: by subparagraph b) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

k) the consent of a natural person with close links to the investment firm as a result of the acquisition of a qualifying interest to have his personal data processed for the purposes of supervision on a consolidated basis or for supplementary supervision.

(2a)[181] The applicant, if a natural person, shall - at the time of submission of the application for authorization under Subsection (1) - produce to the Authority an official certificate for the purpose of verification of having no prior criminal record with respect to the criminal offenses specified in Subsection (5) of Section 22.

(3) If the taxpayer is listed in the register of taxpayers free of tax debt obligations it shall be recognized as equivalent to the tax certificate that may be obtained from the state tax authority.

(4) A qualifying interest may be held in an investment firm subject to the following conditions:

a) the activities of the holder or his influence on the investment firm shall not endanger the independent, sound and prudent management of the investment firm;

b) the character of business activities and relations of the holder, or his direct or indirect ownership in other companies shall be structured in a manner so as not to obstruct supervisory activities;

c) the holder must have good business reputation.

d)[182] the holder - in the case of natural persons - shall produce an official certificate for the purpose of verification of having no prior criminal record with respect to the criminal offenses specified in Subsection (5) of Section 22.

(5) The conduct of the applicant or his influence in the investment firm shall be considered to endanger the independent, sound and prudent management of the investment firm, if:

a) the competent supervisory authority has suspended the applicant's voting rights within a period of five years preceding the time of submission of the application;

b) the applicant is (has been) holding a qualifying interest or is (has been) an executive employee or executive manager of an investment firm, financial institution or insurance company,

ba) that was able to avoid insolvency solely as a result of intervention by its supervisory authority and whose personal responsibility for this situation was established by court ruling or regulatory decision, or

bb) that had to be liquidated and whose responsibility for this situation was established by a final court ruling or regulatory decision;

c) the applicant has seriously or systematically violated the provisions of this Act or another legislation pertaining to the management of investment firms, and it has been so established by the competent supervisory authority, another authority or a court in a final resolution dated within the previous five years.

(6) The Authority shall refuse to authorize the acquisition of or increasing the extent of qualifying interest if the applicant or the holder fails to meet the conditions set out in Subsections (1)-(5) above.

(7)[183] Prior to the granting of authorization for merger, for the acquisition of qualifying interest, or for any amendment of the articles of association resulting in changes in the powers of the management body, if the investment firm is subject to supervision on a consolidated basis or if the investment firm is covered by supervision on a consolidated basis, the Authority - if deemed

---

[181] Enacted: by paragraph (8) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph d) paragraph (17) Section 62 of Act CLXXXI of 2012. In force: as of 1. 01. 2013.

[182] Enacted: by paragraph (9) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph d) paragraph (17) Section 62 of Act CLXXXI of 2012. In force: as of 1. 01. 2013.

[183] Enacted by Section 87 of Act CCXXXVI of 2013, effective as of 1 January 2014.

necessary for exercising supervision on a consolidated basis - shall consult the competent authority of the EEA Member State where a investment firm to which supervision on a consolidated basis applies jointly with the investment firm requesting the authorization is established.

Section 37/A.[184]

(1) For the purposes of determining the extent of qualifying interest, the voting rights shall be calculated - irrespective of any provisions for restrictions on voting rights - on the basis of all the shares to which voting rights are attached, as provided for the investment firm's charter document.

(2) For the purposes of determining the extent of qualifying interest, apart from the applicant's shares, the voting rights referred to in Subsections (3) and (4) shall also be taken into consideration.

(3) For the purposes of determining the extent of qualifying interest, the voting rights of:

a) any investment fund management company or management company engaged in the management of UCITS, if the investment fund management company or the management company engaged in the management of UCITS is controlled by the applicant and if able to exercise the voting rights attached to the securities it manages,

b) any investment firm or credit institution, if the credit institution or investment firm is controlled by the applicant and if able to exercise the voting rights attached to the portfolio it manages

under direct or indirect instructions from the applicant or another controlled company of the applicant, or in any other way.

(4) For the purposes of determining the extent of qualifying interest, voting rights attached to shares shall be recognized as the voting right of the applicant in any of the following cases, where the voting right:

a) is exercised by the applicant and a third party under an agreement, which permits the concerted exercise of the voting rights for the parties to the agreement;

b) is exercised by the applicant under an agreement providing for the temporary transfer of the voting rights in question;

c) is exercised by the applicant, in the case of voting rights attaching to shares which are lodged as collateral, under an agreement which provides for the exercise of such voting rights;

d) is exercised by the applicant under the right of beneficial interest;

e) is exercised by the applicant's controlled company within the meaning of Paragraphs *a)-d)*;

f) is exercised by the applicant, if functioning as a custodian, at its discretion in the absence of specific instructions from the depositor;

g) is exercised by a third party in its own name on behalf of the applicant, under an agreement with the applicant; or

h) is exercised by the applicant, if functioning as a proxy, at its discretion in the absence of specific instructions from the principal.

---

[184] Enacted: by Section 134 of Act CIII of 2008. In force: as of 01. 01. 2009. Shall not apply to cases pending at 01. 01. 2009 with the exception that persons having a qualifying holding in a credit institutions, insurance company or investment firm already in existence or in the process of authorization at 01. 01. 2009 in accordance with the provisions in effect on the day preceding 01. 01. 2009 shall comply with the requirements set out in Act CXII of 1996, Act LX of 2003 and the Act CXXXVIII of 2007 relating to qualifying interest by 31 March 2009.

(5) For the purposes of determining the extent of qualifying interest, voting rights held by the applicant's controlled company shall not be taken into account, if the applicant and the aforesaid controlled company provides a statement at the time of acquiring the share in question to the effect that:

a) those rights are not exercised, or exercised by a third party independently from the applicant and its controlled company, and that the shares will be disposed of within one year of acquisition;

b) those rights are exercised by a third party - independently from the applicant and its controlled company - according to specific instructions received from the holders on paper or by way of electronic means;

c) they are not involved in the decisions relating to the appointment and removal of members for the investment firm's decision-making, management or supervisory bodies.

(6) In determining the extent of qualifying interest, voting rights held by any investment firm or credit institution that is controlled by the applicant shall not be taken into account, if the investment firm or credit institution is authorized to provide portfolio management services, and it is permitted to exercise the voting rights attached to the portfolio it manages:

a) under instructions received on paper or by way of electronic means,

b) independently from the applicant.

Section 37/B.[185]

(1) Where an applicant wishes to increase his holding of qualifying interest so as to exceed the twenty, thirty-three or fifty per cent limit, an application shall be submitted to the Authority containing the information specified in Subsection (2).

(2) The application referred to in Subsection (1) shall indicate:

a) the percentage of qualifying interest at the time of notification;

b) the extent of qualifying interest proposed to be acquired; and

c) the information referred to in Subsection (2) of Section 37.

(3) The holder of qualifying interest shall lodge a notice to the Authority, containing the same information as referred to in Subsection (2), if wishing to reduce his existing qualifying interest below either of the limits specified in Subsection (1), with the percentage of reduction indicated instead of the one mentioned in Paragraph *b)* of Subsection (2).

(4) The Authority shall verify receipt of the application specified in Subsections (1) and (3) in writing, within two working days (hereinafter referred to as "certificate of receipt"), sent to the applicant or the holder of qualifying interest, and shall specify in the certificate the administrative time limit described in Subsection (1) of Section 38. This provision shall also apply to insufficient information procedures as described in Subsection (2) of Section 38.

Section 38[186]

[185] Enacted: by Section 134 of Act CIII of 2008. In force: as of 01. 01. 2009. Shall not apply to cases pending at 01. 01. 2009 with the exception that persons having a qualifying holding in a credit institutions, insurance company or investment firm already in existence or in the process of authorization at 01. 01. 2009 in accordance with the provisions in effect on the day preceding 01. 01. 2009 shall comply with the requirements set out in Act CXII of 1996, Act LX of 2003 and the Act CXXXVIII of 2007 relating to qualifying interest by 31 March 2009.

[186] Established: by Section 135 of Act CIII of 2008. In force: as of 01. 01. 2009. Shall not apply to cases pending at 01. 01. 2009 with the exception that persons having a qualifying holding in a credit institutions,

(1) The Authority shall conduct an investigation within sixty working days of the date of issue of the certificate of receipt (hereinafter referred to as "administrative time limit") as regards the proposed acquisition of an interest, to examine as to whether compliance with the relevant provisions of this Act can be ascertained after the fact.

(2) If the information supplied according to Subsection (2) of Section 37/B is found deficient, the Authority may request - in writing - additional information or to have the deficiencies remedied within fifty working days from the date of the certificate of receipt, indicating the information specifically required for completion of the evaluation process (hereinafter referred to as "insufficient information procedure").

(3)[187] The time limit for compliance with the request for additional information is twenty working days.

(4) The time limit for compliance with the request for additional information shall be thirty working days, if:

a) the applicant is established in a third country, or

b) the applicant is not subject to supervision according to the national laws of Member States on the transposition of Council Directives 85/611/EEC and 92/49/EEC, and Directives 2002/83/EC, 2005/68/EC and 2006/48/EC of the European Parliament.

(5)[188]

(6) Following compliance with the insufficient information procedure the Authority shall be entitled to request further information from the applicant. However, the time limit prescribed for the disclosure of such information shall be included in the administrative time limit.

Section 38/A.[189]

If the applicant:

a) is an authorized investment firm established in any EEA Member State;

b) is an authorized credit institution established in any EEA Member State;

c) is an authorized insurance company established in any EEA Member State;

d) is an authorized reinsurance company established in any EEA Member State;

e) is an authorized management company engaged in the management of UCITS established in any EEA Member State;

f) is the parent of either of the companies mentioned in Paragraphs *a)-e)*;

g) is controlled by either of the companies mentioned in Paragraphs *a)-e)*;

the Authority shall consult in accordance with Section 171 the competent supervisory authorities of jurisdiction by reference to place where the investment firm, credit institution, insurance company, reinsurance company and the management company engaged in the management of UCITS is located.

Section 39[190]

---

insurance company or investment firm already in existence or in the process of authorization at 01. 01. 2009 in accordance with the provisions in effect on the day preceding 01. 01. 2009 shall comply with the requirements set out in Act CXII of 1996, Act LX of 2003 and the Act CXXXVIII of 2007 relating to qualifying interest by 31 March 2009.

[187] Amended: by Section 392 of Act LVI of 2009. In force: as of 1. 10. 2009.

[188] Repealed: by Section 392 of Act LVI of 2009. No longer in force: as of 1. 10. 2009.

[189] Enacted: by Section 136 of Act CIII of 2008. In force: as of 01. 01. 2009.

(1) If the Authority fails to refuse to grant its consent within the administrative time limit specified in Subsection (1) of Section 38 for the acquisition of or for increasing the extent of qualifying interest, its consent shall be considered as granted.

(2) If the acquisition of or increasing the extent of qualifying interest is authorized, the applicant shall conclude the transaction within a period of six months.

(3) If the requirements for authorization for the acquisition of a qualifying interest are no longer satisfied, the Authority shall suspend the holder's voting rights until the unlawful situation is terminated or until new evidence is furnished concerning such requirements.

(4) The investment firm shall notify the Authority within two working days upon receipt of notice concerning the identification data of the person acquiring a qualifying interest in the investment firm, including the percentage of his share and any changes therein.

(5) Any person who has acquired a qualifying interest in an investment firm, or altered his existing share according to Subsections (1) and (3) of Section 37/B, shall notify the Authority within two working days following the time of acquiring the qualifying interest.

PART FOUR

REGULATIONS RELATING TO INVESTMENT SERVICE ACTIVITIES AND THE PROVISION OF ANCILLARY SERVICES

Chapter X

INFORMATION TO CLIENTS

General Provisions

Section 40

(1) Investment firms shall make available to clients and potential clients information in a comprehensible form − including any investment research and advertisement, that is fair, clear and accurate, and shall not supply any information to clients and potential clients that is misleading.

(2) As regards the information provided to retail clients and potential clients after they are bound by any agreement, the investment firm shall:

a) indicate the name of the investment firm;

b) not withhold any essential information, or provide any misleading information intentionally, and shall not present any essential information, fact or circumstance as immaterial;

c) not emphasize any potential benefits of any investment service activities, ancillary services or a specific financial instrument without simultaneously specifying their disadvantages, and without also giving a fair and prominent indication of any relevant risks;

d) not use terms or any grammatical structures which are clearly incomprehensible or unintelligible for the clients and potential clients, and shall set the length of the information as appropriate to the nature and extent of the service; and

e) proceed in accordance with Subsections (3)-(10), taking into consideration that which is contained in Schedule No. 3.

---

[190] Established: by Section 137 of Act CIII of 2008. In force: as of 01. 01. 2009.

(3) The provisions contained in Subsection (2) shall also apply in connection to information - including investment research and advertisements - that is prepared for others, however, it becomes accessible to retail clients and potential clients after they are bound by any agreement.

(4) If the information made available by an investment firm contains a comparison between investment firms, investment service activities, ancillary services or financial instruments:

a) the comparison must be meaningful and presented in a fair and balanced way;

b) the sources of the information used for the comparison must be specified; and

c) the key facts and assumptions used to make the comparison must be included separately from the facts.

(5) Where the information made available by an investment firm contains an indication of past performance of a financial instrument, a financial index or indicator, or an investment service, or any changes in such index, the following conditions shall be satisfied:

a) that indication must not be the most prominent feature of the communication;

b) the information must include appropriate performance information which covers the immediately preceding five calendar years relating to the financial instrument, a financial index or indicator in question, or any changes in such index, or performance information which covers the immediately preceding five calendar years in the case of investment services;

c) the investment firm shall ensure that the reference period and the source of information is clearly stated;

d) the information must contain a prominent warning that the figures refer to the past and that past performance is not a reliable indicator of future results, yield, changes and performance;

e) where the indication relies on figures and information denominated in a currency other than that of the Member State in which the retail client or potential retail client is resident, or where his home address or registered office is located, the investment firm shall ensure that the currency be clearly stated, together with a warning that the return may increase or decrease as a result of currency fluctuations;

f) where the indication is based on gross performance, figures and information covering commissions, fees or other charges, the investment firm shall ensure that the effect of commissions, fees or other charges on the return is disclosed.

(6) In connection with the obligation referred to in Paragraph b) of Subsection (5), if there is no information available relating to the financial instrument, financial index or indicator in question which covers their yield or performance during the immediately preceding five calendar years, or performance information which covers the immediately preceding five calendar years in the case of investment services:

a) but information is available for at least one year, information on yield or performance shall be provided for the entire twelve-month period for which such information is available;

b) and information is not available for any full twelve-month period either, no comparison of performance may be applied relating to the financial instrument, financial index or indicator in question, nor to investment service activities.

(7) Where the information made available by an investment firm contains a simulation of past yield or performance, or reference thereto, of a financial instrument, a financial index or indicator, or an investment service, or any changes in such index, the information shall also contain a reference to the financial instruments, financial index or indicator underlying the financial instruments or financial index or indicator to which it pertains, and:

a) the simulation of past yield or performance, or changes therein, must be based on the specific past yield or performance, or changes therein, of the financial instruments, financial index or indicator underlying the financial instruments or financial index or indicator in question;

b) where the specific past yield or performance of the underlying product referred to in Paragraph a) is applied, the provisions contained in Paragraphs a)-c), e) and f) of Subsection (5) and also in Subsection (6) must also be satisfied;

c) the information must contain a prominent warning that the figures and information refer to simulated past yield or performance, or changes therein, and that past performance is not a reliable indicator of future results, yield and performance, or changes therein.

(8) If the information provided by the investment firm relates to the future yield or performance of the financial instruments, financial index or indicator, or changes therein, or to the future performance of the investment service:

a) the information must not be based on or refer to simulated past yield or performance of the financial instruments, financial index or indicator, or changes therein, nor to simulated past performance of the investment service;

b) it must be based on reasonable and objective assumptions supported by objective data;

c) where the indication is based on gross performance figures and information covering commissions, fees or other charges, the investment firm shall ensure that the effect of commissions, fees or other charges on the return is disclosed;

d) the information must contain a prominent warning that the figures and information refer to simulated performance and that such forecasts are not a reliable indicator of future results, yield, changes and performance.

(9) Where the information made available by the investment firm refers to a particular tax treatment or tax implication, it shall prominently state that the tax treatment or implication depends on the individual circumstances of each client and may be subject to change in the future.

(10) The information made available by the investment firm shall not use the name of any competent supervisory authority in such a way that would indicate or suggest endorsement or approval by that supervisory authority of the products or services of the investment firm, its activities or specific financial instruments.

Section 41

(1) In connection with carrying out investment service activities and the provision of ancillary services, investment firms shall provide - taking also into consideration that which is contained in Section 43 - information to clients and potential clients about:

a) the investment firm in general;

b) the policies of the investment firm governing operations and activities;

c) the rules for the management of financial instruments and funds held for or belonging to a potential client;

d) the financial instruments involved in transactions executed under contract;

e) the transactions executed under contract, including any publicly available information that concerns the transaction in question and the risks involved;

f) the execution venues referred to in Paragraph i) of Subsection (2) of Section 62;

g) contractual costs and associated charges, and the costs and associated charges of transactions relating to previous contracts which are still in effect (hereinafter referred to as “framework agreement”) and charged to clients.

(2) Unless otherwise prescribed in this Act, the information referred to in Subsection (1) shall be made available in good time, having regard to the urgency of the situation and the time

necessary for the client to absorb and react to the specific information provided, the client's need for sufficient time to read and understand it before taking an investment decision.

Section 42

(1) Where, according to this Act, investment firms are required to provide information in a durable medium, it shall be provided:

a) in writing; or

b) in another form of durable medium.

(2) Where, according to Paragraph b) of Subsection (1), information is required to be provided in a durable medium, investment firms shall be permitted to provide that information in a durable medium only if:

a) the provision of that information in that medium is appropriate to the contractual context in which the business between the investment firm and the client or potential client is, or is to be, carried on; and

b) the client or potential client specifically chooses the provision of the information in the medium referred to in Paragraph b) of Subsection (1).

(3) In the cases defined in this Act, an investment firm may be allowed to provide information - in compliance with the requirement to provide information - to a client or potential client by means of a website, where that information is not addressed personally to the client or potential client, subject to the following conditions:

a) the provision of that information in that medium is appropriate to the contractual context in which the business between the firm and the client or potential client is, or is to be, carried on;

b) the client or potential client must specifically consent to the provision of that information in that form;

c) the client must be notified electronically of the address of the website, and the place on the website where the information may be accessed;

d) the information on the website must be up to date; and

e) the information must be accessible continuously by means of that website for such period of time as the client may reasonably need to inspect it.

(4) For the purposes of Paragraph a) of Subsection (2) and Paragraph a) of Subsection (3), the provision of information by means of electronic communications shall be treated as appropriate to the contractual context in which the business between the investment firm and the client or potential client is, or is to be, carried on if:

a) there is evidence that the client or potential client has regular access to the internet; or

b) the client or potential client has opted to communicate with the investment firm through an e-mail address.

Chapter XI

CONTRACTING

Obligation to Provide Prior Information

Section 43

(1)[191] In connection with carrying out investment service activities and the provision of ancillary services, investment firms shall provide - save where Subsection (12) applies - information in good time prior to the signature of the contract to potential clients and retail clients after they are bound by any agreement, concerning:

(2) In connection with carrying out investment service activities and the provision of ancillary services, investment firms shall provide - save where Subsection (12) applies - information specified in Subsection (1) in good time prior to the signature of the contract provision of the service to:

a) retail clients concerning the provisions contained in Subsections (3)-(5) and (7)-(9); and

b) professional clients concerning the provisions contained in Paragraphs d) and e) of Subsection (8).

(3) The information that investment firms are required to provide under Paragraph a) of Subsection (1) of Section 41 to retail clients or potential retail clients after they are bound by any agreement shall include:

a) the name and registered address of the investment firm, including any other means of contact;

b) the languages in which the client may communicate with the investment firm;

c) the methods of communication to be used between the investment firm and the client including, where relevant, those for the sending and reception of orders;

d)[192] the number of the investment firm's authorization to engage in investment service activities and to provide ancillary services, and the name and contact address of the competent supervisory authority that has issued the authorization; and

e) where the investment firm is acting through a tied agent, a statement of this fact specifying the EEA Member State in which that agent is registered.

(4) Where investment firms propose to provide portfolio management services to retail clients or potential retail clients after they are bound by any agreement, they shall provide, in addition to the information required under Subsection (2), the following to the clients:

a) information on the method and frequency of valuation of the financial instruments in the client portfolio, as specified in the contract;

b) details of any delegation of the discretionary portfolio management of all or part of the financial instruments or funds in the client portfolio;

c) a specification of any benchmark against which the performance of the financial instruments in the client portfolio will be compared;

d) the types of financial instrument that may be included in the client portfolio and types of transaction that may be carried out in such instruments, including any limits;

e) the management objectives, the level of risk to be reflected in the portfolio manager's exercise of discretion, and any specific constraints in connection with the portfolio manager's exercise of that discretion.

(5) The information that investment firms are required to provide relating to the policies of the investment firm governing operations and activities, under Paragraph b) of Subsection (1) of Section 41, to retail clients or potential retail clients after they are bound by any agreement shall include:

a) the nature, frequency and timing of the reports on the performance of investment service activities or the provision of ancillary services by the investment firm to the client;

---

[191] Established: by paragraph (1) Section 138 of Act CIII of 2008. In force: as of 01. 01. 2009.

[192] Established: by paragraph (2) Section 138 of Act CIII of 2008. In force: as of 01. 01. 2009.

b) if the investment firm holds client financial instruments or client funds, a summary description of the steps which it takes to ensure their protection, including summary details of any relevant investor compensation or deposit guarantee scheme which is available to the clients;

c)[193] a description, which may be provided in summary form, of the conflicts of interest policy maintained by the firm in accordance with Subsection (2) of Section 110; and

d) details concerning the firm's execution policy referred to in Paragraphs a)-c) of Subsection (1) of Section 63 relating to the execution of client orders under the general provisions set out in Section 63.

(6) Investment firms are required to provide further details of the conflicts of interest policy referred to in Paragraph c) of Subsection (5) to retail clients or potential retail clients after they are bound by any agreement at any time that the client requests it.

(7) In connection with the management of financial instruments and funds held for or belonging to a client according to Paragraph c) of Subsection (1) of Section 41:

a) the investment firm shall inform the retail client where the financial instruments or funds of that client may be held by a third party on behalf of the investment firm of the responsibility of the investment firm under the applicable national law for any acts or omissions of the third party and the consequences for the client of the insolvency of the third party;

b)[194] where financial instruments of the retail client may, if permitted by the national law of the investment firm or the third party acting on behalf of the investment firm, be held in an omnibus account by a third party, the investment firm shall inform the client of this fact and shall provide a prominent warning of the resulting risks;

c) the investment firm shall inform the retail client where it is not possible under national law or under the legal system of the country where the third party is established for client financial instruments held with a third party to be separately identifiable from the proprietary financial instruments of that third party or of the investment firm and shall provide a prominent warning of the resulting risks;

d) the investment firm shall inform the client where accounts that contain financial instruments or funds belonging to that client are or will be subject to the law of a jurisdiction applicable to the contract between the investment firm and the client and shall indicate that the rights of the client relating to those financial instruments or funds may differ accordingly;

e) the investment firm shall inform the client about the existence and the terms of any security interest or lien which the firm has or may have over the client's financial instruments or funds, or any right of set-off it holds in relation to those instruments or funds or - where applicable - it shall also inform the client of the fact that a depository may have a security interest or lien over, or right of set-off in relation to those instruments or funds;

f) the investment firm, before entering into securities financing transactions in relation to financial instruments held by it on behalf of a retail client, or before otherwise using such financial instruments for its own account or the account of another client, shall in good time before the use of those instruments provide the retail client with clear, full and accurate information on the obligations and responsibilities of the investment firm with respect to the use of those financial instruments, including the terms for their restitution, and on the risks involved.

(8) The information that investment firms are required to provide under Paragraphs d) and e) of Subsection (1) of Section 41, relating to financial instruments and transaction risks, shall include,

---

[193] Established: by Section 124 of Act CL of 2009. In force: as of 1. 01. 2010.

[194] Established: by paragraph (3) Section 138 of Act CIII of 2008. In force: as of 01. 01. 2009.

where relevant to the status and level of knowledge of the client and taking into account the prior information obtained under Sections 44 and 45, the following elements:

a) the risks associated with that type of financial instrument including an explanation of leverage and its effects and the risk of losing the entire investment;

b) the position of such financial instruments on the market;

c) the volatility of the price of such financial instruments and any limitations on the available market for such instruments;

d) the price of the financial instrument during the period preceding the time of signature of the contract, as per Commission Regulation (EC) No. 1287/2006;

e) the fact that, as a result of transactions in such financial instruments, financial commitments and other additional obligations, including contingent liabilities, the client may be required to provide further payment, additional to the cost of acquiring the financial instruments;

f) any margin requirements or similar obligations, applicable to financial instruments of that type;

g) to retail clients or potential retail clients information about a financial instrument that is the subject of a current offer to the public, and if a prospectus has been published in connection with that offer in accordance with Directive 2003/71/EC, the place where that prospectus is made available to the public;

h) the essence of any interaction where the risks associated with a financial instrument composed of two or more different financial instruments are likely to be greater than the risks associated with any of the components;

i) an adequate description of the components of the financial instrument referred to in Paragraph h); and

j) in the case of financial instruments that incorporate a guarantee, information about the guarantee including sufficient detail about the guarantor and the guarantee to enable the retail client to make a fair assessment of the guarantee.

(9) The information that investment firms are required to provide to retail clients and potential retail clients under Paragraph g) of Subsection (1) of Section 41, relating to costs and associated charges shall include such of the following elements as are relevant:

a) the total price to be paid by the client in connection with the acquisition and maintenance of the financial instrument, with the drawing up, maintenance and discharging of the contract on the investment service or ancillary service provided by the investment firm, including all related fees, commissions, charges and expenses (broken down according to financial instruments and transactions) - including the orders given under a framework agreement -, and all taxes whether deducted by or payable via the investment firm (hereinafter referred to as “total price”);

b) where any part of the total price referred to in Paragraph a) is to be paid in or represents an amount of foreign currency, an indication of the currency involved and the applicable currency conversion rates and costs;

c) notice of the possibility that other costs, including taxes, related to transactions in connection with the financial instrument or the investment service may arise for the client that are not paid via the investment firm or imposed by it;

d) information concerning the relevant regulations on the arrangements for payment or other performance.

(10) If the total price referred to in Paragraph a) of Subsection (9) cannot be determined exactly, the investment firm shall indicate the basis for the calculation of the total price and the underlying information, so that the client can verify it.

(11) A summary prospectus prepared by the UCITS in accordance with the CMA shall be regarded as appropriate information for the purposes of Paragraphs d), e) and g) of Subsection (1) of Section 41 and Subsections (8) and (9) of Section 41.

(12) By way of derogation from what is contained in Subsections (1) and (2), investment firms shall provide the information referred to in Subsection (1) to a retail client or a potential retail client immediately after that client is bound by any agreement, or the information referred to in Subsection (2) immediately after starting to provide the service if:

a)[195] the investment firm is able to satisfy the requirements set out in Section 4 of the DMFC relating to retail clients and potential retail clients, regardless of whether the provisions of the DMFC apply in the specific case or not; or

b) under other circumstances the investment firm was unable to comply with the time limits specified in Subsection (1) or (2) because, at the request of the client or the potential client, the agreement was concluded using a means of distance communication which prevents the investment firm from providing prior information.

(13) Investment firms shall provide the information prescribed under Subsections (3)-(10) in writing, some other form of durable medium or by means of a website.

(14) Investment firms are required to notify their clients in good time about any material change to the information provided under Subsections (3)-(10) relating to a transaction or financial instrument. That notification shall be given in a durable medium if the information to which it relates is given in a durable medium.

Obligation to Obtain Prior Information

Section 44

(1) Any investment firm that is engaged in providing investment advice or portfolio management services shall, to the extent required for such activities under Subsection (2) prior to the signature of the contract or - in the case of a framework agreement - before the execution of orders:

a) obtain the necessary information regarding the client's or potential client's knowledge and experience in the investment field relevant to the financial instrument or transaction, his risk profile to determine whether it is appropriate to enable the client to take investment decisions on an informed basis; and

b) obtain the necessary information regarding the client's or potential client's financial situation and his investment objectives;

so as to enable the firm to recommend to the client or potential client the transactions and financial instruments that are suitable for him.

(2) Having in possession the information obtained according to Subsection (1) (hereinafter referred to as "fitness test"), the investment firm providing investment advice or portfolio management services to the client shall assess as to whether:

a) the specific type of service recommended is suitable for the client's or potential client's investment objectives;

b) the degree of risk related to the specific type of service recommended, even though it meets the investment objectives of the client or the potential client in question, is such that the client is able financially to bear it; and

[195] Established: by paragraph (4) Section 138 of Act CIII of 2008. In force: as of 01. 01. 2009.

c) in terms of the nature of the service recommended and risk assessment, the client or potential client has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio.

(3) As regards the investment objectives referred to in Paragraph a) of Subsection (2), the investment firm shall obtain information:

a) on the length of time for which the client or potential client wishes to hold the investment;

b) the client's or potential client's preferences regarding risk taking, his risk profile; and

c) the purposes of the investment.

(4) As regards the client's financial ability referred to in Paragraph b) of Subsection (2), the investment firm shall obtain information concerning:

a) the source and extent of the client's or potential client's regular income;

b) the extent of the client's or potential client's assets, including liquid assets, investments and real property, and his regular financial commitments; and

c) the source and extent of the client's or potential client's regular liabilities.

(5) As regards the experience and knowledge referred to in Paragraph c) of Subsection (2), the investment firm shall check the following:

a) the types of service, transaction and financial instrument with which the client or potential client is familiar;

b) the nature, volume, and frequency of the client's or potential client's transactions in financial instruments and the period over which they have been carried out; and

c) the level of education, and profession or relevant former profession of the client or potential client for the purpose of making an assessment.

(6) In connection with carrying out the fitness test specified in Subsections (1) and (5), the investment firm shall have authority to request the client or potential client:

a) to provide a written statement of his financial situation;

b) documentary evidence to support the statement mentioned in Paragraph a); or

c) to disclose any relationship with other investment service providers or commodity dealers.

(7) Where an investment firm provides the services referred to in Subsection (1) to a professional client, the investment firm shall be entitled to assume that the condition set out in Paragraph c) of Subsection (2) is satisfied, with the exception that if the client is to be treated as a professional client according to Subsection (1) of Section 49, it shall apply with respect to the financial instruments and transactions indicated in the client's request made according to Subsection (2) of Section 49.

(8) Where an investment firm provides an investment service to a professional client covered by Section 48, and that investment service consists in the provision of investment advice, the investment firm shall be entitled to assume that the condition set out in Paragraph b) of Subsection (2) is satisfied.

(9) In the process of carrying out the fitness test mentioned in Subsection (2), the investment firm shall be entitled to rely on the information provided by its clients or potential clients unless it is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.

Section 45

(1)[196] Where an investment firm is engaged in investment service activities, other than what is mentioned under Subsection (1) of Section 44, it shall, to the extent required for such activities prior to the signature of the contract or - in the case of a framework agreement - before the execution of orders ask the client or potential client, subject to the exception set out in Subsection (3), provide information regarding his knowledge and experience in the investment field:

a) relevant to the specific type of transaction;

b) relevant to the specific type of financial instrument; and

c) relevant to the risks involved;

so as to enable the investment firm to provide to the client or potential client the service relating to the transactions and financial instruments that are suitable for him.

(2) As regards the experience and knowledge referred to in Subsection (1), the investment firm shall check the following (hereinafter referred to as "compliance test"):

a) the types of service, transaction and financial instrument with which the client or potential client is familiar;

b) the nature, volume, and frequency of the client's or potential client's transactions in financial instruments and the period over which they have been carried out; and

c) the level of education, and profession or relevant former profession of the client or potential client for the purpose of making an assessment.

(3) The provisions of Subsection (1) shall not apply where an investment firm concludes the agreement specified in Paragraph a) or b) of Subsection (1) of Section 5 with a client or potential client and:

a)[197] the transactions relate to shares admitted to trading on a regulated market or in an equivalent third country exchange market, money market instruments, debt securities, bonds or other forms of securitized debt (excluding those bonds or securitized debt that embed a derivative), UCITS and other non-complex financial instruments;

b) the agreement related to the transaction is provided at the initiative of the client or potential client;

c) the client or potential client has been clearly informed that the investment firm is not required to assess the suitability of the financial instrument for achieving the client's investment objectives, meaning that it does not apply the provisions contained in Subsection (1), and that therefore the client does not benefit from the corresponding consequences;

d) the investment firm complies with its obligations under Section 110.

(4) For the purposes of Paragraph a) of Subsection (3), 'non-complex financial instrument' shall mean the financial instrument that satisfies the following criteria:

a) it is not treated as securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures;

b) it does not fall within Paragraphs d)-k) of Section 6;

c) there are frequent and systematic opportunities to dispose of, redeem, or otherwise realize that instrument at prices that are publicly available to market participants and that are either market prices or prices made available, or validated, by valuation systems independent of the issuer;

d) it does not involve any actual or potential liability for the client that exceeds the cost of acquiring the instrument;

---

[196] Established: by paragraph (1) Section 139 of Act CIII of 2008. In force: as of 01. 01. 2009.

[197] Established: by Section 145 of Act CLIX of 2010. In force: as of 1. 01. 2011.

e) adequately comprehensive information on its characteristics is publicly available and is likely to be readily understood so as to enable the average retail client to make an informed judgment as to whether to enter into a transaction in that instrument.

(5) The provisions of Subsection (1) shall not apply where an investment firm provides the services specified in Paragraphs a)-c) of Subsection (1) of Section 5 to a client or potential client, and that client is recognized as an eligible counterparty.

(6) Where an investment firm provides the services referred to in Subsection (1) to a professional client, the investment firm shall be entitled to assume that the condition set out in Subsection (1) is satisfied, with the exception that if the client is to be treated as a professional client according to Subsection (1) of Section 49, it shall apply with respect to the financial instruments and transactions indicated in the client's request made according to Subsection (2) of Section 49.

(7) In the process of carrying out the compliance test mentioned in Subsection (1), the investment firm shall be entitled to rely on the information provided by its clients or potential clients unless it is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.

Section 46

(1) If, relying on the information obtained under Subsection (1) of Section 45, the investment firm is of the opinion that the financial instrument or transaction to which the contract pertains is not appropriate to the client or potential client, the investment firm shall warn the client or potential client.

(2) In cases where the client or potential client elects not to provide the information referred to under Subsection (1) of Section 45, or if the investment firm considers the information provided insufficient, the investment firm shall warn the client or potential client that such a decision will not allow the firm to determine whether the service or product envisaged is appropriate for him.

Categorization of Clients

Section 47

(1)[198] Investment firms engaged in investment service activities or providing ancillary services shall, before the signature of the contract, categorize their clients and potential clients in accordance with Sections 48, 49 and 51 and shall treat them according to such categorization.

(2) The categorization referred to in Subsection (1) shall not be required if:

a) the contract is signed under an existing framework agreement and the client has already been categorized relating to the transaction or financial instrument to which the contract pertains; or

b) the client or potential client is recognized as an eligible counterparty in connection with the transaction after being bound by any agreement.

(3) The investment firm shall inform the clients affected in writing or in another form of a durable medium concerning:

a) their categorization;

b) any changes in their categorization; and

[198] Established: by paragraph (1) Section 140 of Act CIII of 2008. In force: as of 01. 01. 2009.

c)[199] any right that clients have to request a different categorization under Subsection (4) of Section 48, Section 49 or under Subsections (3) and (4) of Section 51, and about any changes in their rights that may occur in consequence of such request.

Section 48

(1) The following shall be considered professional clients:
a) investment firms;
b) commodity dealers;
c) credit institutions;
d) financial institutions;
e) insurance companies;
f) investment funds and investment fund managers, collective investment trusts;
g) venture capital funds and venture capital fund managers;
h) private pension funds and voluntary mutual insurance funds;
i) bodies providing clearing or settlement services;
j) central depositories;
k) institutions for occupational retirement provision;
l) exchange markets;
m) central counterparties;
n) all other companies which are recognized as such by the country in which they are established;
o) the preferential companies described in Subsection (2);
p) the preferential bodies described in Subsection (3); and
q) all other persons and bodies principally engaged in investment service activities, including special purpose entities.

(2) The preferential companies mentioned in Paragraph o) of Subsection (1) shall cover all companies which meet at least two of the following criteria, relying on the last audited accounting report, and calculated according to the official MNB exchange rate in effect on the balance sheet date:
a) the balance sheet total is at least twenty million euros;
b) the annual net turnover is at least forty million euros;
c) they have at least two million euros in own funds.

(3) In the application of Paragraph p) of Subsection (1), 'preferential body' shall mean:
a) the central government of any EEA Member State;
b) the regional governments and local authorities of any EEA Member State;
c) ÁKK Zrt. and similar public bodies of other EEA Member States charged with the management of public debt;
d) the MNB, and the central bank of any EEA Member State and the European Central Bank;
e) the World Bank;
f) the International Monetary Fund;
g) the European Investment Bank; and
h) other bodies active in international finance that were created by virtue of international agreement or intergovernmental agreement.

[199] Established: by paragraph (2) Section 140 of Act CIII of 2008. In force: as of 01. 01. 2009.

(4) An investment firm shall afford to professional clients, at their request or - if they were classified as professional clients upon the investment firm's initiative - with their express agreement the same conditions that apply to retail clients in connection with their investment service activities and ancillary services.

(5) The agreement entered into by virtue of Subsection (4) shall be fixed in writing and it shall contain:

a) an indication that the client is treated as a professional client, and that the conditions that apply to retail clients are applied at his request;

b) an indication of the financial instruments or transactions to which the conditions of retail clients apply.

Section 49

(1) The investment firm may - upon compliance with the requirements set out in Subsections (2)-(4) - recategorize a retail client, at his request, and treat him as a professional client, if this client is able to satisfy at least two of the following criteria:

a) the client has carried out transactions, worth at least forty thousand euros each or four hundred thousand euros in total for the year, or its equivalent in another currency as translated by the official MNB exchange rate in effect on the day of transaction, at an average frequency of, at least, ten per quarter over the preceding year;

b) the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds five hundred thousand euros or its equivalent in another currency as translated by the official MNB exchange rate in effect on the day preceding the day of submission of the request;

c) the client works or has worked in the financial sector under contract of employment or any other form of employment relationship for at least one year within a preceding period of five years at:

ca) an investment firm;

cb) a commodity dealer;

cc) a credit institution;

cd) a financial institution;

ce) an insurance company;

cf) an investment fund manager;

cg) a collective investment trust;

ch) a venture capital fund manager;

ci) a private pension fund;

cj) a voluntary mutual insurance fund;

ck) a body providing clearing or settlement services;

cl) a central depository;

cm) an institution for occupational retirement provision;

cn) a central counterparty; or

co) an exchange market;

in a professional position, which requires knowledge of the financial instruments and investment service activities envisaged in the relationship of the investment firm and the client.

(2) The client is required to submit the request referred to in Subsection (1) to the investment firm in writing, indicating the specific financial instrument or transaction in connection with which the professional client classification is requested.

(3) In the case of a request submitted under Subsection (1), the investment firm shall inform the client concerning the differences in the categorization of professional clients and retail clients, and the related consequences.

(4) The investment firm shall annex to the contract the request mentioned in Subsection (1), together with the client's written statement of understanding and acknowledgment of the information described in Subsection (3).

Section 50

(1) The investment firm shall withdraw the categorization for professional treatment awarded under Section 49 at the retail client's request if:

a) the client has withdrawn the request mentioned in Subsection (2) of Section 49, in writing;

b) the client informs the investment firm of any change upon which the client no longer fulfils the initial conditions described in Subsection (1) of Section 49;

c) the investment firm becomes aware of any change as a result of which the client no longer fulfils the initial conditions described in Subsection (1) of Section 49.

(2) In the case of any client whose categorization for professional treatment has been withdrawn by the investment firm, the conditions relating to retail clients shall apply in the future.

Section 51

(1) Eligible counterparties are:

a) the companies specified under Paragraphs a)-l) of Subsection (1) of Section 48;

b) the companies referred to in Subsection (2) of Section 48;

c) the bodies referred to in Subsection (3) of Section 48; and

d) all other companies which are recognized as such by the country in which they are established.

(2)[200] Where an investment firm is engaged in the investment service activities and provides the related ancillary services under Paragraphs *a)-c)* of Subsection (1) of Section 5 to an eligible counterparty covered under Subsection (1), the provisions of Sections 40-50, Section 55, and Sections 62-65 - with the exceptions set out in Subsections (3) and (4) - shall not apply.

(3) The clients recognized according to Paragraph b) or c) of Subsection (1) as eligible counterparties may request the investment firm not to apply the provisions set out in Subsection (2) in respect of certain specific transactions or a general principle. In this case, unless the eligible counterparty affected expressly requests otherwise - the provisions for treatment of professional clients shall be applied.

(4) An investment firm shall afford to clients recognized according to Subsection (1) as eligible counterparties, at their request, the same conditions that apply to retail clients in connection with their investment service activities and ancillary services provided under Paragraphs a)-c) of Subsection (1) of Section 5.

(5) The agreement entered into by virtue of Subsection (3) or (4) shall be fixed in writing and shall be subject to the provisions contained in Subsection (5) of Section 48.

Formal and Content Requirements Relating to Contracts

[200] Established: by Section 141 of Act CIII of 2008. In force: as of 01. 01. 2009.

Section 52

(1) With the exception set out in Subsection (2), all contracts between investment firms and their clients must be fixed in writing according to their standard service agreement.

(2) Agreements for the execution of orders on behalf of a client under portfolio management services relating to financial instruments (hereinafter referred to as "order") shall not be made out in writing if placed under an existing framework agreement, if such framework agreement is made out in writing and the investment firm records the order electronically.

(3) Investment firms may not use for the identification of a client a pseudonym or any other reference suitable to conceal the identity of the client or to obscure the identification procedure.

Section 53

The contracts of investment firms for the provisions of portfolio management services shall cover:

a) the conditions required for the commencement of portfolio management services;

b) the conditions and procedures for the termination of the contract for portfolio management services;

c) the investment policy;

d) all costs and expenses relating to services of portfolio management, in accordance with Subsection (9) of Section 43;

e) the terms of payment of the costs referred to in Paragraph d), and the related accounting procedures;

f) the provisions contained in Subsection (4) of Section 43.

Refusal of Service

Section 54

(1) An investment firm shall refuse to establish a contractual relationship for investment service activities and ancillary services, and shall refuse the execution of an order received under an existing framework agreement if:

a) a transaction involves insider dealing or market manipulation;

b)[201] the requested transaction violates the regulations of the regulated market or an equivalent third country exchange market, clearing house, a body providing clearing or settlement services, central counterparty or central depository;

c) the client or potential client refused to identify himself or to cooperate in an identification procedure, or if the identification procedure fails for any other reason;

d) unable to obtain the information specified in this Subsection, which is deemed necessary to carry out the fitness test according to Subsections (1)-(5) of Section 44; or

e)[202] according to the result of the fitness test conducted under Subsection (1) of Section 44 the service requested is not recommended to the client regarding the financial instrument in question.

[201] Established: by paragraph (1) Section 142 of Act CIII of 2008. In force: as of 01. 01. 2009.
[202] Established: by paragraph (2) Section 142 of Act CIII of 2008. In force: as of 01. 01. 2009.

(2) Investment firms shall notify the Authority without delay concerning any incidence where they have refused to enter into an agreement or to execute an order under Paragraph a) of Subsection (1).

Chapter XII

RECORD-KEEPING OBLIGATION RELATING TO CONTRACTS

Records of Contracts and Client Orders

Section 55

(1) Investment firms shall maintain consistent, orderly, and chronological records:
a) on all transactions on own account;
b) on client contracts; and
c) on all client orders placed under an existing framework agreement.
(2) The records of investment firms referred to in Subsection (1) shall contain facilities to determine as to whether a particular transaction was performed on own account or on behalf of a client.
(3) With a view to discharging the obligation of keeping records on the transactions referred to in Paragraph c) of Subsection (1) investment firms may ask clients to supply information for identification purposes.

Section 56

Investment firms are required to retain the data contained in the records defined under Section 55 for a period of five years following performance or termination of the contract.

Safeguarding Client Funds and Financial Instruments

Section 57

(1) Investment firms must use the financial instruments and funds held for or belonging to their clients for the purposes as instructed by the clients.
(2) Investment firms may not use the financial instruments and funds they manage and those held for or belonging to clients as their own in any way or form, and shall provide adequate facilities to ensure that their clients have access to their financial instruments and funds at any given time.
(3) Investment firms shall maintain their records and accounts subject to the following requirements:
a) they must maintain their records and accounts in a way that ensures their accuracy, and in particular their correspondence to the financial instruments and funds held for clients;
b) they must keep such records and accounts as are necessary to enable them at any time and without delay to distinguish financial instruments and funds held for or belonging to clients from their own financial instruments and funds.

(4) An investment firm may deposit client financial instruments and funds with a third party only if the third party in question is able to comply with the requirements set out in Subsections (1)-(3).

(5) With a view to the enforcement of Subsection (4), investment firms must conduct, on a regular basis but at least once each month, reconciliations between their internal accounts and records and those of any third parties by whom financial instruments and funds are held.

(6) Investment firms must introduce adequate organizational arrangements to minimize the risk of the loss or diminution of client funds and financial instruments, or of rights in connection with those funds and financial instruments, as a result of misuse of the funds and financial instruments, fraud, poor administration, inadequate record-keeping or negligence.

(7)[203] Collateral may be established on financial instruments, other than securities, held by investment firms with the proviso that financial instruments identified by detailed description, acquired by the lienor - recognized as a consumer - following the conclusion of the pledge agreement, may also be accepted as collateral, and the right to direct satisfaction from the collateral may be exercised in respect of such secured claim as well. To that end, client account balances shall be taken into account at their nominal value, whereas other financial instruments shall be taken into account at market value, or in the absence thereof, at a value that can be determined at that time independent from the parties.

(8)[204] If the collateral arrangement is recognized as a consumer pledge agreement, and the collateral is provided in connection with client account balances, payment account balances, or financial instruments whose market price is listed on the stock exchange or publicly, or whose market price can be determined at that time independent from the parties, in exercising his right to satisfaction it may be sold by the lien holder in the lienor's name following the procedure fixed in the agreement. In connection with other financial instruments the lien holder may exercise his right to sell if the procedure for the evaluation and sale of the financial instrument, and the rules of settlement are laid down in an agreement concluded with the client, in which case the financial instrument may not be taken into account in the process of settlement at a price below the price determined based on the evaluation method fixed in the pledge agreement.

Section 58

(1) With the exception set out in Subsection (2), investment firms may not use financial instruments held for or belonging to a client.

(2) An investment firm may be allowed to use the financial instruments of a client if having in possession of the client's prior written consent for use of the financial instruments, covering also the specific purpose of use.

(3) A investment firm may be allowed to enter into arrangements for securities financing transactions in respect of financial instruments which are held on behalf of a client in an omnibus account maintained by a third party, or otherwise use financial instruments held in such an account for their own account or for the account of another client unless, in addition to the conditions set out in Subsection (2), if:

a) each client whose financial instruments are held together in an omnibus account has given prior express consent in accordance with Subsection (2); or

[203] Enacted by Subsection (1) of Section 278 of Act XVI of 2014, effective as of 15 March 2014.
[204] Enacted by Subsection (1) of Section 278 of Act XVI of 2014, effective as of 15 March 2014.

b) the investment firm has in place systems and controls which ensure that only financial instruments belonging to clients who have given prior express consent in accordance with Subsection (2) are so used.

(4) The records of the investment firm shall include:

a) details of the client on whose instructions the use of the financial instruments has been effected; and

b) the number of financial instruments used belonging to each client who has given his consent;

so as to enable the accurate assessment and correct allocation of any loss.

Section 59

(1)[205] An investment firm shall be authorized to make arrangements - in due observation of what is contained in Subsection (2) - for the safekeeping of client financial instruments with a third party selected with due skill, care and diligence. The investment firm shall periodically review such third party and the procedures used for the safekeeping of financial instruments on a regular basis or at least once a year exercizing due skill, care and diligence.

(2) The third party with whom the investment firm proposes to make the aforementioned arrangement for the safekeeping of client financial instruments must satisfy the following criteria:

a) must be able to meet the requirements set out in Subsections (1)-(3) of Section 57; and

b) must be subject to supervision by the competent supervisory authority of the country where established with respect to custodianship, with the exceptions set out under Subsection (3).

(3) If the custodian is not subject to supervision by the competent supervisory authority of the country where established with respect to custodianship, the investment firm may enter into an agreement with such third party if:

a) it is deemed essential because of the special nature of the financial instruments or the investment services provided in connection with such financial instruments; or

b) the investment firm provides services in holding financial instruments on behalf of a professional client within its profile of investment service activities or ancillary services, and that professional client requests the firm in writing to deposit them with a third party in that third country.

Section 60

(1) Investment firms are required, on receiving any client funds under an agreement within the framework of investment service activities or ancillary services or upon the execution of a client order, promptly to place those funds - held for or belonging to the client - into one or more accounts opened with any of the following:

a) a central bank;

b) a credit institution;

c) a credit institution authorized in a third country to engage in the activities of credit institutions; or

d) a qualifying money market fund.

(2) For the purposes of Paragraph d) of Subsection (1), a ‘qualifying money market fund’ means a collective investment trust authorized by the competent supervisory authority of the

[205] Established: by Section 146 of Act CLIX of 2010. In force: as of 1. 01. 2011.

country where established, it is supervised by this authority and satisfies the following conditions:

a) its primary investment objective must be to maintain the net asset value at the value of the investors' initial capital;

b) it must, with a view to achieving that primary investment objective, invest exclusively in high quality money market instruments with a maturity or residual maturity of no more than three hundred and ninety-seven days, or regular yield adjustments consistent with such a maturity, and with a weighted average maturity of sixty days;

c) the objective referred to in Paragraph b) may also be achieved by investing on an ancillary basis in deposits with credit institutions;

d) in the case of the redemption of collective investment instruments, it must provide liquidity through same day or next day settlement.

(3)[206] For the purposes of Paragraph b) of Subsection (2), a money market instrument shall be considered to be of high quality if it has been awarded the highest available credit rating by each competent rating agency which has rated that instrument.

(4) Where an investment firm does not deposit client funds with a central bank mentioned in Paragraph a) of Subsection (1), it shall exercise all due skill, care and diligence in the selection, appointment and periodic review of the institution referred to in Paragraphs b)-d) of Subsection (1) where the funds are placed, and shall periodically review such institutions for compliance with the regulations for the holding of funds on a regular basis or at least one a year.

(5) Investment firms shall, in accordance with Subsection (4), before entering into an agreement with an institution for the holding of client funds, take into account:

a) the expertise and market reputation of such institutions;

b) their compliance with the conditions set out in Subsections (1)-(3) of Section 57.

(6) An investment firm may deposit client funds into a qualifying money market fund subject to the client's express prior consent made in writing.

Chapter XIII

PERFORMANCE OF CONTRACTS AND EXECUTION OF ORDERS

Section 61

(1)[207] Investment firms shall perform the contracts and execute client orders within the framework of their investment service activities and provision of ancillary services in due observation of the relevant legislation and professional standards, acting in a fair and efficient manner in the best interests of their clients.

(2) In accordance with Subsection (1), investment firms may not ask for or accept any fee, commission or non-monetary benefit, where such fee, commission or non-monetary benefit:

a) is not paid or provided to or by the client or a person on behalf of the client;

b) is not paid or provided to or by a third party or a person acting on behalf of a third party, where the following conditions are satisfied:

[206] Amended by Paragraph d) of Section 112 of Act CCXXXVI of 2013.
[207] Established: by paragraph (4) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.

ba) the method of calculating the amount of the fee, commission or non-monetary benefit must be clearly disclosed to the client, in a manner that is comprehensive, accurate and understandable, prior to the signature of the contract or execution of an order; and

bb) the payment of the fee or commission, or the provision of the non-monetary benefit must be designed to enhance the quality of the activity or relevant service to the client and not impair compliance with the firm's duty to act in the best interests of the client as laid down in Subsection (1);

c) it is not related to carrying out investment service activities or the provision of ancillary services, and they are not likely to impair compliance with the firm's duty to act in the best interests of the client as laid down in Subsection (1).

(3) An investment firm shall be permitted to disclose the information referred to in Subparagraph ba) of Paragraph b) of Subsection (2) to clients in summary form, within the obligation set out under Paragraph g) of Subsection (1) of Section 41, provided that it undertakes to disclose further details to the client without delay at the request of the client.

Obligation to Execute Orders on Terms Most Favorable to the Client

Section 62

(1) Investment firms shall execute client orders on terms most favorable to the client, where orders executed in line with the execution policy set up according to Subsection (1) of Section 63, shall be considered as being executed on terms most favorable to the client.

(2)[208] Investment firms shall implement best execution as per Subsection (1) under the following criteria:

a) the price (net price) of the financial instruments to which the order pertains;

b) the costs involved;

c) the time required for executing the order;

d) the likelihood of execution and settlement; and

e) the size of the order.

(2a)[209] In determining the importance of the criteria listed under Subsection (2), investment firms shall consider the following:

a) the characteristics of the financial instruments to which the order pertains;

b) the nature of the order;

c) the client's categorization under Sections 47-49; and

d) the characteristics of the regulated market, multilateral trading facilities, systematic internalizer, market maker or other liquidity provider or a person or body that performs a similar function in a third country to the functions performed by any of the foregoing (hereinafter referred to as "execution venue") to which that order can be directed.

(3) For the purposes of determining best execution in accordance with Subsection (1) when executing retail client orders, the investment firm shall take into consideration the costs charged to the client related to execution.

(4) For the purposes of determining best execution when executing client orders, in cases where more than one venue listed in the firm's execution policy - drawn up according to Subsection (1) of Section 63 - is capable of executing a particular order, the investment firm's own commissions

[208] Established: by paragraph (5) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.
[209] Enacted: by paragraph (6) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.

and costs for executing the order on each of the eligible execution venues should be taken into account in order to assess and compare the results for the client that would be achieved by executing the order on each such venue - as applied under Subsection (5).

(5) An investment firm may not determine its own commissions and costs for executing the order on each of the eligible execution venues that may result in unjustified and unreasonable differences among the eligible execution venues for the purposes of comparison under Subsection (4).

(6)[210] Where an investment firm has received specific instructions from a client relating to the criteria listed under Subsection (2), the order shall be executed according to such instructions.

(7)[211] Investment firms shall be able to demonstrate to their clients, at their request in writing, that they have executed their orders in accordance with the investment firm's execution policy.

Section 63

(1) In order to achieve the best possible result for the execution of their client orders on a consistent basis, investment firms shall lay down the relevant details in a policy (hereinafter referred to as "execution policy"), that contains:

a) a list of the execution venues that is capable of executing a client order as regards each financial instrument involved, in due consideration of what is contained in Subsection (3);

b)[212] an account of the relative importance the investment firm assigns, in accordance with the criteria specified in Subsections (2) and (2a) of Section 62, to the factors influencing the selection of the execution venue, and the process by which the firm determines the relative importance of those factors;

c) a clear and prominent warning that any specific instruction from a client under Subsection (6) of Section 62 may prevent the investment firm from taking the steps that it has designed and implemented in its execution policy to obtain the best possible result;

d) an account of the procedural rules designed to carry out client orders sequentially, including when they are executed on the aggregate;

e) provisions for the execution of limit orders on behalf of clients;

f) regulations concerning client orders and transactions for the investment firm's own account, including the execution of orders sequentially and where an investment firm aggregates a client order;

g) an indication of the fact where an investment firm provides for the possibility of executing client orders outside a regulated market or multilateral trading facilities.

(2)[213] Investment firms - without prejudice to their obligations set out in Section 42 - shall provide clients with sufficient details on their execution policy, including any material changes therein.

(3) Investment firms shall include in their execution policy referred to in Subsection (1), under the list of execution venues mentioned in Paragraph a) of Subsection (1):

a) at least the execution venues that enable the investment firm to obtain on a consistent basis the best possible result for the execution of client orders; and

b) only those types of execution venues that enable the investment firm to meet its obligations set out in this Chapter.

---

[210] Established: by paragraph (1) Section 143 of Act CIII of 2008. In force: as of 01. 01. 2009.
[211] Established: by paragraph (2) Section 143 of Act CIII of 2008. In force: as of 01. 01. 2009.
[212] Established: by paragraph (7) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.
[213] Established: by Section 125 of Act CL of 2009. In force: as of 1. 01. 2010.

(4) Investment firms shall take continuous account of and review at least annually the execution policy established pursuant to Paragraphs a)-b) of Subsection (1) of this Section and Subsection (1) of Section 62 for compliance with the provisions contained therein, and shall take prompt action to make any corrections that may be necessary.

(5) In addition to what is contained in Subsection (4), investment firms shall review the execution policy whenever a material change occurs that affects the investment firm's ability to continue to meet the obligation set out in Subsection (1) of Section 62.

Client Order Handling and Allocation

Section 64

(1) The investment firms engaged in the activity specified in Paragraph b) of Subsection (1) of Section 5 shall, when carrying out client orders:

a) ensure that orders executed on behalf of clients are promptly and accurately recorded and allocated;

b) carry out otherwise comparable client orders sequentially and promptly, with the exception set out in Subsection (2); and

c) they must inform a retail client about any material difficulty relevant to the proper carrying out of orders promptly upon becoming aware of the difficulty.

(2) The requirement of carrying out client orders promptly shall not apply:

a) in connection with client limit orders;

b) where the characteristics of the order or prevailing market conditions make this impracticable; or

c) the interests of the client require otherwise.

(3) Where an investment firm did not execute a client order by virtue of Paragraph a) of Subsection (2), and the order applied to transactions in shares admitted to trading on a regulated market, it shall ensure - with the exception set out in Subsection (4) - that the limit order is promptly made public in a manner which is easily accessible to other market participants, and can be easily executed as soon as market conditions allow, unless the client expressly instructs otherwise.

(4) Subsection (3) shall not apply in connection with client orders which are considered large in scale in accordance with Article 20 of Commission Regulation (EC) No. 1287/2006 concerning the specific execution venue.

(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 financial instruments held for or belonging to a client or client funds received in settlement of that executed order are promptly and correctly delivered to the account of the appropriate client.

Section 65

(1) Subject to the exceptions set out in Subsection (2), investment firms shall not be permitted to carry out a client order or a transaction for own account in aggregation with another client order.

(2) By way of derogation from what is contained in Subsection (1), an investment firm may be permitted to carry out a client order for own account in aggregation with another client order if the following conditions are met:

a) it must be unlikely that the aggregation of orders and transactions will work overall to the disadvantage of any client whose order is to be aggregated;

b) 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; and

c) an order allocation policy must be established and effectively implemented, 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 the treatment of partial executions, and that the investment firm proceeds in all cases according to such policy.

(3) The allocation policy referred to in Paragraph c) of Subsection (2):

a) shall contain provisions designed to prevent the reallocation, in a way that is detrimental to the client, of transactions for the investment firm's own account which are executed in combination with client orders; and

b) shall contain provisions to ensure that the investment firm, in connection with 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.

(4) Where an investment firm aggregates a client order with a transaction for own account and the aggregated order is partially executed, the investment firm shall - save where Subsection (5) applies - allocate the related trades to the client in priority to the firm.

(5) If the investment firm:

a) is able to demonstrate on reasonable grounds that without the client order combination it would not have been able to carry out the transaction for own account on such advantageous terms, or at all; and

b) provides sufficiently precise terms for the fair allocation of aggregated orders and transactions in its allocation policy as specified in Paragraph c) of Subsection (2) and adopted according to Subsection (3);

the investment firm may, by way of derogation from the provisions of Subsection (4), allocate the transaction for own account and client account proportionally.

Deferred Payment Arrangements

Section 66

(1) Investment firms may agree to provide deferred payment arrangements to their clients in connection with investment service activities.

(2) Investment firms may provide deferred payment arrangements to clients if:

a) the investment firm is authorized to carry out the activity referred to in Paragraph b) of Subsection (1) of Section 5;

b) in connection with the placement of securities, the investment firm participates as an agent for the buyer; or

c) in connection with the placement of securities, the investment firm is involved in the placement procedure itself.

(3) With respect to deferred payment arrangements provided under Paragraph b) of Subsection (2), the investment firm shall pay the installments on behalf of the client to a special deposit account when due.

(4) Investment firms shall inform their clients concerning the rules applicable to deferred payment arrangements in accordance with Paragraph d) of Subsection (9) of Section 43.

(5) The provisions on investment loans shall also apply to deferred payment arrangements, with the exception that the period of deferred payment may not extend beyond fifteen days from the client's payment due date.

Reporting Obligations in Respect of Execution of Orders

Section 67

(1) Investment firms shall, where they have carried out an order within the framework of investment service activities, other than for portfolio management, on behalf of a client, take the following action in respect of that order:

a) the investment firm must promptly provide the client, in writing or in a durable medium, with the essential information concerning the execution of that order;

b) in the case of a retail client, the investment firm must send the client a notice in writing or in a durable medium confirming execution of the order as soon as possible and no later than the first trading day following execution or, if the confirmation is received by the investment firm from a third party, no later than the first business day following receipt of the confirmation from the third party.

(2) Paragraph b) of Subsection (1) shall not apply where the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the retail client by a third party.

(3) Subsection (1) shall not apply where orders executed on behalf of clients relate to bonds funding mortgage loan agreements with the said clients, in which case the investment firm shall make the report on the transaction at the same time as the terms of the mortgage loan are communicated, but no later than one month after the execution of the order.

(4) In addition to the requirements under Subsection (1), investment firms are required to supply the client, on request, with information about the status of his order.

(5) In the case of orders for a retail client relating to units or shares in a collective investment trust which are executed periodically, investment firms shall either, according to the client's instructions:

a) take the action specified in Paragraph b) of Subsection (1); or

b) provide the retail client, at least once every six months, with the information listed in Subsection (6);

in respect of those transactions.

(6) The investment firm shall provide the notice referred to in Paragraph b) of Subsection (1) including such of the following information in accordance with Regulation (EC) No. 1287/2006:

a) the investment firm's name or other form of identification;

b) the name or other designation of the client;

c) the trading day;

d) the time of execution of the order;

e) the type of the order;

f) the name or other designation of the execution venue;

g) the name or other designation of the financial instrument;

h) the buy/sell indicator;

i) the nature of the order if other than buy/sell;

j) the quantity of financial instruments;

k) the unit price of the financial instruments, indicating the trading unit as well;

l) the total consideration;

m) a total sum of the commissions and expenses charged by the investment firm and, where the retail client so requests, an itemized breakdown;

n) the client's responsibilities in relation to the settlement of the transaction, including the time limit for payment or delivery as well as the appropriate account details and other information; and

o) if the client's counterparty was the investment firm itself or any person in the investment firm's group or another client of the investment firm, the fact that this was the case unless the order was executed through a trading system that facilitates anonymous trading.

(7) Where the order is executed in tranches, the investment firm may supply the client with the information mentioned in Paragraph k) of Subsection (6) about the price of a specific tranche or the average price of each tranche; however, at the client's request, the investment firm shall supply the retail client with information about the price of each tranche.

(8) The investment firm may provide the client with the information referred to in Subsection (6) using standard codes if it also provides an explanation of the codes used.

Section 68

(1) Investments firms, which provide the service of portfolio management to clients within the framework of investment service activities, are required to provide each such client with a periodic statement prepared at least at six-month intervals - with the exceptions set out in Subsections (2) and (6) - in writing or in a durable medium.

(2) Investments firms which provide the service of portfolio management to clients within the framework of investment service activities shall provide information about executed transactions, according to the client's instructions:

a) on a transaction-by-transaction basis, in which case Subsection (4) of this Section shall apply; or

b) according to the obligation to provide a periodic statement under Subsection (1).

(3) In the case of retail clients, investment firms shall provide the periodic statement required under Subsection (1) with the following information:

a) the name of the investment firm;

b) the name or other designation of the retail client;

c) a statement of the contents and the valuation of the portfolio, including details of each financial instrument held, its market value, the cash balance of funds at the beginning and at the end of the reporting period, and the performance of the portfolio during the reporting period;

d) the total amount of fees, commissions and other charges incurred during the reporting period and charged by the investment firm to the client, itemizing at least total management fees and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided on request;

e) a comparison of performance during the period covered by the statement with the investment performance benchmark agreed between the investment firm and the client;

f) the total amount of dividends, interest and other payments received during the reporting period in relation to the financial instruments in the client's portfolio, broken down according to title;

g) information about other corporate actions during the reporting period giving rights in relation to financial instruments held in the portfolio; and

h) for each transaction executed during the period, the information referred to in Paragraphs c)-l) of Subsection (6) of Section 67 where relevant, unless the client elects to receive information according to Paragraph a) of Subsection (2).

(4) Where the client elects to receive information according to Paragraph a) of Subsection (2), investments firms shall provide information about executed transactions within the framework of the service of portfolio management to clients:

a) containing the information referred to in Subsection (6) of Section 67;

b) in writing or in another form of durable medium; and

c) no later than the first trading day following execution or, if the confirmation is received by the investment firm from a third party, no later than the first trading day following receipt of the confirmation from the third party;

on a transaction-by-transaction basis.

(5) Paragraph c) of Subsection (4) shall not apply where the confirmation would contain the same information that is to be promptly dispatched to the retail client by a third party.

(6)[214] In cases where the client elects to receive information about executed transactions according to Paragraph *a)* of Subsection (2), investment firms are required to provide a statement on a regular basis under Subsection (1) to the client on the execution of a transaction within the framework of portfolio management services:

a) the periodic statement must be provided at least once every 12 months, in which case Subsection (7) shall also apply;

b) where the client so requests, the periodic statement must be provided every three months;

c) where the agreement between an investment firm and a retail client for a portfolio management service authorizes a leveraged portfolio, the periodic statement must be provided at least once a month;

in writing or in another form of durable medium.

(7) Paragraph b) of Subsection (6) shall not apply in connection with transactions in:

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

b) the instruments specified in Paragraphs d)-k) of Section 6.

(8) Where investment firms provide portfolio management transactions for retail clients or operate retail client accounts that include an uncovered open position in a contingent liability transaction, they shall also report - irrespective of the client's instruction under Subsection (2) - to the retail client any losses exceeding any predetermined threshold, agreed between the firm and the client, no later than the first trading day following the day in which the threshold is exceeded.

(9)[215] Investment firms shall inform retail clients that they have the right to make requests for the purposes of Paragraph *b)* of Subsection (6).

Section 69

(1) Within the framework of their investment service activities investment firms that hold client financial instruments or client funds are required to send - in due consideration of what is contained in Subsection (2) - at least once a year, to each client for whom they hold financial

[214] Established: by Section 144 of Act CIII of 2008. In force: as of 01. 01. 2009.
[215] Established: by paragraph (8) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.

instruments or funds, a statement containing the information specified in Subsection (3) in writing or in another form of durable medium.

(2) Subsection (1) shall not apply to a credit institution if providing investment services in respect of deposits within the meaning of the CIFE held by that credit institution.

(3) The statement of client assets referred to in Subsection (1) to be provided by investment firms shall include the following information:

a) details of all the financial instruments or funds held by the investment firm for or belonging to the client at the end of the period covered by the statement;

b) the extent to which any client financial instruments or client funds have been the subject of securities financing transactions during the period covered by the statement; and

c) the extent of any benefit that has accrued to the client by virtue of participation in any transactions in financial instruments or funds held by the investment firm for or belonging to the client, and the basis on which that benefit has accrued.

(4) In cases where the portfolio of a client includes the proceeds of one or more unsettled transactions on financial instruments or funds:

a) the investment firm shall indicate as to whether the information referred to in Paragraph a) of Subsection (3) is based on the trade date or the settlement date; and

b) the investment firm shall provide the information in respect of Paragraphs b) and c) of Subsection (3) on the same basis is applied in Paragraph a).

(5)[216] Investment firms which carry out the service of portfolio management for a client may be permitted to include the statement of client assets referred to in Subsection (1) above in the periodic statement it provides to that client pursuant to Section 68.

Chapter XIV

SPECIAL PROVISIONS RELATING TO INVESTMENT SERVICE ACTIVITIES AND ANCILLARY SERVICES

Portfolio Management Activities

Section 70

(1) Investment firms which carry out the service of portfolio management shall keep records separately of the portfolios of each client, and in the case of several portfolios held for the same client, separately for each portfolio.

(2) Investment firms which carry out the service of portfolio management shall operate under the principle of equal treatment with respect to portfolios and clients.

(3) Investment firms which carry out the service of portfolio management shall conduct transactions in respect of the financial instruments they hold in a portfolio, in their own name and on behalf of the client, to whom the portfolio belongs.

(4) Investment firms which carry out the service of portfolio management shall obtain services from a third party subject to full and unlimited liability toward their clients.

Section 71

[216] Established: by Section 145 of Act CIII of 2008. In force: as of 01. 01. 2009.

(1) Investment firms which carry out the service of portfolio management may guarantee to protect the capital invested (capital guarantee) and may undertake to guarantee the earnings (yield guarantee), where the yield guarantee incorporates a guarantee to preserve the capital invested.

(2) The capital and yield guarantee under Subsection (1) offered by investment firms shall be accompanied by a bank guarantee.

(3) Investment firms which carry out the service of portfolio management may pledge to preserve the capital invested (capital protection) and make a pledge for earnings (yield protection), where the promise of yield incorporates a pledge to preserve the capital invested.

(4) Investment firms shall have an adequate investment policy in place concerning the financial instruments held to secure earnings to support the pledge to preserve the capital invested and a pledge for earnings under Subsection (3).

Section 72

(1) Investment firms which carry out the service of portfolio management may not - unless the client expressly provides otherwise - conduct any transactions financed from the client portfolio for the acquisition of:[217]

a) financial instruments of their own issue;

b) financial instruments issued by their affiliated companies, with the exception of securities admitted to trading on a regulated market or on multilateral trading facilities; and

c) any control for which a takeover bid is required under the CMA.

(2)[218] Investment firms which carry out the service of portfolio management may not conduct any transactions financed from the client portfolio relating to securities which are not traded on a regulated market or on multilateral trading facilities with any person or body in which the investment firm holds a qualifying interest or that is holding a qualifying interest in the investment firm.

(3) Where an investment firm that carries out the service of portfolio management acquires any financial instrument on behalf of a client, and such financial instrument is subject to statutory notification or publication, it shall be satisfied by the investment firm.

Systematic Internalizers

Section 73

(1) Investment firms may act as systematic internalizers in connection with securities traded on a regulated market.

(2)[219] The systematic internalizers mentioned in Subsection (1) are required to publish - on each trading day - firm bid and/or offer price in shares admitted to trading on a regulated market for which they are systematic internalizers and for which there is a liquid market in accordance with Commission Regulation (EC) No. 1287/2006 - in due observation of what is contained in Subsection (6) - for transactions which they have accepted when dealing for sizes up to standard market size, as it is calculated according to Subsection (3).

---

[217] Established: by paragraph (1) Section 146 of Act CIII of 2008. In force: as of 01. 01. 2009.
[218] Established: by paragraph (2) Section 146 of Act CIII of 2008. In force: as of 01. 01. 2009.
[219] Established: by paragraph (1) Section 127 of Act CL of 2009. In force: as of 1. 01. 2010.

(3) For the purposes of determining normal market size in the application of Subsection (2), systematic internalizers shall group shares in classes on the basis of the arithmetic average value of the orders executed in the market for that share, for which they are systematic internalizers. 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 EEA Member States in respect of that share excluding those large in scale compared to normal market size for that share.

(5)[220] The Authority in the process of supervising the most relevant market in terms of liquidity as defined in Regulation (EC) No. 1287/2006 for each share shall determine at least annually, on the basis of the arithmetic average value of the orders executed in the market in respect of that share, the class of shares to which it belongs. The Authority shall make this information public to all market participants on its website, and shall send it to the European Securities and Markets Authority.

(6)[221] Systematic internalizers shall make public their bid and offer quotes referred to in Subsection (2) on a regular and continuous basis during normal trading hours, and:

a)[222] in a manner which is easily accessible to other market participants on a reasonable commercial basis, however, the fee requested shall not prevent access to such information (requirement of giving access on a reasonable commercial terms);

b) they shall be entitled to update their quotes at any time; and

c) they shall also be allowed, under exceptional market conditions, to withdraw their quotes.

Section 74

(1) Investment firms, when acting as systematic internalizers, must comply with the provisions set out in Section 62 and Section 64.

(2) Systematic internalizers shall:

a) while complying with the provisions set down in Sections 62 and 64, execute the orders they receive from their retail clients in relation to the shares for which they are systematic internalizers at the prices quoted under Subsection (2) of Section 73 at the time of reception of the order;

b) execute the orders they receive from their professional clients in relation to the shares for which they are systematic internalizers at the price quoted under Subsection (2) of Section 73, taking also into consideration that which is contained in Subsection (3);

(3) Systematic internalizers, in the case referred to in Paragraph b) of Subsection (2), may execute those orders of professional clients at a price better than the price quoted under Subsection (2) of Section 73, provided that:

a) this price falls within a public range close to market conditions; and

b) the orders are of a size bigger than the standard market size customarily undertaken by a retail investor.

(4) In addition to what is contained in Subsection (3), systematic internalizers may execute orders they receive from their professional clients at prices better than their quoted ones without having to comply with the conditions established in Subsection (2) of Section 73, in respect of transactions:

---

[220] Established: by paragraph (10) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[221] Numbering amended: by paragraph (2) Section 127 of Act CL of 2009. In force: as of 1. 01. 2010.
[222] Established: by Section 147 of Act CLIX of 2010. In force: as of 1. 01. 2011.

a) where execution in several securities is part of one transaction in which large quantities of shares are involved;

b) that are subject to conditions other than the current market price.

(5)[223] Where a systematic internalizer who quotes only one quote, of which they approved, or whose highest quote is lower than the standard market size receives an order from a client of a size bigger than its quotation size, but lower than the standard market size, it may decide to execute that part of the order which exceeds its quotation size, provided that it is executed at the quoted price, except where otherwise provided under Subsection (7).

(6)[224] Where the systematic internalizer is quoting in different sizes and receives an order between those sizes, which it chooses to execute, it shall execute the order at one of the quoted prices in compliance with the provisions of Section 64, except where otherwise provided under Subsection (7).

(7)[225] Systematic internalizers are not permitted to apply Subsections (5) and (6) where the provisions contained in Paragraph *b)* of Subsection (2), Subsection (3) or Subsection (4) provide otherwise.

Section 75

(1) Systematic internalizers shall be allowed to limit, on the basis of their commercial policy and in an objective non-discriminatory way:

a) the clients and potential clients to whom they give access to their quotes;

b) the number and value of transactions from the same client which they undertake to enter at the published price quotes; and

c) in accordance with the provisions of Sections 64 and 65, the total number of transactions from different clients at the same time provided that this is allowable only where the number and/or volume of orders sought by clients considerably exceeds the norm.

(2) Systematic internalizers shall publish clear standards in advance for governing access to their quotes according to Subsection (1), and shall proceed accordingly.

Investment Research

Section 76

(1)[226] Investment firms which produce, or arrange for the production of investment research that is intended or likely to be subsequently disseminated to clients of the firm or to the public may suggest, explicitly or implicitly, that it is presented as an objective or independent explanation if the financial analysts and the employees participating in the production of the investment research are subject to the conditions set out in Subsection (4) of Section 110.

(2) Subsection (1) shall not apply if the recommendation prepared by the investment firm for a client, that contains the same information as the investment research, is considered to constitute the provision of investment advice.

---

[223] Established: by paragraph (1) Section 128 of Act CL of 2009. In force: as of 1. 01. 2010.
[224] Established: by paragraph (1) Section 128 of Act CL of 2009. In force: as of 1. 01. 2010.
[225] Enacted on the base: of paragraph (1) Section 128 of Act CL of 2009. In force: as of 1. 01. 2010.
[226] Established: by Section 129 of Act CL of 2009. In force: as of 1. 01. 2010.

(3) In connection with any investment research that does not meet the conditions set out in Subsection (1) the provisions pertaining to advertisements shall apply, with the exception that any such recommendation must contain a clear and prominent statement that:

a) it has not been prepared in accordance with legal requirements designed to promote the independence of investment research; and

b) it is not subject to any prohibition on dealing ahead of the dissemination of investment research.

(4) The provisions contained in Subsection (1) shall also apply to investment firms which produce investment research as a member of a group, and not under their own responsibility.

(5) The provisions contained in Subsection (1) shall not apply to investment firms which disseminate investment research to clients of the firm or to the public produced by a third party if:

a) the person or body that produces the investment research is not a member of the group to which the investment firm belongs;

b) the investment firm does not substantially alter the recommendations within the investment research;

c) the investment firm does not present the investment research as having been produced by it; and

d) the investment firm verifies that the producer of the research is subject to requirements equivalent to the requirements applicable to investment firms in relation to the production of that research, irrespective of whether such requirements are prescribed by statutory provisions or by the investment firm's own policy pertaining to persons or bodies involved in the production of investment research.

Section 77

(1)[227] Investment firms are required to have in place arrangements designed to ensure that financial analysts and other relevant persons:

a) involved in the production of investment research under Subsection (1) of Section 76; and

b) 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;

must not be permitted to undertake personal transactions or trade, other than as market makers acting in good faith and in the ordinary course of market making or in the execution of an unsolicited client order, on their own behalf or on behalf of any person living in the same household or any close relative, or any other relevant person involved in some other way, including the investment firm, in financial instruments to which investment research relates, or whose price depends on the instrument to which the investment research pertains, until the recipients of the investment research have had a reasonable opportunity to act on it.

(2)[228] In circumstances not covered by Subsection (1), financial analysts and any other relevant persons involved in the production of investment research under Subsection (1) of Section 76 must not undertake personal transactions on their own behalf or on behalf of any person living in the same household or any close relative, or any other relevant person involved in some other way, including the investment firm, in financial instruments to which the investment research relates, or whose price depends on the instrument to which the investment research pertains,

[227] Established: by paragraph (1) Section 147 of Act CIII of 2008. In force: as of 01. 01. 2009.
[228] Established: by paragraph (2) Section 147 of Act CIII of 2008. In force: as of 01. 01. 2009.

contrary to current recommendations, except in exceptional circumstances and with the prior approval of the compliance officer or a member of the investment firm's legal or compliance function.

(3)[229] Investment firms, financial analysts and other relevant persons involved in the production of the investment research under Subsection (1) of Section 76 must not accept inducements from any person or body with a material interest in the subject-matter or the outcome of the investment research.

(4) The investment firms themselves, financial analysts, and other relevant persons involved in the production of the investment research under Subsection (1) of Section 76 must not promise issuers favorable research coverage.

(5)[230] Issuers, relevant persons other than financial analysts, and any other persons involved in the production of the investment research under Subsection (1) of Section 76 must not before the dissemination of investment research be 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 firm's legal obligations, if the draft includes a recommendation or a target price.

(6)[231] For the purposes of Subsections (1) and (2), 'other relevant person' shall mean a person whose relationship with the financial analyst and any other employee of the investment firm is such that either one of them has a direct or indirect material interest in the outcome of the trade.

Investment Loans

Section 78

(1) Any investment firm that is engaged in investment lending operations shall have in place internal lending policies in which to lay down guidelines for the soundness and transparency of exposures, and for the identification, assessment, control and reduction of risks, subject to approval by the management body, or the board of directors, as applicable.

(2) The lending policy shall contain:

a) the conditions for providing a loan;

b) the procedures for the approval and amendment of loan applications, including renewal, and the conditions for refinancing;

c) the provisions for the diversification of credit portfolios consistent with the investment firm's target markets and overall credit strategy;

d) provisions for the management of concentration risk arising from exposures to counterparties, groups of connected counterparties, and counterparties in the same economic sector, geographic region or from the same activity or commodity, and from the application of credit risk mitigation techniques, and including in particular risks associated with large indirect credit exposures;

e) provisions for identifying and managing problem credits for which adequate value adjustments and provisions are necessary;

[229] Established: by Section 130 of Act CL of 2009. In force: as of 1. 01. 2010.
[230] Established: by paragraph (3) Section 147 of Act CIII of 2008. In force: as of 01. 01. 2009.
[231] Enacted: by paragraph (4) Section 147 of Act CIII of 2008. In force: as of 01. 01. 2009.

f) procedures for the management of the risk for which the recognized credit risk mitigation techniques used by the investment firm - defined in a relevant decree adopted under authorization of this Act - prove to be less effective than expected.

(2a)[232] Investment firms shall have in place sound and effective internal methodologies that enable them to assess the credit risk of securities or securitization positions and credit risk at the portfolio level, with the proviso that such internal methodologies shall not rely solely on external credit ratings.

(3) Investment firms shall fix any agreement for the provision of an investment loan to a client within the framework of ancillary services in writing.

(4) Investment firms may not provide within the framework of ancillary services investment loans:

a) for the purchase of shares which are issued by the lending investment firm;

b) for the purchase of shares which are issued by a single member limited liability company owned by the lending investment firm; and

c) to a company in which the lending investment firm holds an interest of ten per cent or more.

(5) Prior to the granting of an investment loan the investment firm must ascertain the existence, value and enforceability of the necessary collaterals and securities. The documents substantiating such decision must be attached and filed with the contract referred to in Subsection (3).

Chapter XV

OUTSOURCING

Section 79

(1) In due observation of what is contained in Subsections (2)-(5) of this Section and in Sections 80 and 81, investment firms shall be authorized to outsource their investment service activities and ancillary services, and other functions and services which are not covered by the scope of this Act.

(2) Outsourcing shall comply with the following conditions:

a) the outsourcing must not result in the delegation by senior management of its responsibility;

b) the contractual relationship and obligations of the investment firm towards its clients must not be altered, and the investment firm's commitments prescribed in this Act toward its clients must not be undermined; and

c) none of the other conditions subject to which the investment firm's authorization was granted in accordance with this Act must be removed or modified.

(3) In connection with the outsourcing to a service provider of any investment service activities or ancillary services, or any critical functions, the outsourcing investment firm must ascertain before the signature of the outsourcing agreement that the following conditions are satisfied:

a) the service provider must have the ability and capacity, and any authorization required by law to perform the outsourced functions, services or activities reliably and professionally, and satisfy the prescribed notification requirements;

b) the service provider must introduce adequate organizational arrangements and operating procedures necessary to perform the outsourced functions effectively and manage the risks associated with the outsourcing and must supervise those functions and manage those risks;

[232] Enacted by Section 88 of Act CCXXXVI of 2013, effective as of 1 January 2014.

c) the service provider must introduce adequate organizational arrangements and operating procedures necessary to ensure the protection of confidential information, obtained and used in connection with performing the outsourced functions, relating to the investment firm and its clients, and to potential clients and other parties;

d) the service provider must introduce adequate organizational arrangements and operating procedures and must have the ability and capacity, in terms of personnel and equipment, necessary to supply data and information to the investment firm that may be required by the competent supervisory authority, in compliance with formal and time requirements; and

e) the service provider must maintain a contingency plan laying down procedures for disaster recovery and periodic testing of backup facilities.

(4) The investment firm may enter into an agreement for the outsourcing of critical functions only with a service provider that is able to satisfy the conditions set out in Subsection (3).

(5) In connection with the outsourcing of the activities or services specified in Subsection (1) to a person or organization located in a third country, the investment firm must ensure that the prospective service provider is able to comply with the requirements set out in Subsection (3) and that the following conditions are satisfied:

a) the service provider must be authorized or registered in its home country to provide that service and must be subject to prudential supervision; and

b) there must be an appropriate cooperation agreement between the Authority and the supervisory authority of the service provider.

(6) In the application of Subsections (3) and (4), an operational function shall be regarded as critical if a defect or failure in its performance would materially impair the continuing compliance of the firm with the obligations of its authorization under this Act, or its financial performance, or the soundness or the continuity of its investment services and activities.

(7) The following functions shall not be considered as critical for the purposes of Subsections (3) and (4):

a) provision of legal advice;

b) the training and continuing education of personnel;

c) billing services;

d) security services provided concerning the investment firm’s premises and personnel;

e) standardized services, including market information services;

f) the provision of price feeds.

Section 80

(1) Outsourcing arrangements must be made in writing.

(2) The outsourcing arrangement shall specify:

a) the duration of outsourcing;

b) the rights and obligations of the parties;

c) the outsourced functions.

(3) The rights and obligations referred to in Paragraph b) of Subsection (2) fixed by the parties in the outsourcing arrangement shall inter alia cover:

a) the methods established for assessing the standard of performance of the service provider of the outsourced activities in accordance with Subsection (3) of Section 79;

b) the rules to take appropriate measures to address any deficiencies revealed by the assessment specified in Section 81;

c) the procedure concerning the supply of data and information to the investment firm that may be required by the competent supervisory authority specified in Paragraph d) of Subsection (3) of Section 79;

d) the service provider's obligation to cooperate with the competent supervisory authority; and

e) the procedure for the service provider to disclose any development that may have a material impact on its ability to carry out the outsourced functions in accordance with Subsection (3) of Section 79.

(4) Upon entering into an outsourcing agreement, the investment firm shall send a copy to the Authority within three days following the time of signature.

Section 81

(1) Investment firms, with a view to ascertaining the service provider's ability to perform the activities, services or functions specified in the outsourcing arrangement shall routinely monitor compliance with the provisions set out in Subsection (3) of Section 79.

(2) Where the investment firm finds any breach of the outsourcing arrangement, in consequence of which the requirements set out in Subsection (3) of Section 79 are no longer satisfied, the investment firm shall:

a) advise the outsourcing service provider to carry out the functions as contracted; or

b) shall terminate the outsourcing arrangement in the event of the service provider's failure to comply.

(3) The investment firm must be able to terminate the outsourcing arrangement according to Paragraph b) of Subsection (2) without any detriment to the continuity and quality of its provision of investment or ancillary services to clients.

(4)[233] Where the investment firm and the outsourcing service provider (person or body) are members of the same group, the investment firm may, for the purposes of complying with this Chapter, take into account the extent to which the firm controls the service provider or has the ability to influence its actions.

PART FIVE

COMMODITY EXCHANGE SERVICES

Chapter XVI

CONCLUSION OF CONTRACTS AND RECORD-KEEPING OBLIGATIONS RELATING TO CONTRACTS

Obligation to Provide Prior Information Before the Conclusion of the Contract

Section 82

[233] Enacted: by Section 131 of Act CL of 2009. In force: as of 1. 01. 2010.

(1) In connection with carrying out commodity exchange services, commodity dealers shall provide - save where Subsection (3) applies - the information referred to in Subsection (1) of Section 41 in good time prior to the signature of the contract to potential clients, subject to the exception set out in Subsection (2), in the level of detail specified in Subsections (3)-(10) of Section 43.

(2) In connection with the obligation to provide prior information before the conclusion of contracts, Paragraph b) of Subsection (3), Paragraphs a), c) and d) of Subsection (5) and Paragraphs g)-j) of Subsection (8) of Section 43 shall not apply to commodity dealers.

(3) The obligation to provide prior information under Subsection (1) shall not apply if:

a) the clients are treated as institutional investors according to the CMA after they are bound by any agreement;

b) the agreement is signed under an existing framework agreement and the client has already been given the information referred to in Subsection (1) in connection with the instrument or transaction to which the contract to provide commodity exchange services pertains;

c) the client waives his right to the information referred to in Subsection (1), and the commodity dealer is able to produce credible evidence to that effect.

(4) A commodity dealer may accept the client's waiver under Paragraph c) of Subsection (3) if:

a) the commodity dealer and the client are engaged in regular business relations; and

b) the commodity dealer has contracted at least five transactions with the client within the preceding year for a value of over two hundred million forints on the aggregate.

Section 83

Unless otherwise agreed with their clients, commodity dealers shall carry out their obligations specified under Section 82 in Hungarian, fixing them in written form using unambiguous and clear language that is easy to understand and in keeping with Hungarian grammar rules.

Obligation to Obtain Prior Information Before the Conclusion of the Contract

Section 84

In connection with carrying out commodity exchange services, commodity dealers shall, in accordance with Subsections (1) and (2) of Section 45 - save where Subsection (3) applies - obtain information for potential clients in good time prior to the signature of the contract concerning the degree of risk related to the specific type of commodity exchange service recommended, and whether it is such that the client is able financially to bear.

Refusal of Service

Section 85

(1) Commodity dealers shall refuse to establish a contractual relationship for commodity exchange services, and shall refuse the execution of an order received under an existing framework agreement if:

a) a transaction involves insider dealing or market manipulation;

b) the requested transaction violates any legal regulation or statutory internal policies;

c) the client or potential client refused to identify himself or to cooperate in an identification procedure, or if the identification procedure fails for any other reason;

d)[234] according to the result of the examination conducted under Section 84 the service requested is not recommended to the client or potential client due to his lack of knowledge, low risk tolerance, or on account of his financial position.

(2) Commodity dealers shall notify the Authority without delay concerning any incidence where they have refused to provide the service or to execute an order under Paragraph a) of Subsection (1).

Record-Keeping Obligations Relating to Contracts

Section 86

Commodity dealers shall maintain the records defined in Section 55 and shall retain them for the periods specified in Section 56, with the exception that any reference made to investment firms shall be understood as commodity dealers.

Safeguarding Client Funds and Assets

Section 87

(1) In connection with carrying out commodity exchange services, commodity dealers shall proceed in accordance with Section 57 as regards the handling of client funds and client assets within the framework of commodity exchange services.

(2) In connection with carrying out commodity exchange services, commodity dealers must not use any funds and assets held for or belonging to clients for the purposes of commodity exchange services.

Chapter XVII

EXECUTION OF ORDERS

Client Order Handling and Allocation

Section 88

(1) Commodity dealers shall execute client orders in accordance with the standard service agreement and according to the client's instructions.

(2) The commodity dealers engaged in the activity specified in Paragraph b) of Subsection (1) of Section 9 shall, when carrying out client orders:

a) ensure that orders executed on behalf of clients are promptly and accurately recorded and allocated;

b) carry out client orders sequentially and promptly, unless otherwise instructed by the client; and

[234] Established: by Section 148 of Act CIII of 2008. In force: as of 01. 01. 2009.

c) they must inform a client about any material difficulty relevant to the proper carrying out of orders promptly upon becoming aware of the difficulty.

Section 89

Commodity dealers shall proceed in accordance with Section 65 where they aggregate several client orders or a client order with a transaction for own account.

Reporting Obligations in Respect of Execution of Orders

Section 90

(1) In connection with carrying out commodity exchange services, where commodity dealers have carried out an order on behalf of a client, they shall - with the exception set out in Subsection (2) - promptly provide the client with the essential information concerning the execution of that order in the manner laid down in the standard service agreement.

(2) Subsection (1) shall not apply where the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the client by a third party.

(3) In addition to the requirements under Subsection (1), commodity dealers are required to supply the client, on request, with information about the status of his order.

Section 91

In connection with carrying out commodity exchange services, commodity dealers that hold client assets or client funds are required to send at least once a year, to each client for whom they hold assets or funds, a statement containing the information specified in Subsection (3) of Section 69 in writing, unless the agreement between the commodity dealer and the client, or the standard service agreement provide otherwise.

Outsourcing of Commodity Dealers' Functions

Section 92

(1) In due observation of what is contained in Subsection (2) of this Section, commodity dealers shall be authorized to outsource their activities specified under Subsection (1) of Section 9, and other functions and services which are not covered by the scope of this Act.

(2) The provisions of Sections 79-81 shall apply to the outsourcing of the functions of commodity dealers referred to in Subsection (1) of Section 9.

Chapter XVIII

COMMON PROVISIONS

Section 93

Where, according to Sections 82-92, the provisions contained in Section 41, Sections 43-45, Sections 55-57, Section 65, Section 69 and Sections 79-81 apply:

a) any reference made to investment firms shall be understood as commodity dealers;

b) any reference made to investment service activities shall be understood as commodity exchange services; and

c) any reference made to financial instruments shall be understood as assets for commodity exchange services.

PART SIX

OPERATIONS OF INVESTMENT FIRMS AND COMMODITY DEALERS

Chapter XIX

VESTED RESPONSIBILITIES

Section 94

(1) Responsibilities to enforce the relevant legal provisions and internal policies applicable to investment firms and commodity dealers shall lie:

a) with the chairpersons and members of the management bodies and supervisory boards of investment firms and commodity dealers incorporated as limited companies;

b) with the chairpersons and members of the management bodies and supervisory boards of investment firms and commodity dealers incorporated as cooperative societies;

c) with the appointed directors and deputy directors of the Hungarian branches of investment firms and commodity dealers, not including the investment firms and commodity dealers established in another EEA Member State; or

d) with the managing directors of commodity dealers incorporated as private limited-liability companies, plus they shall have the liability to provide for the necessary conditions for operations in terms of equipment, personnel, organizational and technical means, and to ascertain that all required policies and procedures are in place and functional.

(2)[235] Investment firms and commodity dealers incorporated as limited companies must have two executive officers appointed as their authorized representatives vested with joint powers to sign documents in their name and on their behalf, including access to their current accounts.

(3) The signatory rights and the powers of representation referred to in Subsection (2) may be transferred according to the charter document or bylaws of the investment firm or commodity dealer.

Compliance with Statutory Provisions and Internal Regulations

Section 95

(1) Investment firms shall appoint a compliance officer who collaborates with the staff under his direction:

[235] Amended: by Section 152 of Act LXXXV of 2009. In force: as of 1. 11. 2009.

a) to ensure the investment firm's compliance with the relevant statutory provisions at all times, and that their internal regulations and policies are consistent with the relevant statutory provisions;

b) to frequently monitor and oversee the enforcement of policies and procedures designed to detect any risk of failure by the investment firm to comply with its obligations under this Act or in specific other legislation adopted by authorization of this Act;

c) to frequently monitor and oversee that the investment firm has in fact put in place adequate measures and procedures designed to minimize such risk;

d) to offer advice and assistance to the employees of the investment firm actively participating in the performance of investment service activities or the provision of ancillary services, with a view to ensuring the investment firm's ability to comply with its obligations under this Act; and

e) to prepare the report referred to in Subsection (2) for the senior executive officer.

(2)[236] The investment firm's compliance officer shall be responsible to file a report annually for the investment firm's senior executive officer and supervisory board concerning the investment firm's compliance with the relevant statutory provisions and internal regulations and policies, indicating:

Internal Control Procedures

Section 96

(1) Investment firms and commodity dealers shall have in place policies laying down the powers and duties of their department of internal control, and the professional standards relating to internal controllers.

(2) The internal controller, guided by the policies referred to in Subsection (1), shall:

a) monitor and evaluate the investment firm's or commodity dealer's internal control mechanisms, supervisory systems and procedures from the standpoint of feasibility and efficiency, and their compliance with the regulations applicable to and governing the operations and activities of investment firms and commodity dealers;

b) make recommendations in accordance with the outcome of the control procedures conducted under Paragraph a);

c) monitor compliance with the recommendations mentioned in Paragraph b); and

d) prepare reports for the management body and supervisory board of the investment firm or commodity dealer.

Audit

Section 97

(1)[237] Investment firms and commodity dealers shall appoint a statutory auditor or audit firm to audit their books, provided that the appointed auditor or audit firm is duly authorized and satisfies the conditions set out in the Civil Code pertaining to auditors, and that is certified to audit financial institutions or investment firms.

---

[236] Established: by Section 132 of Act CL of 2009. In force: as of 1. 01. 2010.

[237] Established by Subsection (4) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.

(2)[238] The term of appointment of the auditor of an investment firm or commodity dealer - if a natural person - shall be limited to five years. The same auditor may be contracted once again three years after the original term expires. A registered statutory auditor who carries out statutory audits in the name and on behalf of the audit firm may audit the books of the same investment firm or commodity dealer for a maximum period of five years, and may not be re-appointed within two financial years after the original term expires by the same investment firm or commodity dealer for auditing services.

(3) An auditor shall be permitted to audit the books of maximum five investment firms or commodity dealers at any given time and, furthermore, his income (revenue) from any one investment firm or any one commodity dealer may not be greater than thirty per cent of his annual income (revenue), however, as regards the auditors operating in the employ of an audit firm, the income (revenue) of this audit firm from any one investment firm or any one commodity dealer may not exceed ten per cent of its annual income (revenue).

(4) Investment firms and commodity dealers shall send to the Authority their contract concluded with the auditor for auditing the annual report.

Section 98

(1) The auditors of investment firms and commodity dealers shall have a duty to report promptly to the Authority, while notifying the investment firm or commodity dealer at the same time in writing, of any fact concerning that investment firm or commodity dealer of which they have become aware while carrying out that task which is liable to:

a) lead to refusal to certify the accounts or to the expression of reservations;

b) constitute a material breach of the laws or regulations, or of the internal policies of the investment firm or commodity dealer, or to indicate any imminent infringement of such regulations;

c) result in any uncertainty as to the ability of the investment firm or commodity dealer to meet its liabilities and commitments, or safeguard the financial instruments and funds entrusted to it;

d) constitute serious deficiencies or insufficiencies in the internal control regime and compliance functions of the investment firm or commodity dealer; or

e) result in a considerable difference of opinion between the auditor and an executive employee of the investment firm or commodity dealer regarding issues affecting the solvency, income, data disclosure or accounting of the investment firm or commodity dealer, which are considered essential from the point of view of operations.

(2) The person auditing the consolidated annual report of an investment firm or commodity dealer shall notify the Authority in writing if his findings with respect to a company that is considered to have a close link due to a dominant influence over the investment firm or commodity dealer reveal any facts that adversely affect the continuous functioning of the investment firm or commodity dealer or indicate the occurrence of what is contained in Paragraph a) or b) of Subsection (1).

(3) In addition to what is contained in Subsection (1):

a) the auditor shall have the right to consult with the Authority, and to convey the findings of his audit to the Authority;

b) the Authority shall be entitled to demand and receive information directly from the auditor concerning the findings of his audit.

---

[238] Established: by paragraph (11) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

(4) If a notification referred to in Subsections (1) and (2) is filed in good faith, the auditor shall not be held liable if the notification eventually proves to be unsubstantiated.

Section 99

(1) When auditing the annual account of an investment firm or commodity dealer the auditor shall also examine the following:

a) the accuracy of evaluations by professional standards;

b) whether the prescribed and necessary value adjustments and readjustments have been made;

c) whether the prescribed and necessary provisions have been set aside;

d) the conformity of risk management regimes;

e) ongoing compliance with the provisions on own funds, capital requirement, capital adequacy, financial stability and liquidity;

f) compliance with the legal provisions on prudential management for effective, reliable and independent operations;

g) the operation of the adequate controlling mechanisms.

(2) Upon conclusion of the audit, the auditor must record his findings on the issues specified in Subsection (1) in a separate supplementary report and send it to the board of directors, the managing director, the chairman of the supervisory board, and the Authority in the following year, within fifteen days following the time of completion of the audit or the time of the general meeting.

(3) Prior to the approval of the annual report, the Authority is entitled, on the basis of the auditor's report, to instruct the investment firm or commodity dealer affected to provide for the re-examination of the annual report that contains incorrect or inaccurate data, implement the necessary corrections and have the corrected data verified by an auditor.

(4) If, after the annual report has been approved, the Authority discovers that the annual report contains any substantial error, the Authority may order the investment firm or commodity dealer concerned to have the figures revised and verified by an auditor, and have these revisions sent to the Authority.

Chapter XX

RISK MANAGEMENT

Exposures and Risk Management

Section 100

(1) Investment firms shall have in place appropriate policies:

a) for the weighting of their exposures and the related risks;

b) for drawing up proper thresholds and limits to accurately define their exposures and the related risks;

c) for developing a suitable system for regular and special reporting in relation to their exposures;

d) for developing a system for underwriting exposures, meeting all personnel and material criteria, in compliance with prudential management and legal requirements.

e)[239] such as remuneration policies and practices that are consistent with and promote sound and effective risk management in accordance with the principles laid down in Schedule No. 4.

(2)-(8)[240]

Section 101[241]

(1) Investment firms shall have in place effective written procedures and policies:

a) for addressing risks that the recognized credit risk mitigation techniques the investment firm uses prove less effective than expected;

b) for addressing concentration risk arising from exposures to clients, groups of connected clients (including central counterparties), and counterparties, clients in the same economic sector, geographic region or from the same activity, and from the application of credit risk mitigation techniques;

c) for the measurement and management of all material sources and effects of market risks, and for taking measures against the risk of a shortage of liquidity where the short position falls due before the long position;

d) for the evaluation, measurement and management of the risk arising from potential changes in interest rates as they affect the investment firm's non-trading activities;

e) for the evaluation and management of the exposure to operational risk, and model risk, including contingency and business continuity plans to ensure the investment firm's ability to operate on an ongoing basis and limit losses in the event of severe business disruption;

f) for the identification, measurement, management and monitoring of liquidity risk over an appropriate set of time horizons, including intra-day, tailored to business lines, currencies and legal entities of the group, including adequate allocation mechanisms of liquidity costs, benefits and risks;

g) for the evaluation and management of risks arising from securitization transactions in relation to which the investment firms are acting as the investor, originator or sponsor, including reputational risks (such as arise in relation to complex structures or products), so as to ensure in particular that the economic substance of the transaction is fully reflected in the risk assessment and management decisions;

h) for the identification, management and monitoring of the risk of excessive leverage, in particular in order to ensure that investment firms address the risk of excessive leverage in a precautionary manner by taking due account of potential increases in the risk of excessive leverage caused by reductions of the investment firm's own funds through expected or realized losses, hence to be able to withstand a range of different stress events with respect to the risk of excessive leverage;

i) for the process for approving, amending, renewing, re-financing and monitoring investment credits; and

j) for the measurement and management of net funding position and requirements on an ongoing and forward-looking basis.

(2) With a view to compliance with Paragraph *f)* of Subsection (1):

a) the investment firm's management body in its managerial function shall communicate risk tolerance to all relevant business lines;

---

[239] Enacted: by Section 148 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[240] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[241] Established by Section 89 of Act CCXXXVI of 2013, effective as of 1 January 2014.

b) the strategies and policies shall be proportionate to the complexity, risk profile, scope of operation of the investment firm and risk tolerance set by the management body in its managerial function and reflect the investment firm's systemic importance in each EEA Member State, in which it carries out investment service activities and performs ancillary services;

c) investment firms shall develop methodologies for the identification, measurement, management and monitoring of funding positions, covering the current and projected material cash-flows in and arising from assets, liabilities, off-balance-sheet items, including contingent liabilities and the possible impact of reputational risk;

d) investment firms shall distinguish between pledged and unencumbered assets that are available at all times, in particular during emergency situations. They shall also take into account:

da) the person or organization holding assets,

db) the country where assets are legally recorded either in a register or in an account,

dc) their eligibility to be used as extra liquidity buffers and shall monitor how assets can be mobilized in a timely manner, and

dd) existing legal, regulatory and operational limitations to potential transfers of liquidity and unencumbered assets amongst entities, both within the EEA Member States and in third countries;

e) investment firms shall consider different liquidity risk mitigation tools, including a system of limits and liquidity buffers in order to be able to withstand a range of different stress events and an adequately diversified funding structure and access to funding sources; those arrangements shall be reviewed regularly, at least once a year;

f) alternative scenarios on liquidity positions and on risk mitigants shall be considered and the assumptions underlying decisions concerning the funding position shall be reviewed at least once a year by the investment firm's management body in its managerial function, with the proviso that for these purposes, alternative scenarios shall address, in particular, off-balance sheet items and other contingent liabilities, including those of other special purpose entities, in relation to which the investment firm acts as sponsor or provides material liquidity support;

g) investment firms shall consider the potential impact of institution-specific, market-wide and combined alternative scenarios; different time horizons and varying degrees of stressed conditions shall be considered;

h) investment firms shall adjust their strategies, internal policies and limits on liquidity risk and develop effective contingency plans, taking into account the outcome of the alternative scenarios referred to in Paragraph *f)*;

i) in order to deal with liquidity crises, investment firms shall have in place contingency plans - approved by the management body in its managerial function - setting out adequate strategies and proper implementation measures in order to address possible liquidity shortfalls, including in relation to branches established in another EEA Member State; those plans shall be tested at least once a year, updated on the basis of the outcome of the alternative scenarios set out in Paragraph *f)*; and

j) investment firms shall take the necessary operational steps in advance to ensure that liquidity recovery plans can be implemented immediately. Such operational steps shall include holding collateral immediately available for central bank funding, where this includes holding collateral where necessary in the currency in which the investment firm has exposures.

(3) As regards the securitizations of revolving exposures with early amortization provisions, the originator investment firm shall have an appropriate liquidity plan in place to address the implications of both scheduled and early amortization.

(4) Investment firms shall develop their liquidity risk profile taking into account the nature, scale and complexity of their activities.

(5) The Authority shall monitor developments in relation to liquidity risk profiles of investment firms developed in accordance with Subsection (4). Where developments referred to above effect the safe operation of the investment firm or may lead to instability in the financial intermediary system, the Authority shall take effective action.

(6) In carrying out the provisions of Paragraph *f)* of Subsection (1), investment firms shall pay particular attention to the leverage ratio determined in accordance with Article 429 of Regulation 575/2013/EU and mismatches between assets and obligations.

(7) Investment firms shall regularly review the assumptions underpinning decisions concerning the net funding position referred to in Paragraph *j)* of Subsection (1), consistent with existing assets and liabilities, and maturity.

(8) Investment firms shall have internal capital that, having regard to the risks which are not covered by own funds requirements, is adequate in quantity.

Application of the Internal Ratings Based Approach[242]

Section 101/A.[243]

(1) Without prejudice to what is contained in part 3, title 3, chapter I, section 1 and title IV, chapter 5 sections 1-5 of Regulation 575/2013/EU, investment firms shall strive to use the internal ratings based approach for calculating their risk-weighted exposure amounts and own funds requirements having regard to their size, internal organization and the nature, scale and complexity of their activities, taking into account the principle of proportionality.

(2) In respect of their exposures, investment firms shall not rely solely on external credit ratings having regard to the nature, scale and complexity of their activities.

(3) The Authority shall monitor the strategic and operational steps taken by investment firms to achieve the goals set out in Subsections (1) and (2), and shall encourage them to develop internal specific risk assessment capacity and to increase use of internal models, in particular:

a) for specific risk of debt instruments in the trading book, and

b) for default and migration risk,

where the investment firms' exposures to specific risk are material in absolute terms and where they have a large number of material positions in debt instruments of different issuers.

Section 102[244]

(1) Each investment firm,

a) which is not covered by supervision on a consolidated basis, or

b) which is specifically required upon the review of the group recovery plan,

is required to have in place a recovery plan with respect to the principle of proportionality, having regard in particular to the diversity in size and scale of operations and to the range of investment service activities and ancillary services, and the applied business model.

---

[242] Enacted by Section 90 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[243] Enacted by Section 90 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[244] Established by Subsection (4) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

(2) The investment firm shall submit the recovery plan to the Authority after it is approved by its management body in its managerial function.

(3) The recovery plan shall, having regard to the potential impact the investment firm's insolvency may have on the financial markets stemming from its ties to the financial intermediary system, inter alia contain the following:

a) a summary of the key components of the plan, any significant changes relative to the previous plan, and the overall recovery capacity of the investment firm;

b) a communication and information plan for addressing adverse reactions in the market;

c) definition of investment firm's critical functions;

d) arrangements designed to ensure a service level of the investment firm's critical functions having regard to liquidity and solvency;

e) an estimated time frame for each and every major action set out in the plan;

f) description of circumstances which may constitute hindrances for the implementation of the plan, including the impact they may have on counterparties, contractual partners and, if the investment firm is subject to supervision on a consolidated basis, on other members of the group;

g) procedures for determining the value, and the marketability of the investment firm's core business lines, processes and assets, including the measures required for their marketing and an estimated time frame for the implementation thereof;

h) description of the articulation of the recovery plan with the investment firm's governance arrangements, including the lines of responsibilities related to the development and implementation of the plan;

i) policies and measures proposed for compliance with the own funds requirements provided for in Section 105;

j) rules and measures designed to ensure that the investment firm has adequate access to sources of funding in case of crises;

k) rules and measures for restructuring the investment firm's liabilities;

l) rules and measures for restructuring the investment firm's main business lines;

m) rules and measures for maintaining access to payment and settlement systems and other infrastructures;

n) preparatory steps taken or proposed by the investment firm with a view to promoting the implementation of the recovery plan, including the review of rules restricting a decision for any potential increase of the investment firm's capital;

o) an analysis of how and when the investment firm may apply, in the conditions addressed by the plan, for the use of emergency liquidity assistance from the MNB acting within its central banking duties, including those assets which would be expected to qualify as collateral;

p) the proposed steps the investment firm is to take upon the occurrence of events invoking the measures, exceptional measures of the Authority;

q) conditions and procedures included in the recovery plan to ensure the timely implementation of recovery actions by the investment firm;

r) alternative scenarios of severe macroeconomic stress relevant to the investment firm's specific conditions, including any systemic crisis in the financial intermediary system.

(4) The investment firm shall review the recovery plan at least once a year, and after every legal or organizational changes in the investment firm, including changes in its activities or financial situation, that may substantially affect the implementation of the recovery plan.

(5) Recovery plans shall not assume that the investment firm has any access to or receives extraordinary public financial support.

(6) The recovery plan shall include a framework of indicators which identifies the points at which the investment firm may take appropriate actions referred to in the plan. The indicators may be of a qualitative or quantitative nature relating to the investment firm's financial position, with the proviso that the investment firm is to ensure that such indicators shall be capable of being monitored easily.

(7) Subsection (6) notwithstanding, the investment firm may:

a) take action under its recovery plan where the relevant indicator has not been met, but where the management body in its managerial function considers it to be appropriate in the circumstances;

b) refrain from taking action under its recovery plan where the management body in its managerial function does not consider it to be appropriate in the circumstances of the situation, with the proviso that the decision shall be notified to the Authority within two working days.

(8) Investment firms subject to supervision on a consolidated basis shall draw up a group recovery plan covering all group entities to whom supervision on a consolidated basis applies.

(9) The investment firm shall submit the group recovery plan to the Authority after it is approved by its management body in its managerial function.

(10) In addition to the group entities' recovery plans, the group recovery plan shall identify measures that may be required to be implemented to prevent the insolvency of the group.

(11) For the purposes of Subsection (3), critical functions shall cover activities, services or operations the discontinuance of which is likely in Hungary or in one or more EEA Member States, to lead to the disruption of the economy or the financial markets due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of an investment firm or group, with particular regard to the limited substitutability of those activities, services or operations.

Trading Book

Sections 103-104[245]

Basic Prudential Requirements Relating to Investment Firms[246]

Section 105[247]

(1) Investment firms, in compliance with prudential requirements, shall manage the funds placed in their custody as well as its own resources so as to maintain liquidity and solvency at all times.

(2) Investment firms - for the purpose of maintaining solvency and the ability to fulfill liabilities - shall have sufficient own funds at all times to cover the risks of its activities, covering at least:

a) the minimum capital requirement defined in Article 92 of Regulation 575/2013/EU;

b) the extra capital requirement prescribed in the framework of a supervisory review; and

c) the combined buffer requirement under Sections 110/A-110/F;

[245] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[246] Established by Section 92 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[247] Established by Section 93 of Act CCXXXVI of 2013, effective as of 1 January 2014.

with the proviso that it may not be less than the minimum amount of subscribed capital prescribed as a prerequisite for authorization.

(3) Investment firms shall maintain liquidity at all times.

(4) The investment firm shall provide for its obligations described in Subsection (3) by close approximation of the dates of maturity and the sums of its receivables and payables, and through compliance with regulations relating to the system of governance and the assessment of risks, having regard to the nature, scale and risks of the activities it performs.

(5) Any investment firm that is not licensed to carry out the activities provided for in Paragraphs *c)* and *f)* of Subsection (1) of Section 5 is not required to meet the own funds requirement specified in Paragraph *c)* of Subsection (2).

Section 105/A.[248]

Section 106

(1)[249] Investment firms shall have in place sound, effective and complete strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed in connection with the performance of investment service activities or the provision of ancillary services.

(2) The strategies and processes referred to in Subsection (1) shall be subject to regular internal review, at least once a year, to ensure that they remain comprehensive and proportionate to the nature, scale and complexity of the activities of the investment firm concerned.

(3)[250] Parent investment firms established in EEA Member States, parent financial holding companies established in EEA Member States, EU parent investment firms, EU parent financial holding companies and EU parent mixed financial holding companies shall comply with the conditions set out under Subsections (1) and (2) of this Section also on a consolidated basis together with the companies referred to in Regulation 575/2013/EU.

(4)[251] If an investment firm is under controlling influence or if a company holds any participating interest in such investment firm and this investment firm maintains controlling influence or holds any participating interest in a credit institution, financial institution, investment firm, investment fund manager or ancillary services company that is established in a third country, this investment firm shall comply with the conditions set out under Subsections (1) and (2) of this Section on a consolidated basis as well together with the companies referred to in Regulation 575/2013/EU.

(5)[252] The requirements set out in Subsections (1)-(2) are to be met on a sub-consolidated basis, if the parent investment firm established in an EEA Member State, the EU financial holding company, or the EU mixed financial holding company:

a) has a subsidiary in a third country that is

aa) a credit institution,

ab) an investment firm,

ac) a financial enterprise, or

---

[248] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[249] Established by Subsection (1) of Section 94 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[250] Established by Subsection (2) of Section 94 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[251] Established by Subsection (2) of Section 94 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[252] Enacted by Subsection (3) of Section 94 of Act CCXXXVI of 2013, effective as of 1 January 2014.

ad) an asset management company; or

b) holds a participation in any such institution established in a third country, provided for in Subparagraphs *aa)-ad)* of Paragraph *a)* hereof.

Section 107[253]

Front Running by Executive Employees and Other Relevant Persons

Section 108

(1) An employee of an investment firm may not conduct any transaction in his own name or on his own behalf, or in the name and on behalf of any person with whom he shares the same household, any close relative or any other relevant person - in due consideration of what is contained in Subsections (5) and (6) - where:[254]

a) the transaction involves insider dealing or market manipulation;

b)[255] the transaction involves the misuse or improper disclosure of business secrets, securities secrets, insurance secrets, bank secrets, payment secrets, fund secrets or other similar information treated as proprietary under data protection regulations, or

c) the transaction is not consistent with the investment firm's obligations conferred under this Act.

(2)[256] For the purposes of Subsection (1), 'other relevant person' shall mean a person whose relationship with the employee of the investment firm or with the persons referred to in Subsection (5) is such that either one of them has a direct or indirect material interest in the outcome of the trade.

(3) The employee of an investment firm shall be prohibited from providing investment advice and from procuring, other than in the proper course of his employment or contract for services, any client or third party to enter into a transaction in financial instruments which, if conducted in his own name or on his own behalf, would be prohibited according to Subsection (1).

(4)[257] The employee of an investment firm shall be prohibited from entering into a transaction, outside the normal course of his employment, which, if conducted in his own name or on his own behalf, would be prohibited according to Subsection (1).

(5)[258] The employee of an investment firm shall be prohibited from disclosing, other than in the normal course of his employment or contract for services, any information to a client or third party - irrespective of whether or not it constitutes any infringement of the regulations on insider dealing - that as a result of that disclosure that client or third party will or would be likely to take either of the following steps:

a) to enter into a transaction in financial instruments which would be prohibited according to Subsection (1); or

b) to advise or procure another person to enter into such a transaction as referred to in Paragraph *a)*;

if the employee of the investment firm knows, or reasonably ought to know of this circumstance.

---

[253] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[254] Established: by paragraph (1) Section 150 of Act CIII of 2008. In force: as of 01. 01. 2009.
[255] Established by Section 95 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[256] Established: by paragraph (2) Section 150 of Act CIII of 2008. In force: as of 01. 01. 2009.
[257] Established: by Section 133 of Act CL of 2009. In force: as of 1. 01. 2010.
[258] Established: by Section 133 of Act CL of 2009. In force: as of 1. 01. 2010.

(6)[259] The arrangements required under Subsections (1)-(5) shall apply to:

a) any outsourcing service provider and its employees engaged under an outsourcing contract with the investment firm according to this Act; and

b) any contractor providing intermediation services under contract with the investment firm, including the management and employees of such contractor.

(7)[260] Subsections (1)-(5) shall not apply to the following kinds of personal transaction:

a) personal transactions effected by an employee of the investment firm or by a person referred to in Subsection (6), if such person is not participating in and not connected to the investment service activities or the provision of ancillary services;

b) personal transactions effected by an employee of the investment firm or by a person referred to in Subsection (6) under a discretionary portfolio management service where there is no prior communication in connection with the transaction between the portfolio manager and the relevant person or other body in whose name or on whose behalf the transaction is executed;

c) personal transactions effected by an employee of the investment firm or by a person referred to in Subsection (6) in securities issued by collective investment trusts, where the aforesaid persons are not vested with decision-making powers in the management of that collective trust relating to the composition of assets and investment decisions.

Section 109[261]

(1) Investment firms shall inform their employees and other personnel engaged under contract of employment or other work-related relationship (hereinafter referred to collectively as "employee"), and the persons mentioned in Subsection (6) of Section 108, at the time of commencement of employment, concerning the provisions on the transactions restricted according to Subsections (1), (3) and (5) of Section 108.

(2) Investment firms shall order their employees and the persons mentioned in Subsection (6) of Section 108 to notify the investment firm without delay of any personal transactions they have carried out, and which are not restricted according to Subsections (1), (3) and (5) of Section 108.

(3) Investment firms shall keep records of the transactions referred to in Subsection (2) of this Section and those covered by the scope of Subsections (1), (3) and (5) of Section 108.

Conflict of Interest

Section 110[262]

(1) For the purposes of identifying the types of conflict of interest whose existence may damage the interests of a client, investment firms are required to take into account the question of whether the investment firm or any executive officer or employee, or a person referred to in Paragraph *a)* and *b)* of Subsection (6) of Section 108, or a person linked to the firm by way of dominant influence is in any of the following situations:

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

---

[259] Established: by Section 133 of Act CL of 2009. In force: as of 1. 01. 2010.
[260] Enacted: by Section 133 of Act CL of 2009. In force: as of 1. 01. 2010.
[261] Established: by Section 134 of Act CL of 2009. In force: as of 1. 01. 2010.
[262] Established: by Section 135 of Act CL of 2009. In force: as of 1. 01. 2010.

b) the 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;

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

d) the firm or that person carries on the same business as the client.

(2) Investment firms are required to establish a policy for the purposes of avoiding, disclosing and managing conflicts of interest whose existence may damage the interests of a client (hereinafter referred to as "conflicts of interest policy"), subject to approval by the management body, or the board of directors, as applicable. Where the investment firm is a member of a group, the policy must also take into account any circumstances which may give rise to a conflict of interest arising as a result of the structure and business activities of other members of the group.

(3) The conflicts of interest policy established in accordance with Subsection (2) shall include the following content:

a) it must identify, with reference to the specific investment services and activities and ancillary services carried out by or on behalf of the investment firm, the circumstances 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; and

b) it must specify procedures to be followed and measures to be adopted in order to manage the conflicts referred to in Paragraph *a)*.

(4) Investment firms are required to ensure that the procedures and measures provided for in Paragraph *b)* of Subsection (3) are designed to ensure that the management and employees, and the persons referred to in Subsections (6) and (7) of Section 108, to whom the situation specified in Subsection (2) of this Section may apply, carry on those activities at a level of independence appropriate to the size and activities of the investment firm, and to the materiality of the risk of damage to the interests of clients.

(5) For the purposes of Subsection (4), the procedures to be followed and measures to be adopted in the investment firm's conflicts of interest policy according to Paragraph *b)* of Subsection (3) shall include such of the following as are necessary and appropriate for the firm to ensure the requisite degree of independence:

a) effective procedures to prevent or control the exchange of information between relevant employees engaged in carrying out investment service activities or in the provision of ancillary services involving a risk of a conflict of interest where the exchange of that information may harm the interests of one or more clients;

b) the separate supervision of relevant employees whose principal functions involve carrying out investment service activities on behalf of, or providing ancillary services to, clients whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the firm where this is the result of activities carried out in the name or on behalf of the client and transactions carried out by the investment firm for their own account;

c) the removal of any direct link or connection between the remuneration of relevant employees principally engaged in investment service activities or ancillary services, where a conflict of interest may arise in relation to those activities;

d) measures to prevent or limit any person with no appointed function in connection with investment service activities or ancillary services from exercising inappropriate influence over the way in which a relevant person carries out investment or ancillary services or activities;

e) measures to prevent or control the simultaneous or sequential involvement of a relevant employee in separate investment or ancillary services or activities where such involvement may impair the proper management of conflicts of interest.

(6)[263] Investment firms are required to keep and regularly to update a record of the kinds of investment or ancillary service or investment activity carried out by the firm in connection with which the circumstances referred to in Paragraph *a)* of Subsection (3) may arise.

Chapter XX/A[264]

CAPITAL BUFFERS[265]

Capital Conservation Buffer[266]

Section 110/A.[267]

(1) Investment firms are required to maintain in addition to the own funds requirement imposed by Article 92 of Regulation 575/2013/EU a capital conservation buffer.

(2) Investment firms are required to maintain a capital conservation buffer calculated on an individual or consolidated basis - as provided for in Part One, Title II of Regulation 575/2013/EU - comprised of Common Equity Tier 1 capital equal to 2.5 per cent of their total risk exposure amount.

(3) The capital conservation buffer shall not be used to meet any extra capital requirement imposed in the framework of a supervisory review.

(4) The Authority may exempt small and medium-sized investment firms from the capital conservation buffer requirement set out in Subsection (1) if such an exemption does not threaten the stability of the financial intermediary system. The Authority shall notify the competent authorities of the EEA Member States concerned about the exemption.

Countercyclical Capital Buffer[268]

Section 110/B.[269]

(1) Investment firms are required to maintain an institution-specific countercyclical capital buffer in addition to the own funds requirement imposed by Article 92 of Regulation 575/2013/EU, and to the capital conservation buffer and the extra capital requirement imposed in the framework of a supervisory review.

(2) Investment firms are required to maintain an institution-specific countercyclical capital buffer calculated on an individual or consolidated basis - as provided for in Part One, Title II of Regulation 575/2013/EU - comprised of Common Equity Tier 1 capital equal to their total risk exposure amount multiplied by the countercyclical capital buffer.

---

[263] Amended: by paragraph (1) Section 66 of Act CLI of 2012. In force: as of 28. 10. 2012.
[264] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[265] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[266] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[267] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[268] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[269] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(3) The countercyclical capital buffer rate shall consist of the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the relevant credit risk exposures of the investment firm are located.

(4) In calculating the weighted average referred to in Subsection (3), the investment firm shall apply to each applicable countercyclical buffer rate its total own funds requirements for credit risk that relates to the material credit exposures in the territory in question, divided by its total own funds requirements for credit risk that relates to all of its relevant credit exposures.

(5) The relevant credit exposures referred to in Subsection (4) shall include all those exposure classes referred to in points *g)-q)* of Article 112 of Regulation 575/2013/EU, that are subject to:

a) own funds requirements for credit risk;

b) where the exposure is held in the trading book, own funds requirements for specific position risk or incremental default and migration risk; or

c) own funds requirements for securitization.

(6) The countercyclical buffer rate may be set by the MNB acting within its macro-prudential function up to 2.5 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation 575/2013/EU for investment firms established in Hungary, having regard to the exposures of such investment firms to counterparties located in Hungary, where such rate shall be:

a) 0 per cent, or

b) 0.25 per cent or multiples of 0.25 percentage points.

(7) By way of derogation from Subsection (6), the MNB acting within its macro-prudential function may set a countercyclical buffer rate in excess of 2.5 per cent of the total risk exposure amount for investment firms, if the loan-to-deposit ratio is significant or the macroeconomic environment is showing negative signs in addition to unfavorable developments in the loan-to-GDP ratio.

(8) The Authority may exempt small and medium-sized investment firms from the institution-specific countercyclical capital buffer requirement set out in Subsection (1) if such an exemption does not threaten the stability of the financial intermediary system. The Authority shall notify the competent authorities of the EEA Member States concerned about the exemption.

Section 110/C.[270]

(1) If the designated authority of the EEA Member State where the investment firm operates has set a countercyclical buffer rate not exceeding 2.5 per cent of the total risk exposure amount, the MNB, acting within its macro-prudential function, may order the investment firm in question to apply - in determining the institution-specific countercyclical capital buffer - the countercyclical capital buffer rate set by the designated authority of the EEA Member State in respect of its exposures to counterparties located in that EEA Member State.

(2) If the designated authority of a third country where the investment firm operates has set a countercyclical buffer rate or an equivalent capital requirement not exceeding 2.5 per cent of the total risk exposure amount, the MNB, acting within its macro-prudential function, may order the investment firm in question to apply - in determining the institution-specific countercyclical capital buffer - the countercyclical capital buffer rate set by the designated authority of the third country in respect of its exposures to counterparties located in that third country.

[270] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(3) If the designated authority of a third country where the investment firm operates has set a countercyclical buffer rate not exceeding 2.5 per cent of the total risk exposure amount, however, the MNB, acting within its macro-prudential function, considers that such rate is not sufficient to protect the investment firm appropriately from the risks of excessive credit growth in that country, the MNB, acting within its macro-prudential function, may set a higher countercyclical capital buffer rate. The MNB, acting within its macro-prudential function, may order the investment firm to apply - in determining the institution-specific countercyclical capital buffer - the higher countercyclical capital buffer rate it has set in respect of its exposures to counterparties located in the third country in question.

(4) If the designated authority of an EEA Member State or a third country where the investment firm operates has set a countercyclical buffer rate in excess of 2.5 per cent of the total risk exposure amount, the MNB, acting within its macro-prudential function, may order the investment firm in question to apply the countercyclical capital buffer:

a) at the rate established by the designated authority of the Member State or the third country where pursuing lending activities, or

b) at the rate of 2.5 per cent,

in determining the institution-specific countercyclical capital buffer in respect of its exposures to counterparties located in that EEA Member State or third country.

(5) If the designated authority of a third country where the investment firm operates has not set a countercyclical buffer rate, the MNB, acting within its macro-prudential function, may set the countercyclical capital buffer rate in respect of the investment firm's exposures to counterparties located in that third country.

Capital Buffers for Global and Other Systemically Important Investment Firms[271]

Section 110/D.[272]

(1) The MNB, acting within its macro-prudential function, shall identify, in accordance with Subsection (1) of Section 35 of the MNB Act, global systemically important institutions which have been authorized in Hungary.

(2) The MNB, acting within its macro-prudential function, shall identify global systemically important investment firms based on the following categories, where each category shall receive an equal weighting and shall consist of quantifiable indicators:

a) size of the group;

b) interconnectedness of the group with the financial intermediary system;

c) substitutability of the services or of the financial infrastructure provided by the group;

d) complexity of the group;

e) cross-border activity of the group, including cross border activity between EEA Member States and between an EEA Member State and a third country.

(3) The MNB, acting within its macro-prudential function, shall determine and annually review the group of other systemically relevant investment firms established in Hungary on an individual, sub-consolidated or consolidated basis, and the Authority shall monitor their operations on an ongoing basis.

---

[271] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[272] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(4) The MNB, acting within its macro-prudential function, shall identify other systemically important investment firms based on the following criteria:

a) size;

b) importance for the economy of the European Union or of Hungary;

c) significance of cross-border activities;

d) interconnectedness of the investment firm or group with the financial intermediary system.

(5) The information pertaining to the identification methodology for global and other systemically important investment firms is confidential.

(6) Before setting or resetting capital buffers under Subsection (1) in respect of other systemically important investment firms, the MNB, acting within its macro-prudential function, shall notify the competent and designated authorities of the Member States concerned one month before the publication of the resolution thereof, describing in detail:

a) the justification for why the capital buffer is considered likely to be effective and proportionate to mitigate the systemic risks of other systemically important investment firms;

b) an assessment of the likely impact of the capital buffer on the internal market;

c) the capital buffer rate for other systemically important investment firms.

(7) Global systemically important investment firms are required to maintain capital buffer for an investment firm that is considered a global systemically important institution on a consolidated basis in addition to the own funds requirement imposed by Article 92 of Regulation 575/2013/EU, and to the capital conservation buffer, institution-specific countercyclical capital buffer and the extra capital requirement imposed in the framework of a supervisory review.

(8) Investment firms shall maintain the capital buffers referred to in Subsection (7) comprised of Common Equity Tier 1 capital, in an amount corresponding to the sub-category to which the global systemically important investment firm is allocated in accordance with Subsection (9).

(9) The MNB, acting within its macro-prudential function, shall allocate global systemically important investment firms in at least five sub-categories. The cut-off scores between adjacent sub-categories shall be defined clearly. The lowest sub-category shall contain the investment firms which are considered the least important systemically important, with the proviso that there is a constant linear increase of systemic significance. The MNB, acting within its macro-prudential function, shall review the sub-categories of investment firms annually.

(10) The investment firms allocated to the lowest sub-category shall maintain a capital buffer of 1 per cent of the total risk exposure amount calculated in accordance with Article 92 of Regulation 575/2013/EU for global systemically important investment firms. The buffer assigned to each sub-category shall increase in gradients of 0.5 per cent up to and including the fourth sub-category, with the proviso that the investment firms allocated to the highest sub-category shall be subject to a buffer of 3.5 per cent.

(11) Without prejudice to the exercise of sound supervisory judgment, the MNB, acting within its macro-prudential function:

a) may re-allocate a global systemically important investment firm from a lower sub-category to a higher sub-category; and

b) may allocate an investment firm that has an overall score that is lower than the cut-off score of the lowest sub-category to that sub-category or to a higher sub-category, thereby designating it as a global systemically important investment firm.

Section 110/E.[273]

(1) Other systemically important investment firms are required to maintain capital buffer - as provided for in the MNB Act - for an other systemically important investment firm on an individual, sub-consolidated or consolidated basis in addition to the own funds requirement imposed by Article 92 of Regulation 575/2013/EU, and to the capital conservation buffer, countercyclical capital buffer and the extra capital requirement imposed in the framework of a supervisory review.

(2) The capital buffer referred to in Subsection (1) shall consist of Common Equity Tier 1 capital, the rate of which shall be determined by the MNB, acting within its macro-prudential function, in accordance with what is contain in Subsection (3).

(3) The capital buffer referred to in Subsection (1) shall be maintained up to 2 per cent of the total risk exposure amount calculated in accordance with Article 92 of Regulation 575/2013/EU, with the proviso that:

a) the capital buffer must not entail disproportionate adverse effects on the whole or parts of the financial intermediary system of other EEA Member States or of the EEA Member States as a whole;

b) the capital buffer rate must be reviewed by the MNB, acting within its macro-prudential function, at least annually.

Section 110/F.[274]

Where an other systemically important investment firm is a subsidiary of either a global systemically important investment firm or an other systemically important investment firm which is subject to a capital buffer requirement relating to other systemically important investment firms on a consolidated basis, the buffer that applies at individual or sub-consolidated level for the other systemically important investment firm shall not exceed the higher of:

a) 1 per cent of the total risk exposure amount calculated in accordance with Article 92 of Regulation 575/2013/EU; and

b) the capital buffer requirement relating to other systemically important investment firms or the capital buffer requirement relating to global systemically important investment firms applicable to the global or other systemically important investment firm at consolidated level.

Systemic Risk Buffer[275]

Section 110/G.[276]

(1) By decision of the MNB acting within its macro-prudential function, investment firms shall maintain systemic risk buffer, subject to the exception set out in Subsection (6), on an individual, consolidated, or sub-consolidated basis, in respect of:

a) exposures to counterparties located in Hungary;

b) exposures to counterparties located in an EEA Member State; or

c) exposures to counterparties located in a third country.

---

[273] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[274] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[275] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[276] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(2) When requiring a systemic risk buffer to be maintained under Subsection (1) of Section 35/A of the MNB Act, the MNB, acting within its macro-prudential function, shall comply with the following:

a) the systemic risk buffer must not entail disproportionate adverse effects on the whole or parts of the financial intermediary system of other EEA Member States or of the EEA Member States as a whole; and

b) the systemic risk buffer must be reviewed by the MNB at least every second year.

(3) Investment firms shall maintain the systemic risk buffer comprised of Common Equity Tier 1 capital in addition to the own funds requirement imposed by Article 92 of Regulation 575/2013/EU, the capital conservation buffer, the institution-specific countercyclical capital buffer and the extra capital requirement imposed in the framework of a supervisory review.

(4) The systemic risk buffer rate shall be set by the MNB, acting within its macro-prudential function, as provided for in Subsection (5).

(5) The systemic risk buffer rate shall be at least 1 per cent, with the proviso that it shall be set in gradual or accelerated steps of adjustment of 0.5 per cent or multiples of 0.5 percentage points.

(6) Investment firms which are subject to supervision on a consolidated basis under Regulation 575/2013/EU may be required by the Authority to maintain a systemic risk buffer on an individual and on a consolidated level.

Common Provisions Relating to Capital Buffers[277]

Section 110/H.[278]

(1) Combined buffer requirement means the total of the capital conservation buffer combined under Subsection (2), (3), (4), (5), (6) or (7) with the following:

a) an institution-specific countercyclical capital buffer requirement;

b) capital buffer requirement relating to global systemically important investment firms;

c) capital buffer requirement relating to other systemically important investment firms; and

d) a systemic risk buffer requirement.

(2) Where an investment firm, on a consolidated basis is subject to capital buffer requirement relating to global systemically important investment firms and to capital buffer requirement relating to other systemically important investment firms alike, the higher of the two shall apply.

(3) Where an investment firm, on a consolidated basis is subject to capital buffer requirement relating to global systemically important investment firms and to capital buffer requirement relating to other systemically important investment firms, and also to a systemic risk buffer, the highest of the three shall apply.

(4) Where an investment firm, on an individual or sub-consolidated basis is subject to capital buffer requirement relating to other systemically important investment firms and to a systemic risk buffer, the higher of the two shall apply.

(5) By way of derogation from Subsections (3) and (4), where the systemic risk buffer does not apply to exposures to counterparties located outside of Hungary, the systemic risk buffer shall be cumulative with the capital buffer requirement relating to global systemically important investment firms or with the capital buffer requirement relating to other systemically important investment firms.

---

[277] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[278] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(6) Where an investment firm is part of a group subject to supervision on a consolidated basis to which a global systemically important investment firm or an other systemically important investment firm belongs, the individual combined buffer requirement of that investment firm may not be lower than:

a) the sum of the capital conservation buffer,

b) the countercyclical capital buffer, and

c) the higher of the capital buffer requirement relating to global systemically important investment firms or the capital buffer requirement relating to other systemically important investment firms applicable to it on an individual basis.

(7) In the case provided for in Subsection (5), where an investment firm is part of a group subject to supervision on a consolidated basis to which a global systemically important investment firm or an other systemically important investment firm belongs, the individual combined buffer requirement of that investment firm may not be lower than the sum total of:

a) the sum of the capital conservation buffer,

b) the countercyclical capital buffer,

c) the capital buffer requirement relating to global systemically important investment firms and the capital buffer requirement relating to other systemically important investment firms, and

d) the systemic risk buffer requirement.

Section 110/I.[279]

(1) Where an investment firm fails to meet the requirements under Section 110/A, 110/B or 110/F, it shall be subject to the restrictions on distributions in connection with Common Equity Tier 1 capital.

(2) The restrictions on distributions shall only apply to payments that result in a reduction of the investment firm's:

a) Common Equity Tier 1 capital, or

b) profits,

and where a suspension of payment or failure to pay does not constitute an event of default or a condition for the commencement of liquidation proceedings applicable to the investment firm.

(3) Where an investment firm fails to meet the combined buffer requirement, the investment firm:

a) shall restrict distributions in connection with Common Equity Tier 1 capital and Additional Tier 1 capital;

b) may not create an obligation to pay variable remuneration or discretionary pension benefits; and

c) may not pay variable remuneration if the obligation to pay was created at a time when the investment firm failed to meet the combined buffer requirements.

(4) For the purposes of Paragraph *a)* of Subsection (3), a distribution in connection with Common Equity Tier 1 capital shall include the following:

a) a payment of cash dividends;

b) a distribution of fully or partly paid bonus shares or other capital instruments;

c) a distribution, redemption or purchase of capital instruments referred to in Article 26(1)*a)* of Regulation 575/2013/EU, or a repayment of amounts paid up in connection with such capital instruments;

---

[279] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

d) a redemption by an institution of its own shares, or purchase of own shares, including capital contributions provided to a cooperative society; and

e) a distribution of items referred to in Points *b)-e)* of Article 26(1) of Regulation 575/2013/EU.

Section 110/J.[280]

(1) Investment firms that fail to meet the combined buffer requirement are required to calculate the maximum distributable amount, in excess of which it shall not be allowed to make any payments insofar as its Common Equity Tier 1 capital reaches the prescribed level of combined buffer requirement.

(2) The maximum distributable amount may be calculated by multiplying the sum of the interim profits and year-end profits determined according to Subsection (3) by the factor determined in accordance with Schedule No. 2, reduced by any of the actions referred to in Subsection (3) of Section 110/H.

(3) In determining the maximum distributable amount the investment firm shall establish the amount consisting of interim profits and year-end profits not included in the Common Equity Tier 1 capital, that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in Subsection (3) of Section 110/H, that equals the sum minus the amounts which would be payable by tax if the profits were to be retained.

Section 110/K.[281]

(1) Where an investment firm fails to meet the combined buffer requirement, it shall inform the Authority of the following:

a) the maximum distributable amount it has calculated;

b) the amount of distributable profits it intends to allocate; and

c) the restriction referred to in Subsection (3) of Section 110/H.

(2) Where an investment firm fails to meet the combined buffer requirement, it shall notify the Authority and provide the following information as provided for in Subsection (1):

a) the amount of own funds, broken down according to Common Equity Tier 1 capital, Additional Tier 1 capital and Tier 2 capital;

b) the amount of its interim and year-end profits;

c) the maximum distributable amount; and

d) the amount of distributable profits it intends to allocate between the following:

da) dividend payments,

db) share buybacks,

dc) payments on Additional Tier 1 instruments, or

dd) the payment of variable remuneration or discretionary pension benefits, whether by creation of a new obligation to pay, or payment pursuant to an obligation to pay created at a time when the investment firm failed to meet its combined buffer requirements.

(3) Investment firms shall maintain reliable arrangements to ensure that the amount of distributable profits and the maximum distributable amount are calculated accurately, and shall be able to demonstrate that accuracy to the Authority on request.

---

[280] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[281] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.

Section 110/L.[282]

(1) Where an investment firm fails to meet its combined buffer requirement, it shall prepare a capital conservation plan and submit it to the Authority for approval no later than five working days after it identified that it was failing to meet that requirement.

(2) By way of derogation from Subsection (1), the Authority may authorize a longer delay up to ten working days for the completion and submission of the capital conservation plan on the basis of the individual situation of the investment firm and taking into account the scale and complexity of the investment firm's activities.

(3) The investment firm's capital conservation plan shall include the following:

a) estimates of income and expenditure;

b) a forecast balance sheet;

c) measures to increase the capital ratios provided for in Article 92 of Regulation 575/2013/EU;

d) a plan for the increase of own funds; and

e) a timeframe for meeting fully the combined buffer requirement;

and any other information that the Authority requested.

(4) The Authority shall approve the investment firm's capital conservation plan if it considers that the plan, if implemented, would be reasonably likely to enable the investment firm to meet its combined buffer requirements within the time limit prescribed by the Authority.

(5) If the Authority does not approve the capital conservation plan, it shall:

a) require the investment firm to increase its own funds to specified levels within specified periods;

b) impose more stringent restrictions on distributions than those required by Section 110/I.

Chapter XX/B[283]

INTRA-GROUP FINANCIAL SUPPORT[284]

Group Financial Support Agreement[285]

Section 110/M.[286]

(1) Investment firms subject to supervision on a consolidated basis and all other entities covered by supervision on a consolidated basis may enter - in accordance with this Chapter - into a group financial support agreement under which a party to the agreement is to provide financial support to any other party to the agreement affected by the measures, exceptional measures to be taken by the Authority - including the measures, exceptional measures taken by the competent supervisory authority of any other EEA Member State - upon the occurrence of events invoking such measures, exceptional measures.

(2) The provisions of this Chapter shall not apply:

a) to intra-group financing agreements, and

---

[282] Enacted by Section 96 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[283] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[284] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[285] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[286] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

b) to financial support provided on a case-by-case basis if it does not represent a risk for the whole group.

(3) The group financial support agreement may cover one or more subsidiaries of the group which are covered by supervision on a consolidated basis, and may provide:

a) for financial support from the parent company to subsidiaries,

b) for financial support from subsidiaries to the parent company,

c) for financial support between subsidiaries of the group.

(4) Financial support may be provided under a group financial support agreement in the form of a loan, the provision of guarantees or the provision of assets for use as collateral.

(5) Where, in accordance with the terms of the group financial support agreement, a group entity is permitted to provide financial support to another group entity, the agreement may include a reciprocal agreement by the group entity receiving the support to provide financial support to the group entity providing the support.

(6) The group financial support agreement shall specify the principles for the calculation of the consideration, for any transaction made under it, with the proviso that the consideration shall be set at the time of the provision of financial support.

(7) The group financial support agreement shall comply with the following principles:

a) each party to the group must be acting freely in entering into the agreement;

b) in entering into the agreement and in determining the consideration for the provision of financial support, each party to the group must be acting in its own best interests which may take account of any direct or any indirect benefit that may accrue to a party as a result of provision of the financial support;

c) each party providing financial support must have full disclosure of relevant information from any party receiving financial support prior to determination of the consideration for the provision of financial support and prior to any decision to provide financial support;

d) the consideration for the provision of support may take account of information in the possession of the party providing financial support based on it being in the same group as the party receiving support and which is not available to the market; and

e) the principles for the calculation of the consideration for the provision of support are not obliged to take account of any anticipated temporary impact on market prices arising from events external to the group.

(8) The group financial support agreement may only be concluded if, at the time the proposed agreement is made, none of the parties meets the conditions where the respective competent supervisory authorities are to take measures, exceptional measures.

Section 110/N.[287]

(1) The proposed group financial support agreement shall be submitted to the competent supervisory authorities for the purpose of authorization within the framework of multi-party proceedings provided for in Section 173/A.

(2) Following the decision referred to in Subsection (1) the proposed group financial support agreement shall be submitted for approval to the owners of every group entity that proposes to enter into the agreement, with the proviso that the agreement shall be valid only in respect of those parties whose owners have approved the agreement, and owner authorization has not been revoked.

[287] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

(3) The management body in its managerial function of each entity that is a party to the agreement shall report each year to the owners on the performance of the agreement, and on the implementation of any decision taken pursuant to the agreement.

Conditions for the Provision of Group Financial Support[288]

Section 110/O.[289]

Financial support by a group entity under a group financial support agreement may only be provided if all the following conditions are met:

a) there is a reasonable prospect that the support provided significantly redresses the financial difficulties of the group entity receiving the support;

b) the provision of support has the objective of preserving or restoring the financial stability of the group as a whole or any of the entities of the group and is in the interests of the group entity providing the support;

c) there is a reasonable prospect, on the basis of the information available to the management body in its managerial function of the group entity providing support at the time when the decision to grant support is taken, that the consideration for the support will be paid;

d) the provision of the support would not jeopardize the liquidity or solvency of the group entity providing the support, or the financial stability of the EEA Member State of the group entity providing support;

e) the group entity providing the support complies, at the time when the support is provided, with regulations relating to prudential requirements, including the requirements relating to large exposures; and

f) the provision of the support would not undermine the resolvability of the group entity providing the support.

Section 110/P.[290]

(1) The decision to provide group financial support in accordance with the agreement shall be approved by the management body in its managerial function of the group entities receiving support.

(2) That approval shall indicate the objective of the proposed financial support, and shall specify that the provision of the support complies with the conditions laid down in Section 110/O.

Section 110/Q.[291]

(1) The provision of support shall be authorized by the competent supervisory authority.

(2) If support is to be provided by a group entity established in Hungary, authorization shall be granted by the Authority, where the entity requesting authorization shall notify the competent supervisory authority of the group entity receiving the financial support, and the EBA. The

[288] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[289] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[290] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[291] Enacted by Subsection (5) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

application and the notification shall include the requirements set out in Subsection (2) of Section 110/P.

(3) The Authority shall decide on the application within five working days.

(4) The decision of the Authority shall be notified to the competent supervisory authority of the group entity receiving the support, and the EBA.

Chapter XXI

MISCELLANEOUS AND SPECIAL PROVISIONS RELATING TO THE ACTIVITIES OF INVESTMENT FIRMS AND COMMODITY DEALERS

Provisions Relating to Intermediaries and the Activities of Intermediaries

Section 111

(1) Investment firms and commodity dealers may carry out investment service activities or provide commodity exchange services through intermediaries.

(2) The following may function as the intermediaries referred to in Subsection (1):

a) tied agents; and

b) investment firms.

(3) Investment firms and commodity dealers shall bear full responsibility for the activities of their intermediaries, and for compliance with the provisions of this Act.

Section 112

(1) An investment firm may enter into an agreement in accordance with Subsection (1) of Section 111:

a)[292] with a tied agent who has a registered office, permanent or temporary residence in the territory of Hungary, and who is listed in the Authority's register described in Subsection (2) of Section 159; or

b) with a tied agent who has a registered office, permanent or temporary residence in another EEA Member State, who is authorized by the competent supervisory authority of the country where established for the activities in question, or who is registered by the Authority under Subsection (3) of Section 159.

(2) Commodity dealers may conclude the agreement referred to in Subsection (1) of Section 111 with a tied agent covered by Paragraph a) of Subsection (1) of this Section.

Section 113

(1) Investment firms and commodity dealers shall notify the Authority upon entering into an agreement for the mediation of investment service activities, ancillary services, or commodity exchange services - if it involves a tied agent - within five working days following the signature of the agreement.

(2) The notification mentioned in Subsection (1) shall contain:

---

[292] Amended: by subparagraph b) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

a) the tied agent's name and address; and

b) a description of the investment service activities, ancillary services, or commodity exchange services to which the intermediary agreement pertains.

Section 114

(1) Subject to the exception set out in Subsection (2), activities for the intermediation of investment service activities, ancillary services, or commodity exchange services may be carried out by a tied agent, acting as such, who is listed in the Authority's register described in Subsection (2) of Section 159 and who is able to meet the conditions set out in Sections 111-116.

(2)[293] Intermediaries established in other EEA Member States may engage in operations in the territory of Hungary in the form of cross-border services, or may set up a branch if authorized by the competent supervisory authority of the country where established for the activities in question, or if registered by the Authority under Subsection (3) of Section 159.

(3) The Authority shall register - upon request - any tied agent who is able to meet the conditions laid down in this Act and in specific other legislation adopted by authorization of this Act.

(4) Persons applying for registration are required to enclose the following with their applications:

a)[294] personal identification data;

b) a description of the investment service activities, ancillary services or commodity exchange services to which the proposed intermediary activity pertains;

c) a statement declaring his intention to function as a tied agent; and

d) documents to support the requirements set out in Section 116.

(5) The Authority shall refuse the application for registration defined in Subsection (3) if the applicant:

a) fails to comply with the requirements set out in this Act or in specific other legislation adopted by authorization of this Act;

b) fails to provide sufficient and reliable proof of compliance with the requirements mentioned in Paragraph a); or

c) has provided any information that is misleading or false.

(6) The Authority shall remove a tied agent from the register if:

a) the tied agent no longer satisfies the conditions prescribed for registration;

b) the tied agent violates any relevant statutory provision repeatedly or seriously; or

c) the tied agent was registered by way of misleading the Authority.

Section 115

(1) The tied agent mentioned under Paragraph a) of Subsection (2) of Section 111 may engage at any given time with only one investment firm or commodity dealer for the intermediation of investment service activities, ancillary services, or commodity exchange services.

(2) The restriction prescribed in Subsection (1) relating to tied agents:

---

[293] Amended: by subparagraphs c) and f) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[294] Established: by Section 136 of Act CL of 2009. In force: as of 26. 12. 2009.

a) shall not apply in connection with any agency or intermediary activities governed under specific other legislation, if that other legislation fails to provide otherwise; and

b) shall not apply in the case where the tied agent:

ba) is not involved in handling client financial instruments and client funds;

bb) is involved solely in carrying out investment service activities specified under Paragraphs a) and e) of Subsection (1) of Section 5 relating to collective investment instruments issued by collective investment trusts; and

bc) is involved in mediating services under Paragraph a) of Subsection (1) of Section 5 solely to investment firms, non-resident investment firms, credit institutions, non-resident credit institutions or to collective investment trusts whose securities had been admitted to trading in a regulated market.

(3) Intermediary services to several investment firms or commodity dealers relating to investment service activities, ancillary services, or commodity exchange services may be provided under contract only by investment firms.

(4)[295] A tied agent may employ another intermediary for the intermediation of investment service activities, ancillary services, or commodity exchange services, however, an intermediary employed by a tied agent may not employ any other intermediaries. Investment firms and commodity dealers shall bear full responsibility for the activities of their tied agents and for the intermediaries employed by such tied agents, for compliance with the provisions of this Act, and also for damages resulting from investment service activities, ancillary services, or commodity exchange services.

(5) A tied agent may hire an operator relating to the mediation of investment service activities, ancillary services, or commodity exchange services only if the activities of such an operator are not in themselves construed as being activities for the mediation of investment service activities, ancillary services, or commodity exchange services.

(6) The intermediaries referred to in Subsection (2) of Section 111 shall inform the investment firm or commodity dealer acting as their prospective employer in accordance with Subsection (1) of Section 111 prior to signature of the relevant contract as to:

a) whether they propose to carry out intermediation activities as a tied agent or an investment firm, acting as such; and

b) the investment firm or commodity dealer in whose name they are acting.

Section 116

(1) Natural persons acting as tied agents must satisfy the following requirements:

a)[296] they shall produce an official certificate for the purpose of verification of having no prior criminal record with respect to the criminal offenses specified in Subsection (5) of Section 22;

b)[297] shall not be restrained by final court order from exercising their profession;

c) they shall not have been found guilty of any misconduct or infringement of any legal regulation pertaining to investment service activities or ancillary services, or commodity exchange services, or statutory internal policies by the Authority or any competent supervisory authority of other EEA Member States during the past three years.

---

[295] Established: by Section 151 of Act CLIX of 2010. In force: as of 1. 01. 2011.

[296] Established: by paragraph (12) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph d) paragraph (17) Section 62 of Act CLXXXI of 2012. In force: as of 1. 01. 2013.

[297] Established: by Section 137 of Act CL of 2009. In force: as of 1. 01. 2010.

(2)[298] A tied agent incorporated as a business association may be contracted for investment service activities, ancillary services, or commodity exchange services if he was not found guilty of any misconduct or infringement of any regulation pertaining to investment service activities or ancillary services, or commodity exchange services, or for any infringement of statutory internal policies by the Authority or any competent supervisory authority of other EEA Member States during the past three years.

Confidentiality Requirements

Section 117

(1) Investment firms and commodity dealers, and:
a) any person holding an interest;
b) any person bidding to acquire an interest;
c) executive officers; and
d) employees;
of an investment firm or commodity dealer, and any other person affected shall keep any business secrets made known to them confidential without any limitation in time, with the exceptions set out in Subsections (2) and (3).
(2)[299] The obligation of confidentiality described in Subsection (1) hereof shall not apply in respect of:
a) the supervisory authority;
b) the Befektető-védelmi Alap (*Investor Protection Fund*);
c) the MNB;
d) the Állami Számvevőszék (*State Audit Office*);
e) the state tax authority;
f) the Gazdasági Versenyhivatal (*Hungarian Competition Authority*);
g) the Government oversight agency which controls the legality and rationality of the use of central budget funds;
h) the national security service;
i) the internal affairs division that investigates professional misconduct and criminal acts and the anti-terrorist organization defined by the Act on the Police;
j) the national financial intelligence unit.
(3) The obligation of confidentiality described in Subsection (1) shall not apply concerning the grounds for procedure, in respect of:
a) investigating authorities acting within the scope of criminal procedures in progress and when investigating charges, and the public prosecutor acting in an official capacity;
b)[300] the courts acting in criminal cases and civil cases connected with estate, or in bankruptcy, liquidation and involuntary de-registration proceedings as well as in proceedings of local governments of communities for settlement of debts;
c) the European Anti-Fraud Office (OLAF) monitoring the protection of the Community's financial interests;
d)[301]

[298] Established by Subsection (5) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.
[299] Established: by Section 108 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[300] Amended by Paragraph c) of Subsection (3) of Section 278 of Act XVI of 2014.

(4)[302] Compliance with the reporting obligation to the trade repository defined in Section 205 of the CMA, registered or recognized within the meaning of Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories shall not constitute a breach of confidentiality concerning business secrets.

(5) Any information that is declared by specific other legislation to be information of public interest or public information and as such is rendered subject to disclosure may not be withheld on the grounds of being treated as a business secret.

(6) Any document retrieved from the files of an investment firm or a commodity dealer that has been terminated without a successor, which document contains any business secrets, may be used for archive research projects after sixty years from the date when they were created.

(7)[303] By virtue of the obligation of secrecy, no facts, information, know-how or data within the sphere of business secrets may be disclosed to third parties beyond the scope defined in this Act without the consent of the investment firm concerned, or used beyond the scope of official responsibilities.

(8)[304] The confidentiality requirement pertaining to business secrets shall not be considered violated, where such secrets are disclosed for the purpose of compliance with the provisions of the Banking Act and this Act on consolidated supervision, or with the provisions of the Act on the Supplementary Supervision of Financial Conglomerates.

(8)[305] The disclosure made by the MNB, acting within its resolution function, to the independent valuer provided for in the Act on the Development of the Institutional Framework Intended to Enhance the Security of Members of the Financial Intermediary System, or to the person participating in provisional valuation, for the purposes of valuation, the disclosure of data and information to potential bidders in order to perform the sale of business, and the disclosure of data and information to a purchaser that is not a bridge institution in order to perform the sale of business, shall not be construed as violation of business secrets.

Section 118

(1) Investment firms and commodity dealers, and the executive officers and employees of investment firms and commodity dealers, and any other person affected shall keep confidential any securities secrets made known to them in any way without any limitation in time.

(2) Investment firms and commodity dealers may disclose securities secrets to third parties, upon notifying the client affected, only if:

a)[306] so requested by the client to whom it pertains, or his lawful representative in an authentic instrument or in a private document representing conclusive evidence expressly indicating the particular data, which are considered securities secrets, to be disclosed; it is not necessary to make the request in an authentic instrument or in a private document representing conclusive evidence if the client provides a statement to that effect as an integral part of the contract with the investment firm or commodity dealer;

---

[301] Repealed: by subparagraph e) paragraph (5) Section 84 of Act CXLVIII of 2009. No longer in force: as of 1. 01. 2010.
[302] Established: by Section 90 of Act XCVIII of 2013. In force: as of 29. 06. 2013.
[303] Enacted by Section 97 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[304] Enacted by Section 97 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[305] Enacted by Subsection (6) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[306] Established by Subsection (1) of Section 98 of Act CCXXXVI of 2013, effective as of 1 January 2014.

b) the regulations contained in Subsections (3)-(4) and (7) provide an exemption from the requirement of confidentiality concerning securities secrets; or

c) deemed necessary in light of the interests of the investment service provider or commodity dealer for selling its receivables due from the client or for the enforcement of its outstanding receivables.

(3) The confidentiality requirement under Subsection (1) shall not apply to:

a)[307] the Befektető-védelmi Alap (*Investor Protection Fund*), the Országos Betétbiztosítási Alap (*National Deposit Insurance Fund*), the MNB, the Állami Számvevőszék (*State Audit Office*) and the Gazdasági Versenyhivatal (*Hungarian Competition Authority*) when acting within the scope of their powers and duties;

b)[308] operators on the regulated markets, operators of multilateral trading facilities, bodies providing clearing or settlement services, the central depository, the Government oversight agency exercising its supervisory competence specified in Subsection (1) of Section 63 of the PFA, and the European Anti-Fraud Office (OLAF) monitoring the protection of the Community's financial interests, when the above are acting within the scope of their duties conferred by law;

c) notaries public in connection with probate proceedings, and the guardian authority acting in an official capacity;

d) bankruptcy trustees, liquidators, financial trustees, bailiffs and receivers, in connection with bankruptcy proceedings, liquidation proceedings, judicial enforcement procedures, local government debt consolidation procedures, and in connection with a voluntary dissolution proceeding;

e) investigating authorities acting within the scope of criminal procedures in progress and when investigating charges, and the public prosecutor acting in an official capacity;

f) the court acting in criminal or civil cases, bankruptcy and liquidation proceedings and in the framework of local government debt consolidation procedures;

g) the agencies authorized to use secret service means and to conduct covert investigations if the conditions prescribed in specific other legislation are provided for;

h) the national security service acting within the scope of duties conferred upon it by law, based upon the special permission of the director-general;

i) tax authorities and the customs authorities in the framework of their procedures to monitor compliance with tax, customs and social security payment obligations, and for the implementation of an enforcement order issued for such debts;

j)[309] the Commissioner for Fundamental Rights when acting in an official capacity;

k)[310] the Nemzeti Adatvédelmi és Információszabadság Hatóság (*National Authority for Data Protection and Freedom of Information*) acting in an official capacity;

when these bodies make written requests to the investment firm or commodity dealer concerned.

(4) Furthermore, the confidentiality requirement under Subsection (1) shall not apply:

a) where the state tax authority makes a written request for information from an investment firm or commodity dealer on the strength of a written request made by a foreign tax authority pursuant to an international agreement, provided that the request contains a confidentiality clause signed by the foreign authority;

---

[307] Established: by Section 109 of Act CXLIII of 2013. In force: as of 1. 10. 2013.

[308] Established: by paragraph (1) Section 8 of Act XIII of 2011. In force: as of 12. 03. 2011. Amended: by paragraph (3) Section 113 of Act CXCV of 2011. In force: as of 1. 01. 2012.

[309] Established: by Section 7 of Act CLXXXVI of 2012. In force: as of 1. 12. 2012. Amended: by paragraph (8) Section 23 of Act CLXXXIII of 2013. In force: as of 19. 11. 2013.

[310] Established: by paragraph (4) Section 80 of Act CXII of 2011. In force: as of 1. 01. 2012.

b) where the Authority requests or supplies information in accordance with a cooperation agreement with a foreign supervisory authority, provided that the cooperation agreement or the foreign supervisory authority's request contains a signed confidentiality clause;

c) where the Hungarian law enforcement agency makes a written request for information from an investment firm or commodity dealer in order to fulfill the written requests made by a foreign law enforcement agency, provided that the request contains a confidentiality clause signed by that foreign law enforcement agency;

d) with respect to data supplied by the Investor Protection Fund to foreign investor protection schemes and foreign supervisory authorities in the manner specified in cooperation agreements if they guarantee equivalent or better legal protection for the processing and use of such data than the protection afforded under Hungarian law;

e) in respect of information provided by an investment firm or commodity dealer under Subsection (8) of Section 52 of the RTA;

f)[311] when the national financial intelligence unit makes a written request for information from an investment firm or a commodity dealer acting within its powers conferred under the Act on the Prevention and Combating of Money Laundering and Terrorist Financing or in order to fulfill the written requests made by a foreign financial intelligence unit;

g)[312] in respect of disclosures made by providers of investment services and ancillary services and commodity dealers to the tax authority in compliance with the obligation prescribed in Sections 43/B-43/C of Act XXXVII of 2013 on International Administrative Cooperation in Matters of Taxation and Other Compulsory Payments (hereinafter referred to as "IACA") in accordance with Act XIX of 2014 on the Promulgation of the Agreement between the Government of Hungary and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, and on the Amendment of Certain Related Acts (hereinafter referred to as "FATCA Act").

(5) The written request referred to in Subsection (4) shall indicate:

a) the client or group of clients, or the account about whom or which the agencies or authorities specified in Subsection (4) are requesting the disclosure of securities secrets;

b)[313] the type of requested data and the purpose of the request, unless the MNB conducts an on-site inspection.

(5a)[314] The information specified in Subsection (5) need not be indicated in the written request if the Gazdasági Versenyhivatal carries out a site inspection or a site search without prior notice. In these cases the Gazdasági Versenyhivatal shall communicate its request on site.

(6) The bodies and authorities authorized to receive information according to Subsections (3) and (4) shall use such information solely for the purpose indicated in the document requesting the information.

(7) [315] Furthermore, the obligation of confidentiality under Subsection (1) shall not apply where an investment firm or commodity dealer complies with the obligation of notification prescribed in the Act on the Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests.

---

[311] Enacted: by paragraph (2) Section 32 of Act LII of 2013. In force: as of 1. 07. 2013.
[312] Enacted by Section 13 of Act XIX of 2014, effective as of 16 July 2014.
[313] Established: by Section 110 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[314] Enacted: by Section 96 of Act CCI of 2013. In force: as of 1. 07. 2014.
[315] Established by Section 19 of Act CLXXX of 2007, effective as of 1 February 2008. See also Subsection (3) of Section 21 of this Act.

(8) [316]

(9) Investment firms and commodity dealers may not refuse to disclose securities secrets, relying on their obligation conferred in Subsection (1), in the cases set out in Subsections (2)-(4) and (7) of this Section and in Subsection (1) of Section 119.

(10) Any document retrieved from the files of an investment firm or a commodity dealer that has been terminated without a successor, which document contains any securities secrets, may be used for archive research projects after sixty years from the date when they were created.

(11)[317] All facts, information, solutions or data classified as securities secrets may not be disclosed to any third person, other those authorized under this Act, without the consent of the investment firm and/or the client to whom it pertains, and may not be used for any purposes other than those authorized under this Act.

Section 119

(1) Investment firms and commodity dealers shall satisfy the written requests of investigating authorities, the national security service and the public prosecutor's office without delay concerning any client account and the transactions on such account if it is alleged that the account or the transaction is associated with:

a) illegal possession of narcotic drugs;

b) an act of terrorism;

c) illegal possession of explosives and destructive devices;

d) illegal possession of firearms or ammunition;

e) money laundering;

f) any felony offense committed in criminal conspiracy or in a criminal organization;

g) insider dealing;

h) market manipulation.

(2) When data is disclosed under Paragraphs e), g) and h) of Subsection (3) of Section 118 and under Subsection (1) of this Section, the client affected may not be notified.

Section 120

The following shall not constitute a breach of confidentiality concerning securities secrets:

a) the disclosure of data compilations from which the clients' personal or business data cannot be determined;

b) the disclosure of data pertaining to the name of the account holder or the number of his account;

c) the disclosure of data by a reference data provider to the KHR, and the disclosure of data in compliance with the regulations of this system to a reference data provider from the system;

d) the disclosure of data to an auditor authorized by an investment firm or commodity dealer, a legal or other expert as well as to an insurance institution providing insurance coverage for the above-specified bodies to the degree necessary for the purposes of the insurance contract;

e)[318] the disclosure of data by an investment firm or commodity dealer to a non-resident investment firm or non-resident commodity dealer if:

---

[316] Repealed by Subsection (4) of Section 21 of Act CLXXX of 2007, effective as of 1 February 2008.

[317] Enacted by Subsection (2) of Section 98 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[318] Established: by Section 153 of Act CIII of 2008. In force: as of 01. 01. 2009.

ea) the client has consented in writing,

eb) the non-resident investment firm or non-resident commodity dealer is able to satisfy the conditions of data management required by Hungarian law regarding each data item,

ec) the country where the registered office of the non-resident investment firm or non-resident commodity dealer is located has legal regulations on data protection which satisfies the requirements of Hungarian legal regulations;

f)[319] the disclosure of data upon the written consent of the management body of an investment firm or commodity dealer to a shareholder with a qualifying interest in the investment firm or commodity dealer, or to a person or body bidding to acquire a qualifying interest in the investment firm or commodity dealer, to a company set to take over the existing accounts under an agreement for the transfer of accounts, as well as to auditors and legal or other experts authorized by such an owner or such potential owners;

g) upon request of court, presenting the specimen signature of the persons authorized to dispose of the account of a party in a lawsuit;

h) data disclosed by the Authority in compliance with the requirement of confidentiality concerning securities secrets suitable for the identification of investment firms or commodity dealers:

ha) to the Central Statistical Office for statistical purposes; and

hb) to the ministry for the purpose of analysis and for planning the central budget;

i) the disclosure of data that is necessary for carrying out activities that have been outsourced to the body carrying out the outsourced activity;

j) the publication of the disposition of an Authority decision in a matter of insider dealing or market manipulation from the standpoint of the person who has committed these offenses;

k) the disclosure of information made in accordance with Section 205 of the CMA;

l) [320] the disclosure of information under Subsection (2) of Section 22 of the MLT; and

m) disclosure of the information referred to in Article 4 of Regulation (EC) No. 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds to the payment service provider of the payee governed under the regulation and to the intermediary payment service provider in the cases specified in the regulation.

n)[321] disclosure of information by the Authority in an emergency situation as referred to in Subsection (8) of Section 161/D to the central banks of other EEA Member States or to the European Central Bank when this information is relevant for the exercise of their statutory tasks;

o)[322] the disclosure of data to the central depository for the purposes of the identification procedure;

p)[323] the disclosure of data by the central depository to the issuer for the purposes of the identification procedure;

q)[324] the disclosure of data by the MNB - with a view to discharging its basic tasks - from the central bank information system, in a form enabling individual identification, to the European System of Central Banks and its members, upon request, to the extent arising from the Treaty on

---

[319] Established: by Section 153 of Act CIII of 2008. In force: as of 01. 01. 2009.

[320] Established by Subsection (1) of Section 220 of this Act, effective as of 15 December 2007.

[321] Enacted by Section 152 of Act CLIX of 2010. Amended by Paragraph c) of Section 111 of Act CCXXXVI of 2013.

[322] Enacted: by Section 152 of Act CLIX of 2010. In force: as of 1. 01. 2011.

[323] Enacted: by Section 152 of Act CLIX of 2010. In force: as of 1. 01. 2011.

[324] Enacted: by Section 64 of Act CLI of 2012. In force: as of 28. 10. 2012.

the Functioning of the European Union and required in connection with fulfilling their central banking duties;

r)[325] the disclosure of data by investment firms, commodity dealers and operators of multilateral trading facilities within the framework of investment service activities, ancillary services, commodity exchange services and the operation of multilateral trading facilities, with a view to implementing transaction orders related to a securities account or client account, to an investment firm, commodity dealer, operator of multilateral trading facilities, central depository, central counterparty, venture-capital fund management company, stock exchange, body providing clearing or settlement services participating in the processing, clearing and/or settlement of such transactions, and to credit institutions and investment fund management companies engaged in the pursuit of providing investment services and ancillary services;

s)[326] disclosure of information to a registered or recognized trade repository within the meaning of Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;

t)[327] the disclosure made by the MNB, acting within its resolution function, to the independent and provisional valuer provided for in the Act on the Development of the Institutional Framework Intended to Enhance the Security of Members of the Financial Intermediary System, or to the person participating in valuation, for the purposes of valuation, the disclosure of data and information to potential bidders in order to perform the sale of business, and to a purchaser that is not a bridge institution in order to perform the sale of business.

Complaints Handling

Section 121[328]

(1) The service provider shall provide facilities for clients to submit any complaint they may have relating to the service provider's conduct, activity or any alleged infringement orally (in person, by telephone) or in writing (delivered in person or by others, by post, fax transmission, or by electronic mail).

(2) The service provider shall receive:

a) oral complaints in all premises open to the clients, during regular business hours, or failing this at the service provider's main offices workdays between 8:00 hours and 16:00 hours;

b) oral complaints made by telephone on at least one workday of the week between 8:00 hours and 20:00 hours;

c) electronically, with alternate facilities made available on demand, in the event of any malfunction.

(3) Where complaints are handled by telephone, the service provider shall have in place means to receive calls and to deal with the complaint within a reasonable period of time.

(4) Where complaints are handled by telephone, the service provider shall record the conversation between the service provider and the client, and shall retain this recording for a period of one year. The client shall be informed of this before the opening of the telephone conversation. At the client's request the audio recording shall be replayed, and a certified report on the audio recording shall be made available to the client free of charge.

---

[325] Enacted: by Section 64 of Act CLI of 2012. In force: as of 28. 10. 2012.
[326] Enacted: by Section 91 of Act XCVIII of 2013. In force: as of 29. 06. 2013.
[327] Enacted by Subsection (7) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[328] Established: by Section 76 of Act CXLVIII of 2009. In force: as of 1. 01. 2010.

(5) Subject to the exception set out in Subsection (6), the service provider shall investigate oral complaints without delay and, if possible, take action to remedy the situation. If the client is in disagreement with the way the complaint is handled, the service provider shall write up a report on the complaint, indicating also its position, and shall give a copy of this report to the client if the complaint is made orally in person, or shall send it to the client if the complaint is communicated by telephone - together with what is contained in Subsection (7) -, and shall proceed in other respects in accordance with the provisions on written complaints.

(6) If the complaint cannot be investigated immediately, the service provider shall write up a report on the complaint, and shall give a copy of this report to the client if the complaint is made orally in person, or shall send it to the client if the complaint is communicated by telephone - together with what is contained in Subsection (7) -, and shall proceed in other respects in accordance with the provisions on written complaints.

(7) The service provider shall communicate its position relating to the written complaint - with explanation - to the client within thirty days of receipt of the complaint.

(8)[329] Where a complaint is rejected, the service provider shall inform the client affected in writing of his right to initiate the proceedings of the Authority for the protection of consumers' interests for any infringement of consumer regulations under the MNB Act, or to bring action in the court of law in connection with any dispute relating to the conclusion, validity, legal aspects and termination of contracts, and cases of breach of contract and the related legal ramifications, or may seek remedy at the Financial Arbitration Board. The service provider shall furnish the mailing address of the Financial Arbitration Board.

(9)[330] The service provider shall retain the complaint and the reply provided therefor for a period of three years, and shall make them available at the Authority's request.

(10) Service providers are required to draw up effective and transparent procedures for the reasonable and prompt handling of complaints received from clients, and to keep records in accordance with Subsection (11) (hereinafter referred to as "complaints handling policy"). The service provider shall inform clients in the complaint handling policy concerning the place for handling complaints, and shall indicate its mailing address, electronic mail address, telephone number and fax number.

(11) Service providers shall maintain records on the complaints received from clients, and the actions and measures taken for the handling and resolution of such complaints.

(12) The records referred to in Subsection (11) shall contain:

a) a description of the complaint, and an indication of the underlying event or fact;

b) the date and time of submission of the complaint;

c) a description of the measures proposed for the handling and resolution of the complaint, and the reason or reasons if rejected;

d) the time limit for taking the measures indicated in Paragraph *c)* and the person appointed to implement it; and

e) the date and time of response to the complaint.

(13) The service provider shall display the complaint handling policy in premises open to the clients, or failing this it may be posted at its main offices and on its website.

(14)[331] Service providers shall not be authorized to charge the costs of investigating complaints to the consumers.

---

[329] Established: by Section 111 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[330] Established: by Section 111 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[331] Enacted: by paragraph (2) Section 132 of Act CLVIII of 2010. In force: as of 1. 01. 2011.

(15)[332] Service providers shall designate a consumer protection officer for handling consumer affairs, and shall notify the Authority in writing within fifteen days of this officer, including any subsequent changes in his person.

Special Regulations Relating to Advertisements

Section 122

(1) Advertisements relating to investment service activities, ancillary services, and to commodity dealers' services must include a prominent statement drawing attention to this characteristic.

(2) The statement contained in the advertisement referred to in Subsection (1) may not be contrary to the information supplied to the client by or on behalf of the investment firm or commodity dealer under this Act.

(3) Where the advertisement referred to in Subsection (1) contains a contract offer or an offer to the public relating to financial instruments, investment service activities or ancillary services as governed by the Civil Code such that it also specifies the means for the acceptance of offers and/or for the publication of the offer, it shall also contain the data specified under Subsections (3)-(10) of Section 43.

(4) Subsection (3) shall not apply if the document or documents containing the information specified under Subsections (3)-(10) of Section 43, which are deemed necessary for the acceptance of an offer and/or for the publication of an offer in accordance with the Civil Code, and which comprises a part of the advertisement, is made available to a retail client or a potential retail client immediately after that client is bound by any agreement.

Notifications and Disclosures

Section 123

(1) Investment firms and commodity dealers are required to notify the Authority, and - with the exceptions contained in Paragraphs i) and k) - publish at the same time:

a) the commencement of an activity for which they are authorized;

b) the name (corporate name) of their shareholders, and their respective holding or percentage of voting rights;

c) any acquisition or disposal of a participating interest in an ancillary services company;

d) any changes in the personnel specified under Sections 22-24;

e) the conclusion, amendment or termination of contracts with intermediaries;

f) the opening and closure of a branch or representative office;

g) the calling of a general meeting, including the agenda, and the resolutions adopted by the general meeting, including a summary of the key events of the latter;

h) any plans to suspend services to clients;

i) any changes in their corporate data recorded in the company register;

j) if implicated in a judicial supervisory action;

k) the borrowing of a loan or transacting any deal of the like covering ten per cent or more of own funds in respect of investment firms;

[332] Enacted: by paragraph (2) Section 132 of Act CLVIII of 2010. In force: as of 1. 01. 2011.

l) the means of publication employed in compliance with the obligations of publication and disclosure under this Act; and

m) those data and particulars of the parent company - if it is a mixed-activity holding company or a mixed financial holding company - of an investment firm that are necessary for the supervision of that investment firm.

(2) In addition to the requirements specified in Subsection (1), branches shall be required to notify the Authority, and publish at the same time:

a) the ownership structure of their founders, and any changes therein of over five per cent;

b) if a founder or any other branch of such a founder in another state has become insolvent, or is adjudicated in bankruptcy or liquidation proceedings;

c) if the founder or any other branch of such a founder has been disciplined or penalized by the supervisory authority competent for the place where the founder is established.

(3) Investment firms and commodity dealers shall be required to send their audited annual accounts approved by the general meeting and the auditor's report to the Authority, and they shall simultaneously publish the audited annual account approved by the general meeting and the auditor's certificate.

(4) The obligation of disclosure shall be satisfied:

a) within five days following the date the decision was made under Paragraphs a), e), f), g) and h) of Subsection (1);

b) by the 15th day of January of the following year in respect of Paragraph b) of Subsection (1);

c) within five days following the acquisition or disposal of a holding under Paragraph c) of Subsection (1);

d) within five days prior to the appointment or election, or within five days following the termination of employment or the end of the term under Paragraph d) of Subsection (1);

e) within five days following the operative date of the resolution of the competent court of registry under Paragraph i) of Subsection (1);

f) within five days after gaining knowledge of the case under Paragraph j) of Subsection (1);

g) within two days following the date of signature of the loan contract under Paragraph k) of Subsection (1); and

h) within fifteen days following approval of the annual report under Subsection (3).

(5)[333] The treasury and the ÁKK Zrt. shall be subject to disclose the data specified in Paragraphs *a), e), f)* and *h)* of Subsection (1) above.

(6)[334] Investment firms and commodity dealers shall be required to supply information to the Authority concerning their operations and their transactions subject to the form, content and frequency requirements laid down in other legislation.

(7)[335] Any investment firm registered in the territory of Hungary shall report if its parent company is transformed into a mixed-activity holding company or a mixed financial holding company, or if such relation is altered or terminated.

(8)[336] Investment firms shall submit to the Authority the results of the calculations of their internal approaches for their risk weighted exposures and own funds requirements, together with an explanation of the methodologies used to produce them, at least annually, and the Authority

[333] Established: by Section 112 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[334] Established: by Section 112 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[335] Established: by paragraph (1) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[336] Enacted by Section 99 of Act CCXXXVI of 2013, effective as of 1 January 2014.

shall make an assessment of those results, data and information, and shall inform the relevant investment firms of its findings.

(9)[337] If, during the assessment provided in Subsection (4), the Authority finds any significant divergence from the previous results or values, the Authority shall investigate the reasons therefor and it shall use its observations and experience in the process of authorization of internal approaches so as to ensure that the investment firm in question applies the approach best suitable for the calculation of own funds requirements consistent with the investment firm's activity, business base and the composition of its exposures.

Section 123/A.[338]

(1) Investment firms, if subject to supervision on a consolidated basis under Regulation 575/2013/EU, shall disclose annually, specifying, by EEA Member State and by third country, the following information for the financial year:

a) the investment firm's name, nature of activities and geographical distribution;

b) turnover;

c) number of employees on a full time basis;

d) profit or loss before tax;

e) tax on profit or loss; and

f) public subsidies received.

(2) Investment firms shall, on an individual basis, disclose their return on assets, calculated as their net profit divided by their total balance sheet.

Obligations under the FATCA Act[339]

Section 123/B.[340]

The Reporting Hungarian Financial Institution provided for in the FATCA Act and covered also by this Act (for the purposes of this subtitle hereinafter referred to as "Institution") shall carry out the procedures set forth in Annex I of the Agreement under the FATCA Act (hereinafter referred to as "due diligence procedure") for identifying the Account Holder and Entity covered by the FATCA Act (hereinafter referred to collectively as "Account Holder") having regard to the Financial Account it maintains as provided for in the FATCA Act (hereinafter referred to as "Financial Account").

Section 123/C.[341]

(1) The Institution shall inform the Account Holder in writing at the time when carrying out the due diligence procedure:

a) on the application of the due diligence procedure,

b) that he is obligated to disclose data to the tax authority under Sections 43/B-43/C of the IACA,

---

[337] Enacted by Section 99 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[338] Enacted by Section 100 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[339] Enacted by Section 14 of Act XIX of 2014, effective as of 16 July 2014.
[340] Enacted by Section 14 of Act XIX of 2014, effective as of 16 July 2014.
[341] Enacted by Section 14 of Act XIX of 2014, effective as of 16 July 2014.

c) on his reporting obligation under the FATCA Act.

(2) Where data disclosure is provided for in Sections 43/B-43/C of the IACA, the Institution shall notify in writing the Account Holder on the fact of disclosure within thirty days from the date of compliance with disclosure requirements.

Chapter XXII

TERMINATION OF INVESTMENT FIRMS AND COMMODITY DEALERS WITHOUT SUCCESSION, TRANSFER OF ACCOUNTS

General Provisions Relating to Termination Without Succession

Section 124

(1)[342] The provisions of the CRA, the Bankruptcy Act and the provisions of the Civil Code on legal persons shall apply to the dissolution and liquidation of investment firms and commodity dealers incorporated as limited companies, commodity dealers incorporated as private limited-liability companies, and commodity dealers incorporated as cooperative societies, and the provisions of the CRA, the Bankruptcy Act and the FCA shall apply to the dissolution and liquidation of investment firms and commodity dealers incorporated as branches, subject to the exceptions set out in this Act.

(2)[343] The nonprofit business association established for the liquidation of organizations covered by the MNB Act shall be appointed as the liquidator or receiver of an investment firm.

Bankruptcy Proceedings

Section 125

Investment firms and commodity dealers may not be adjudicated in bankruptcy proceedings.

Winding Up Proceedings

Section 126

(1)[344] The winding up of an investment firm or a commodity dealer may only be ordered by the Authority.

(2) The Authority shall order the winding up of an investment firm or a commodity dealer if:[345]

a) the authorization of the investment firm granted under this Act for the performance of investment service activities has been withdrawn, or the authorization of a commodity dealer has been withdrawn, and the investment firm or commodity dealer has decided to terminate its corporate existence without succession, except where the authorization is withdrawn pursuant to Paragraph c) of Subsection (1) of Section 31 or to Subsection (2) of Section 36; or

---

[342] Established by Subsection (6) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.
[343] Established: by Section 113 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[344] Amended: by Section 391 of Act LVI of 2009. In force: as of 1. 10. 2009.
[345] Amended: by Section 391 of Act LVI of 2009. In force: as of 1. 10. 2009.

b) in connection with the foundation of the investment firm or commodity dealer incorporated as a branch, where the authorization issued by the competent supervisory authority of the state where the non-resident investment firm or commodity dealer is established for the performance of investment service activities or the provision of commodity exchange services under this Act, is no longer in effect.

Section 127

(1) The Authority shall, within eight days, take measures to publish its resolution for the winding up of an investment firm or commodity dealer in the Cégközlöny (Companies Gazette) and shall simultaneously send it to the competent court of registry.

(2) The Authority's resolution for the winding up shall indicate the appointed receiver and set the date for the opening of the proceeding, which may not antedate the resolution.

Section 128

(1) The Authority may appoint a commissioner - if the winding up procedure opens after the date of the resolution - at the same time it passes the resolution for winding up (if this has not happened earlier) and may order a prohibition on all payments until the opening date of the procedure.

(2) The Authority may assign a commissioner pursuant to Subsection (1) if:

a) a commissioner has not been appointed by the time of notification of the Authority's resolution ordering the winding up procedure; and

b) the Authority has reason to believe that an event or circumstance that is likely to jeopardize the outcome of the proceedings is likely to take place between the time of notification of the Authority's resolution ordering the winding up procedure and the day of the opening of the proceedings.

(3) The supervisory commissioner appointed under Subsection (2) shall remain in office from the time of notification of the Authority's resolution ordering the winding up procedure until the day when the receiver takes over.

Section 129

The receiver is vested with competence to decide to have the accounts of the investment firm or commodity dealer transferred in the course of the winding up procedure.

Section 130

The receiver's fee may not exceed 0.4 per cent of the value of the assets shown on the final balance sheet closing out the investment firm's or the commodity dealer's activities, as referred to in Paragraph a) of Subsection (3) of Section 98 of the CRA.

Liquidation Proceedings

Section 131[346]

The Fővárosi Törvényszék (Budapest Metropolitan Court) has exclusive jurisdiction in conducting proceedings in connection with the liquidation of investment firms and commodity dealers.

Section 132

(1) In respect of investment firms and commodity dealers, the liquidation proceedings may not be suspended.

(2) The provisions of Subsection (7) of Section 46 of the Bankruptcy Act may not be applied in respect of claims against investment firms and commodity dealers.

(3)[347] Paragraph *c)* of Subsection (1), and Subsection (2) of Section 40 of the Bankruptcy Act shall not apply to the transfer of the shares, other assets, rights or liabilities of an investment firm under resolution as provided for in the Resolution Act to another entity based on the decision of the MNB, acting within its resolution function, to apply a resolution tool for transaction conducted in compliance therewith.

Section 133

(1) The Authority shall initiate the liquidation of an investment firm or commodity dealer if:

a) the investment firm's authorization to engage in investment service activities, or the commodity dealer's authorization is withdrawn pursuant to Paragraph c) of Subsection (1) of Section 31 or to Subsection (2) of Section 36 of this Act; or

b) in the case of a branch, if insolvency proceedings have been opened against the investment firm or commodity dealer in the state where established.

(2) Investment firms and commodity dealers shall forthwith notify the Authority if they learn that a liquidation proceeding has been initiated against them.

Section 134

(1) The court shall communicate its decision concerning petitions for liquidation within eight days.

(2) A court ruling ordering liquidation may be enforced, whether or not an appeal is lodged.

(3) Where liquidation is requested by the Authority under Subsection (1) of Section 133, the court shall order it, whether or not the investment firm or commodity dealer, or the investment firm incorporated as a branch or the commodity dealer incorporated as a branch is declared insolvent.

Section 135

(1) Effective as of the day of submission of the petition for liquidation, the Authority shall freeze all outgoing payments if it is of the opinion that this is necessary to ascertain that the assets available are handled lawfully, to best serve the interests of creditors and clients.

---

[346] Amended: by Section 320 of Act CCI of 2011. In force: as of 1. 01. 2012.

[347] Enacted by Subsection (8) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

(2) If the Authority has adopted a decision to appoint a supervisory commissioner before the day of submission of the petition for liquidation, the supervisory commissioner shall remain in office until the liquidator is appointed.

Section 136

(1) As regards the liquidation of an investment firm, the financial instruments and funds deposited by clients with the investment firm, the financial instruments and funds held for or belonging to clients, and assets to which the contract to provide commodity exchange services pertains shall not comprise a part of the assets of the investment firm or the commodity dealer.

(2) If any part of the financial instruments and funds held for or belonging to clients as referred to in Subsection (1), or assets to which the contract to provide commodity exchange services pertains cannot be returned to the clients for any reason, these claims shall be satisfied from the investment firm's or the commodity dealer's assets following settlement of liquidation charges, by way of derogation from the provisions of Section 57 of the Bankruptcy Act governing the sequence of the satisfaction of claims.

(3) As regards secondary securities, for the purposes of Subsections (1) and (2) the principal securities shall be treated as financial instruments deposited by their holders.

(4)[348] The provisions contained in Subsections (1) and (2) shall not apply in respect of the financial instruments and funds belonging to or held for a person having a qualifying interest in the investment firm or commodity dealer or to an executive officer of the investment firm or commodity dealer.

(5) Regarding the liquidation of an investment firm, the liabilities arising in connection with any subordinated loan capital and junior subordinated loan capital specified under Schedule No. 2 shall be satisfied after settlement of the debt specified in Paragraph g) of Subsection (1) of Section 57 of the Bankruptcy Act.

Section 137

The liquidator is vested with competence to decide to have the accounts of the investment firm or commodity dealer transferred in the course of the liquidation procedure.

Section 138

(1) A representative of the Investor Protection Fund shall attend composition negotiations held in connection with the liquidation of an investment firm in the capacity of a creditor concerning the claims and the extent of coverage insured by the Fund, and shall be entitled to make any concessions in order to achieve a composition agreement.

(2) A composition agreement shall be approved under the liquidation of an investment firm subject to the Authority's consent, where a composition agreement is required to continue the activities subject to authorization under this Act.

Section 139

[348] Established: by Section 154 of Act CIII of 2008. In force: as of 01. 01. 2009.

(1) In due consideration of what is contained in Subsection (2), the liquidator's fee may not exceed 1.0 per cent of the aggregate amount of proceeds from sold assets and the receivables actually received during the proceedings for the liquidation of the investment firm or commodity dealer.

(2) By way of derogation from Subsection (1), the liquidator's fee in the case of composition may not be more than 1.0 per cent of the net value of the assets of the investment firm or commodity dealer.

(3) Section 59 and Subsections (4)-(6) of Section 60 of the Bankruptcy Act shall not apply to liquidators of investment firms and commodity dealers.

Transfer of Accounts

Section 140

(1) Subject to the Authority's prior consent, investment firms and commodity dealers shall be permitted - with the exception defined in Subsection (2) - to transfer their existing accounts to another investment firm or commodity dealer, taking also into consideration Subsection (4).

(2) Investment firms shall not be allowed to transfer their accounts to commodity dealers.

(3) An investment firm may take over the accounts of another investment firm and of another commodity dealer, whereas a commodity dealer may take over the accounts of another commodity dealer only.

(4) The authorization of the Authority granted under Subsection (1) shall not substitute for the authorization of the Economic Competition Office prescribed in specific other legislation.

Section 141

(1) The transfer of accounts by investment firms and commodity dealers shall be governed by the provisions of the Civil Code on the substitution of debt.

(2) In connection with the transfer of accounts the transferor investment firm or commodity dealer must notify their clients affected prior to the operative date of the transfer agreement concerning:

a) the proposed transfer; and

b) the provisions contained in Subsections (3)-(6);

including information regarding the place and time where and when the transferee's standard service agreement can be obtained, and the format in which it is available.

(3) If the client rejects the person or the standard service agreement of the transferee investment firm or commodity dealer, this client shall supply a written statement to the transferor investment firm or commodity dealer, indicating:

a) the investment firm or commodity dealer of his choosing; and

b) the number of the securities account, custody accounts and other accounts this investment firm or commodity dealer operates on his behalf for investment-related financial transactions.

(4) The transferor investment firm and commodity dealer shall allow at least thirty days for the client to make the decision and to provide the statement referred to in Subsection (3).

(5) If the client:

a) fails to supply the aforesaid statement within the time limit referred to in Subsection (4); or

b) if the statement supplied to the transferor investment firm or commodity dealer is missing any of the details mentioned in Paragraph b) of Subsection (3);

it shall be construed as acceptance of the transferee investment firm or commodity dealer, and their standard service agreement.

(6) Upon acceptance of the transferee investment firm or commodity dealer, and their standard service agreement, the financial instruments and funds held for or belonging to the other client shall be transferred from the transferor to the transferee investment firm or commodity dealer effective as of the date indicated in the notice mentioned in Subsection (3), and they shall become subject to the standard service agreement of the transferee investment firm or commodity dealer.

(7) The rights of the transferor investment firm or commodity dealer vis-à-vis clients shall be governed by the provisions of the Civil Code regarding assignment.

(8) The costs and commissions arising in connection with the transfer of accounts cannot be charged to the clients.

PART SEVEN

MULTILATERAL TRADING FACILITIES

Chapter XXIII

CONDITIONS FOR THE OPERATION OF MULTILATERAL TRADING FACILITIES

Section 142

(1) Multilateral trading facility may be operated by an investment firm or a regulated market (hereinafter referred to collectively as "market operator").

(2) Multilateral trading facilities may be established and operated in compliance with the conditions set out in this Act.

(3)[349] With the exception set out in Subsection (4), a non-resident market operator shall be allowed to provide services in Hungary only through the establishment of a branch.

(4) A market operator established in another EEA Member State may engage in operations in the territory of the Republic of Hungary in the form of cross-border services.

Section 143

(1) Subject to what is contained in Subsections (2)-(3), multilateral trading facilities may be established and operated subject to authorization by the Authority as prescribed in this Act.

(2) The branch of a non-resident market operator may - without prejudice to Subsection (3) - establish or operate a multilateral trading facility if authorized by the competent supervisory authority of the country where established for the activities in question.

(3)[350] A market operator established in another EEA Member State may engage in cross-border activities in the territory of Hungary if authorized by the competent supervisory authority for the activity in question.

---

[349] Amended: by subparagraph c) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[350] Amended: by subparagraph c) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

Section 144

(1) Market operators shall have in place a trading and records system, adequate organisational arrangements and procedures to:

a) ensure access to the trading system in a non-discriminatory way;

b) provide for fair and orderly trading and establish objective criteria for the efficient execution of orders;

c) ensure compliance with the provisions laid down in this Act relating to trading and access to the trading system; and

d) facilitate the efficient and timely finalisation of the transactions executed.

(2) Market operators shall have in place the necessary arrangements to facilitate the efficient settlement of the transactions concluded under the systems of the multilateral trading facility.

(3) Market operators shall have in place emergency arrangements for any malfunction of the trading system and shall review such arrangements at least annually.

(4)[351] Market operators shall have professional indemnity insurance covering damages arising in connection with the operation of multilateral trading facilities representing at least one hundred million forints applying to each claim and in aggregate one hundred and fifty million forints per year for all claims.

Section 145

Market operators shall appoint a person to operate the multilateral trading facility (hereinafter referred to as "operations manager"), whose responsibility shall cover the enforcement of statutory provisions and regulations relating to multilateral trading facilities, and to maintain contact with the Authority.

Chapter XXIV

AUTHORIZATION OF MULTILATERAL TRADING FACILITIES

Section 146

The authorization of the operation of multilateral trading facilities shall be governed by the provisions laid down in Sections 27-31.

Section 147

In addition to what is contained in Section 28, applications for the authorization of the activity specified in Paragraph h) of Subsection (1) of Section 5 shall have enclosed:

a) drafts of the policies referred to in Subsection (1) of Section 150;

b) the conditions prescribed for the admission of a specific financial instrument to trading on the multilateral trading facility;

c) a description of the publicly available information relating to the multilateral trading facility and to trading, and the means by which to make them available;

---

[351] Established: by Section 155 of Act CIII of 2008. In force: as of 25. 12. 2008. Authorized bodies shall comply with the provisions of this Subsection by 31 March 2009. Shall apply to pending cases as well.

d) the procedures for monitoring the conditions relating to membership in the multilateral trading facility system;

e) a description of the procedures designed to prevent and identify insider dealing and market manipulation;

f) a description of the procedures designed to prevent cases of conflicts of interest that may arise in connection with the operation of the multilateral trading facility or the execution of orders of the client of the investment firm operating the multilateral trading facility;

g) the name of the operations manager;

h) an indication and a detailed description of the equipment and technical devices available or planned to be purchased for the trading operations;

i) certificates to verify the security and reliability of the trading system, and the investment firm's ability to operate on an ongoing basis, and the confidential management and use of data;

j) a contingency plan to deal with any malfunction of the multilateral trading facility;

k) arrangements to facilitate the efficient settlement of the transactions concluded under the systems;

l) a copy of the agreement concluded for the arrangements to facilitate the efficient settlement of the transactions concluded under the multilateral trading facility;

m) the indemnity insurance policy referred to in Subsection (4) of Section 144;

n) a draft of the standard contract to be concluded between the operator and members of the multilateral trading facility; and

o) the procedures concerning the scope and content of the information to be made available to members of the multilateral trading facility.

Section 148

The Authority shall grant authorization for the activity referred to in Paragraph h) of Subsection (1) of Section 5 if the applicant is able to comply with the relevant conditions set out in this Act.

Section 149

(1) The Authority shall refuse the application for authorization for the activity referred to in Paragraph h) of Subsection (1) of Section 5 in the cases under Section 30.

(2) The Authority shall withdraw the authorization for the activity referred to in Paragraph h) of Subsection (1) of Section 5 in the cases under Subsection (1) of Section 31.

Chapter XXV

SPECIAL REGULATIONS RELATING TO MULTILATERAL TRADING FACILITIES

Access to the Trading System on a Non-Discriminatory Basis

Section 150

(1) Operators of multilateral trading facilities shall draw up policies laying down the conditions for participating in trading, where these policies shall inter alia contain:

a) the conditions for access to the trading system on a non-discriminatory basis;

b) the rights and obligations of members authorized to participate in the trading system;

c) the rules of trading and transacting business, including rules and procedures for the suspension of trading; and

d) the means of price formation.

(2) Membership in a multilateral trading facility may be granted to investment firms, credit institutions and other persons and bodies who:

a) meet the conditions for admission into the multilateral trading facility, laid down in the policy referred to in Subsection (1);

b) have the necessary personnel, equipment, technical and organizational facilities; and

c) have sufficient funds for the financial settlement of transactions executed under the system.

(3) The agreement of membership in a multilateral trading facility shall be made in writing between the operator and the prospective member.

(4) Before the signature of the agreement referred to in Subsection (3), the operator shall inform the prospective member seeking admission to the multilateral trading facility concerning:

a) the contents of the policy referred to in Subsection (1);

b) the conditions prescribed for the admission of a specific financial instrument to trading under the multilateral trading facility system;

c) the publicly available information relating to the multilateral trading facility and to trading, and the means by which to make them available;

d) the rules of liability relating to the execution of transactions in the multilateral trading facility system;

e) the procedures for monitoring the conditions relating to membership in the multilateral trading facility.

(5)[352] Operators of multilateral trading facilities shall disclose within fifteen working days of receipt of the Authority's notice concerning the particulars of members of multilateral trading facilities with a view to enabling the Authority to discharge its obligation of disclosure under Section 178/B.

Trading Rules

Section 151

(1) With regard to trading on multilateral trading facilities, the execution of transactions shall be governed - with the exceptions set out in Subsection (2) - by the relevant provisions of this Act, and the policies adopted under this Act.

(2) Sections 40-51 and Sections 61-64 shall not apply:

a) in connection with the transaction executed in the multilateral trading facility between members of that multilateral trading facility, not including the case where a transaction is executed by order of a client of the investment firm; and

b) in connection with the arrangements between the multilateral trading facility and its members.

Section 152

[352] Enacted: by Section 138 of Act CL of 2009. In force: as of 1. 01. 2010.

(1) Operators of multilateral trading facilities are required - in accordance with Commission Regulation (EC) No. 1287/2006 and Subsection (2) - to make public relating to securities admitted to trading on a regulated market:

a)[353] the current bid and offer prices, in a manner where the fee requested shall not prevent access to such information (requirement of giving access on reasonable commercial terms);

b) the depth of trading interests at these prices.

(2) Operators of multilateral trading facilities shall provide for the information referred to in Subsection (1) to be made available to the public on reasonable commercial terms and on a continuous basis during normal trading hours.

(3) The Authority shall have powers to waive the obligation for operators of multilateral trading facilities to make public the information referred to in Subsection (1) if able to meet the conditions set out in Commission Regulation (EC) No. 1287/2006.

Section 153

(1) Operators of multilateral trading facilities shall monitor on an ongoing basis the compliance of members with the regulations relating to the operation of multilateral trading facilities.

(2) Operators of multilateral trading facilities shall establish and maintain effective arrangements and procedures for carrying out the monitoring procedures referred to in Subsection (1):

a) in order to identify breaches of the trading rules and disorderly trading conditions relevant to the multilateral trading facility; and

b) to identify conduct that may involve insider dealing.

(3) Operators of multilateral trading facilities shall be required:

a) to report to the Authority without delay any breaches of the rules mentioned in Subsection (2) during its inspection conducted according to Subsection (1); and

b) to supply the relevant information without delay to the authority competent for the investigation and prosecution of market abuse and to provide full assistance to the latter in investigating and prosecuting market abuse occurring in connection with insider dealing specified in Paragraph b) of Subsection (2) on or through its multilateral trading facility.

Section 154

(1) Operators of multilateral trading facilities shall make public in respect of shares which are admitted to trading on a regulated market the following information:

a)[354] the buying and selling price of the transactions executed under its systems, in a manner where the fee requested shall not prevent access to such information (requirement of giving access on reasonable commercial terms);

b) the volume of the transactions executed under its systems; and

c) the time of the transactions executed under its systems.

(2) With the exception given in Subsection (3), operators of multilateral trading facilities are required to make public the information referred to in Subsection (1) on a reasonable commercial basis, as close to real-time as possible.

---

[353] Established: by Section 153 of Act CLIX of 2010. In force: as of 1. 01. 2011.

[354] Established: by Section 154 of Act CLIX of 2010. In force: as of 1. 01. 2011.

(3) This requirement set out in Subsection (2) shall not apply to details of trades executed on a multilateral trading facility that are made public under the systems of a regulated market.

(4) The Authority may authorize operators of multilateral trading facilities to provide for deferred publication of the details of transactions as required under Subsection (1), under arrangements for deferred trade-publication subject to the Authority's prior approval, based on:

a) the type of transactions; or

b) the size of transactions;

under Commission Regulation (EC) No. 1287/2006.

(5) Operators of multilateral trading facilities shall make available their arrangements for deferred trade-publication under Subsection (4) - in light of what is contained in Commission Regulation (EC) No. 1287/2006 - by means of a website.

(6) Where transferable securities which are admitted to trading on a regulated market are also traded on a multilateral trading facility, however, the issuer did not expressly consent for such trading, the issuer shall not be subject to the obligation of disclosure vis-à-vis the multilateral trading facility.

PART EIGHT

EXERCISING SUPERVISORY COMPETENCE AND ENFORCEMENT OF REGULATIONS RELATING TO BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES[355]

Chapter XXVI

PROVISIONS RELATING TO FUNCTIONS OF THE AUTHORITY

Supervision Fee

Section 155

(1) Investment firms and commodity dealers, the Hungarian branches and representations of non-resident investment firms, and tied agents shall be required to pay a supervision fee to the Authority.

(2) The supervision fee shall comprise the minimum charge calculated according to Section 156, plus the variable-rate fee calculated according to Section 157.

Section 156

(1) The minimum charge is calculated by multiplying the unit base-rate with the index number specified in Subsection (2). The unit base-rate shall be fifty thousand forints.

(2) The index number:

a) for investment firms and commodity dealers shall be four;

b) for the Hungarian branches of investment firms established in other EEA Member States shall be four;

c)[356] for the Hungarian representations of non-resident investment firms shall be one;

---

[355] Established: by paragraph (1) Section 50 of Act XLVII of 2008. In force: as of 01. 09. 2008.

d)[357] for tied agents shall be at least one, but for each additional fifty intermediaries [Subsection (4) of Section 115] acting on his behalf, it shall be one.

Section 157

(1) The annual variable-rate fee payable by investment firms shall be:

a) 3.8 ‰ of the minimum capital requirements calculated according to Subsections (1) and (2) of Section 105; and

b) 0.25 ‰ of the value of assets contained in the portfolio managed under portfolio management services - not including the management of the assets of voluntary mutual insurance funds and the management of assets of private pension funds -, calculated at market value.

(2) The annual variable-rate fee payable by the Hungarian branches of investment firms established in other EEA Member States and authorized by the competent supervisory authorities of those states to engage in the activity in question shall be:

a) 0.1 ‰ of the balance sheet total shown in the annual account of the Hungarian branch; and

b) 0.125 ‰ of the value of assets contained in the portfolio managed under portfolio management services - not including the management of the assets of voluntary mutual insurance funds and the management of assets of private pension funds -, calculated at market value.

Section 158[358]

Chapter XXVII

SUPERVISORY FUNCTIONS OF THE AUTHORITY

Records and Registers of the Authority

Section 159

(1) The Authority shall keep records of the following information:

a) the name and address of investment firms and commodity dealers, and the name and address of market operators;

b) date of foundation of investment firms and commodity dealers, the Hungarian branches of non-resident investment firms, the Hungarian branches of non-resident commodity dealers, and multilateral trading facilities;

c) the authorizations issued to investment firms and commodity dealers to carry out their activities;

d) amount of initial capital or subscribed capital of investment firms and commodity dealers, the amount of endowment capital of non-resident investment firms and non-resident commodity dealers;

e) name and address of those owners of investment firms and commodity dealers which are subject to authorization by the Authority pursuant to Sections 37-39;

---

[356] Established: by paragraph (13) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[357] Enacted: by paragraph (13) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[358] Repealed with preceding subtitle: by subparagraph e) paragraph (5) Section 84 of Act CXLVIII of 2009. No longer in force: as of 1. 01. 2010.

f)[359] natural identification data of the executive employees of investment firms and commodity dealers;

g) date of commencement of operations of investment firms and commodity dealers, and multilateral trading facilities;

h) name, address and activities of any companies owned or controlled by investment firms and commodity dealers, indicating the size of share or participating interest;

i) date of foundation of any branches of investment firms and commodity dealers, and the location of such branches;

j) personal identification data of the internal controllers and compliance officers of investment firms;

k) the means of publication employed in compliance with the obligation of publication and disclosure by the obligor as prescribed under this Act;

l) personal identification data of persons or bodies with a close link to any investment firm that is subject to supervision on a consolidated basis or supplementary supervision;

m) personal identification data of persons or bodies with a close link to any parent company of any investment firm that is subject to supervision on a consolidated basis or supplementary supervision;

n) those data of the parent company - if it is a mixed-activity holding company or a mixed financial holding company - of an investment firm that are necessary for the supervision of that investment firm, and any changes therein.

(2)[360] The Authority - in due observation of what is contained in Subsections (3) and (4), shall maintain a register in accordance with Subsection (3) of Section 114 on the tied agents who may be appointed by investment firms and commodity dealers, and whose residence (permanent or temporary), or registered office is in the territory of Hungary.

(3)[361] Where the tied agent of an investment firm established in Hungary is established in another EEA Member State where, according to national laws, the investment firms established in that state are not permitted to employ tied agents, the Authority shall register such tied agent if notified under Subsection (1) of Section 113 by an investment firm that is established in Hungary.

(4) The Authority's register referred to in Subsections (2) and (3) shall contain the data specified in Subsection (2) of Section 113 in respect of tied agents.

Data Processing Regulations

Section 160

(1) The Authority must provide sufficient technical facilities for the protection of the data it manages to ensure against unauthorized access, disclosure by transmission, alteration or erasure by operating a logically closed system.

(2) In order to facilitate the protection of data, the Authority shall:

a) permit the data subject, unless otherwise prescribed by law, to access his data managed by the Authority or to exercise his right of correction or erasure; and

---

[359] Amended: by Section 391 of Act LVI of 2009. In force: as of 1. 10. 2009.

[360] Amended: by subparagraph g) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[361] Amended: by subparagraph h) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

b) take measures for the erasure of data that is no longer required, according to legal regulation, or if ordered by the court.

Section 161

(1) In order to perform its functions the Authority shall be authorized to process:

a) the data of executive officers and employees of investment firms and commodity dealers in order to verify their compliance with the requirements specified in Sections 22 and 23;

b) the data of persons applying for authorization for the acquisition of a holding in an investment firm, and of the owners of the investment firm in order to verify their compliance with the requirements specified in Sections 37-39;

c) data of the clients of investment firms and commodity dealers in connection with any pending procedure it conducts;

d) in order to check compliance with regulations on conflicts of interest the particulars of:

da) the executive employees, internal controllers and compliance officers of investment firms;

db) the owners of investment firms, and the executive employees of such owners;

dc) tied agents;

e) the data obtained for verifying compliance with the requirements set out in Sections 20 and 21 and in Sections 37-39;

f) the data of persons with a close link to any investment firm that is subject to supervision on a consolidated basis or supplementary supervision;

g) the data of persons with a close link to any parent company of any investment firm that is subject to supervision on a consolidated basis or supplementary supervision;

h) those data of the parent company - if it is a mixed-activity holding company or a mixed financial holding company - of an investment firm that are necessary for the supervision of that investment firm.

(2)[362] With respect to Subsection (1) of this Section and Paragraphs *j), l), m)* and *n)* of Subsection (1) of Section 159, the Authority shall process the identification data of the persons concerned, and in respect of data processed for authorization and supervisory purposes, the information concerning investment, acquisition of holding, vocational training, experience, elected office, position, employment and criminal history.

(3)[363]

(4) In addition to the data referred to in Subsection (2), the records shall contain the following information as well:[364]

a)[365] in relation to a qualifying interest, the percentage of holding and the contract in which such qualifying interest is stipulated;

b) in relation to a close link, the extent of the close link and the contract in which it is stipulated;

c) the office of executive employees and their positions, the subject of the appointment, the type of legal relationship, their credentials as well as all measures taken by the Authority regarding the registered person;

---

[362] Established: by paragraph (1) Section 139 of Act CL of 2009. In force: as of 1. 01. 2010.

[363] Repealed: by subparagraph b) paragraph (9) Section 169 of Act CL of 2009. No longer in force: as of 1. 01. 2010.

[364] Established: by paragraph (2) Section 139 of Act CL of 2009. In force: as of 1. 01. 2010.

[365] Established: by Section 156 of Act CIII of 2008. In force: as of 01. 01. 2009.

d) contents of the application for the issue or return of the authorization as well as the data of the document attached for the purposes of evaluation of the application;

e) the annual report of the investment firm and the resolution on the allocation of profits;

f) the minutes of the investment firm's general meeting and the meetings of the board of directors and supervisory board;

g) in the case of complaints or public announcements, the personal data of the complaining party, and the event and the name of the investment firm to which the complaint pertains;

h) documentation of the calculation of own funds and capital adequacy;

i) the data required for controlling large exposures, investment limitations and creation of the general reserve.

(5) The Authority shall be authorized to process the data specified in Subsections (1)-(4):

a) for five years from the date when the executive officer mandate, supervisory board membership or employment relationship is terminated;

b) for five years from the date when the tied agent terminates his activities;

c) for ten years from the date when a participation in an investment firm is alienated or the qualifying holding is terminated;

d) in the cases not mentioned in Paragraphs a)-c), for five years from the date when received by the Authority.

Supervision of Investment Firms on a Consolidated Basis[366]

Section 161/A.[367]

(1) The Authority shall be responsible for exercising supervision on a consolidated basis over investment firms registered in Hungary.

(2) The provisions of the Banking Act concerning supervision on a consolidated basis shall apply if a credit institution is the parent company of an investment firm or if a credit institution holds a participating interest in an investment firm and that investment firm is not subject to supervision on a consolidated basis as provided for in Subsection (1).

(3) The Authority shall not examine the operation of financial holding companies, non-resident investment firms, financial holding companies and mixed-activity holding companies on a individual basis.

(4) If the Authority finds any evidence in documents or in the course of on-site inspections to substantiate close links, it may declare any investment firm registered in Hungary subject to supervision on a consolidated basis or may decide to extend consolidated supervision over any company affected.

(5) An investment firm, financial institution, investment firm or ancillary services company in which an investment firm or financial holding company that is subject to supervision on a consolidated basis has a controlling influence or participating interest shall - unless otherwise provided for by law - be required to supply to the investment firm or financial holding company that is subject to supervision on a consolidated basis all of the data and information necessary for consolidated supervision. Investment firms and financial holding companies that are subject to supervision on a consolidated basis shall process such data and information separately, in due compliance with the regulations on data protection.

---

[366] Enacted by Section 101 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[367] Enacted by Section 101 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(6) The Authority shall be authorized to request data and information about investment firms, financial institutions, investment firms or ancillary services companies in which an investment firm or financial holding company that is subject to supervision on a consolidated basis has a controlling influence or participating interest to the extent as it may be necessary to exercise supervision on a consolidated basis.

(7) In connection with its duties relating to supervision on a consolidated basis, the Authority shall be authorized to request information directly, or indirectly through the investment firm that is subject to supervision on a consolidated basis, from:

a) persons with a close link to the investment firm that is subject to supervision on a consolidated basis;

b) persons with a close link to the parent company of the investment firm that is subject to supervision on a consolidated basis or with other persons having a participating interest in the investment firm; and

c) any investment firm, financial enterprise, investment firm or ancillary services company exempted under Article 19 of Regulation 575/2013/EU.

(8) Disclosure of the information requested by the Authority under Subsection (7) may be refused only in cases provided for by law.

(9) Investment firms and financial holding companies that are subject to supervision on a consolidated basis shall have sufficient information systems for providing the data and information required for exercising supervision on a consolidated basis and internal control systems that ensure the reliability of the disclosed data and information.

(10) If the parent company of an investment firm that is subject to supervision on a consolidated basis is a mixed-activity holding company, the transactions between this mixed-activity holding company and the companies to which supervision on a consolidated basis also applies shall be supervised by the Authority. The investment firm that is subject to supervision on a consolidated basis shall have adequate risk management processes and internal control mechanisms, including accounting and reporting procedures, in order to identify, measure and monitor transactions as provided for above, which shall be subject to supervision by the Authority.

(11) Investment firms and financial holding companies shall be required to notify the Authority forthwith concerning the existence of close links provided for in Regulation 575/2013/EU and referred to in Subsection (7) hereof, including all changes therein and the termination thereof.

(12) The notification requirement under Subsection (11) may be satisfied by the non-resident parent financial holding company of a Hungarian-registered investment firm through its investment firm that is subject to supervision on a consolidated basis.

Section 161/B.[368]

(1) Under Regulation 575/2013/EU, the Authority shall be authorized to conduct inspections, on site or otherwise, at the companies subject to supervision on a consolidated basis, including those to which supervision on a consolidated basis also applies, for compliance with the provisions set out in Section 161/A and in Regulation 575/2013/EU relating to supervision on a consolidated basis.

[368] Enacted by Section 101 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(2) The Authority shall have powers to conduct inspections, on site or otherwise, at the persons referred to in Subsection (7) of Section 161/A to check the authenticity of the reports, data and information disclosed in connection with supervision on a consolidated basis.

(3) At the request of the supervisory authority of a third country, the Authority, having considered the availability of reciprocity or on the basis of an existing supervisory arrangement, may supply reports, data and information that may be necessary for exercising supervision on a consolidated basis to the third-country supervisory authority if it is able to guarantee legal protection for the processing of such information that is equivalent to or better than the protection afforded under Hungarian law.

(4) At the request of the supervisory authority of a third country, the Authority, having considered the availability of reciprocity, may conduct the inspections specified in Subsections (1) and (2) hereof, or, if there is an existing supervisory arrangement, it may give its consent to the supervisory authority of the third country requesting consent, to an auditor or to another expert designated by it to partake in the inspections.

(5) If the parent investment firm is a third-country investment firm, financial holding company or mixed financial holding company, the Authority shall examine - with a view to exercising supervision on a consolidated basis - as to whether the laws of that third country are in conformity with the provisions laid down in Directive 2013/36/EU of the European Parliament and of the Council concerning supervision on a consolidated basis. As part of the examination, the Authority shall consult with the EBA, following which it shall make a decision regarding conformity.

(6) If the laws of the third country are not in conformity with the provisions laid down in Directive 2013/36/EU of the European Parliament and of the Council concerning supervision on a consolidated basis, the Authority shall take over supervision on a consolidated basis, and shall take all appropriate measures at its disposal.

(7) Where Subsection (6) applies, the Authority shall consult with the competent supervisory authority of the third country where the investment firm, financial holding company or mixed financial holding company in question is established.

Section 161/C.[369]

(1) If the investment firm is a parent investment firm in a Member State or an EU parent investment firm, supervision on a consolidated basis shall be exercised by the competent supervisory authority of the EEA Member State that authorized the investment firm.

(2) Where the parent of an parent investment firm is a parent financial holding company or parent mixed financial holding company in a Member State or an EU parent financial holding company, or a parent mixed financial holding company in a Member State or an EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent supervisory authority of the EEA Member State that authorized the investment firm. If the Authority exercises supervision on a consolidated basis, it shall provide the European Commission with written notification concerning the parent financial holding company and the mixed financial holding company, and shall forward such information to the competent supervisory authorities of other EEA Member States.

(3) If an investment firm that is established in Hungary and an investment firm established in another EEA Member State are subsidiaries of the same parent financial holding company or

[369] Enacted by Section 101 of Act CCXXXVI of 2013, effective as of 1 January 2014.

parent mixed financial holding company in a Member State, or an EU parent financial holding company or an EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised - with the exception set out in Subsection (4) - by the competent supervisory authority of the EEA Member State in which the financial holding company or mixed financial holding company is registered.

(4) If an investment firm that is established in Hungary and an investment firm established in another EEA Member State:

a) are subsidiaries of the same financial holding company or mixed financial holding company, and neither is established in the EEA Member State in which the financial holding company or mixed financial holding company is established, or

b) are subsidiaries of several financial holding companies which are established in different EEA Member States, and the investment firm subsidiary is authorized in each of these EEA Member States,

supervision on a consolidated basis shall be exercised by the supervisory authority supervising the investment firm with the largest balance sheet total.

(5) Supervisory authorities may derogate from the provisions of Subsections (2)-(4), in this case however, the parent financial holding company or parent mixed financial holding company in a Member State, the EU parent financial holding company, the parent mixed financial holding company in a Member State, or the EU parent mixed financial holding company shall be consulted before the agreement is reached.

(6) An agreement concluded under Subsections (4) and (5) shall ensure the flow of information for the objectives of supervision on a consolidated basis as well as collaboration between the supervisory authorities involved.

(7) Where supervision on a consolidated basis is not exercised by the supervisory authority of the financial institution that is a parent company, the supervisory authority of the parent company shall supply the supervisory authority exercising supervision on a consolidated basis with information necessary for the objectives of supervision on a consolidated basis.

Section 161/D.[370]

(1) The Authority shall cooperate closely with the supervisory authorities of other EEA Member States in exercising supervision on a consolidated basis.

(2) The Authority may supply reports, data and information to the competent supervisory authorities of other EEA Member States to the extent necessary for the objectives of supervision on a consolidated basis.

(3) At the request of the supervisory authority of another EEA Member State, the Authority may conduct supervision on a consolidated basis, and it may give its consent to the competent supervisory authority requesting consent, or to an auditor or other expert designated by it to partake in the inspections.

(4) If the Authority functions as a supervisory authority exercising supervision on a consolidated basis, the requirement of cooperation with the competent supervisory authorities of other EEA Member States shall - in addition to what is contained in Subsections (6)-(7) - cover the planning and coordination of supervisory activities:

a) in going concern situations, including compliance with regulations relating to governance arrangements and risk-management requirements, the internal capital model of investment firms,

[370] Enacted by Section 101 of Act CCXXXVI of 2013, effective as of 1 January 2014.

supervisory review, compliance with public disclosure requirements, and the implementation of measures taken in connection with the investment firm,

b) in emergency situations, in cooperation with the competent central banks if necessary, in preparation for and during crisis situations, including adverse developments in investment firms or in financial markets.

(5) The Authority - having regard to Sections 160 and 161 - shall provide the competent supervisory authorities of EEA Member States with all relevant information:

a) concerning identification of the ownership and management structure of investment firms subject to supervision on a consolidated basis, as well as of the competent supervisory authorities of said investment firms;

b) concerning procedures for the collection of information from the investment firms subject to supervision on a consolidated basis, and the verification of that information;

c) concerning adverse developments in investment firms, financial institutions, investment fund management companies or ancillary services companies subject to supervision on a consolidated basis, which could seriously affect investment firms;

d) concerning the imposition of an additional capital charge under regulatory review and the imposition of any limitation on the use of the advanced measurement approach for the calculation of capital requirement for operational risk; and

e) that has any impact on the prudential treatment of an investment firm or financial enterprise that is supervised by the competent authority of another EEA Member State.

(6) If the Authority exercises supervision of the subsidiary of an EU parent company, EU parent financial holding company or EU parent mixed financial holding company that is established in another EEA Member State, and if it needs information which has already been given to the supervisory authority of the EU parent company, EU parent mixed financial holding company or EU parent financial holding company, the Authority shall contact this supervisory authority first.

(7) If the Authority exercises supervision of an investment firm that is subject to supervision on a consolidated basis, and where an emergency situation arises - including adverse developments in financial markets - which potentially jeopardizes the stability of the financial system in any of the EEA Member States:

a) where any credit institution, investment firm, investment fund management company or financial enterprise in which the investment firm in question maintains a controlling influence is established, or

b) where any credit institution, investment firm, investment fund management company or financial enterprise, in which the investment firm in question holds any participating interest is established,

or in which EEA Member State an investment firm established a systemically relevant branch, that is supervised by the Authority on a consolidated basis, the Authority shall forthwith inform the EBA, and the central government, the competent supervisory authority and the central bank of the EEA Member State affected.

Supervisory Review and Evaluation

Section 162[371]

[371] Established by Section 102 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(1) The Authority shall review and assess the strategies, policies, processes and methods adopted by investment firms with a view to enforcing compliance with the provisions of this Act, with prudential requirements and with Regulation 575/2013/EU.

(2) The Authority shall review and evaluate whether the designated investment firm comply with the provisions of this Act, with prudential requirements and with all requirements set out in Regulation 575/2013/EU.

(3) The Authority shall carry out the review and evaluation on an individual or consolidated basis in accordance with Part One, Title II of Regulation 575/2013/EU.

(4) The review and evaluation performed by the Authority shall cover:

a) risks to which the investment firms are or might be exposed;

b) systemic risks that an investment firm poses to the financial intermediary system; and

c) risks revealed by stress testing taking into account the nature, scale and complexity of an investment firm's activities.

(5) In addition to credit, market and operational risks, the review and evaluation shall also cover:

a) the results of the stress test carried out by investment firms applying an internal ratings based approach;

b) the management of concentration risk referred to in Paragraph *b)* of Subsection (1) of Section 101;

c) the robustness, suitability and manner of application of the policies and procedures implemented for the management of the residual risk - referred to in Subsection (2) of Section 21/A - associated with the use of recognized credit risk mitigation techniques;

d) the exposure to, measurement and management of liquidity risk by investment firms, including the development of alternative scenario analyses, the application of risk mitigants, the level, composition and quality of liquidity buffers, and effective contingency plans;

e) the impact of effects of credit portfolio diversification and how such effects are factored into the risk measurement system;

f) the results of stress tests carried out by investment firms using an internal model approach to calculate market risk capital requirements;

g) any additional capital charge from country risk related exposures;

h) a review process conducted by the Authority to determine the impact that a sudden and unexpected change in interest rates - the size of which shall be prescribed by the Authority - is likely to have on own funds;

i) the extent to which the own funds held by an investment firm in respect of assets which it has securitized are adequate having regard to the economic substance of the transaction, including the degree of risk transfer achieved;

j) the business model of the investment firm;

k) the assessment of systemic risk;

l) the exposure of investment firms to the risk of excessive leverage, and the adequacy of the arrangements, strategies, processes and mechanisms implemented to manage the risk of excessive leverage; and

m) the governance arrangements of investment firm, their corporate culture and values, and the ability of members of the management and supervisory bodies to perform their duties.

(6) Within the framework of the review referred to in Paragraph *d)* of Subsection (5), the Authority shall assess the management of liquidity risk and the application of risk mitigants with regard to the role played by investment firms in the financial markets, and shall promote the development of sound internal methodologies.

(7) Relying on the findings of the review and evaluation conducted under Subsections (1) and (2), the Authority shall determine whether the arrangements, strategies, processes and mechanisms implemented by the investment firms and the own funds and liquid assets held by these ensure a sound management and coverage of their risks.

(8) In the review and evaluation the Authority shall consider whether the value adjustments and provisions taken for positions in the trading book enable the investment firm to sell or hedge out its positions within a short period of maximum thirty days without incurring material losses under normal market conditions.

(9) The review and evaluation performed by the Authority shall include the exposure of investment firms to the interest rate risk arising from non-trading activities.

(10) In the review and evaluation the Authority shall monitor whether an investment firm has provided implicit support to a securitization. If an investment firm is found to have provided implicit support under Article 248 of Regulation 575/2013/EU on more than one occasion, however, it failed to achieve a significant transfer of risk, the Authority shall take the measures specified in Section 164.

(11) The Authority shall establish the frequency and intensity of the review and evaluation having regard to the size, systemic importance, nature, scale and complexity of the activities of the investment firm concerned and taking into account the principle of proportionality. The review and evaluation shall be updated at least on an annual basis.

(12) If, according to the findings of the supervisory review and evaluation, the Authority considers that the economic value of an investment firm (assets and liabilities, off-balance-sheet items, net cash flow at current value) calculated with regard to the change in interest rates as specified in Paragraph *h)* of Subsection (5) declines by more than 20 per cent of its own funds relative to its economic value calculated without the effects of the interest rate changes, as a result of a sudden and unexpected change in interest rates of 200 basis points or such change as defined in the EBA guidelines, the Authority shall take the measures necessary.

(13) In conducting the review and evaluation under Paragraph *j)* of Subsection (5), the Authority shall take into account the business model of the investment firms.

(14) In conducting the review and evaluation under Paragraph *m)* of Subsection (5), the Authority shall, at least, have access to:

a) agendas and supporting documents for meetings of the management and supervisory bodies and their committees, and

b) the results of the internal or external evaluation of performance of the management body.

(15) The Authority shall carry out as appropriate but at least annually supervisory stress tests on investment firms it supervises, to facilitate the supervisory review and evaluation process.

(16)[372] The Authority shall, within six months of the submission of each recovery plan, and after consulting the competent supervisory authorities of the EEA Member States where significant branches of the investment firm are located insofar as is relevant to that branch, review and assess the recovery plans of investment firms. The review shall cover the extent to which the recovery plan satisfies the requirements laid down in Section 102 and the following criteria:

a) the implementation of the arrangements proposed in the plan is reasonably likely to maintain or restore the viability and financial position of the investment firm or of the group, as to whether it is capable to restore the investment firm's financial stability in the case of adverse

[372] Established by Subsection (9) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

developments which constitute a serious threat to the investment firm's liquidity or solvency, taking into account the preparatory measures that the investment firm has taken or has planned to take;

b) the plan is reasonably likely to be implemented relying on the relevant stress scenarios, including in scenarios which would lead other investment firms to implement recovery plans within the same period.

(17)[373] If, based on the evaluation, there are material deficiencies in the recovery plan, or material impediments to its implementation, the Authority shall - by way of a resolution - order the investment firm to rework its recovery plan within two months, extendable by one month.

(18)[374] Before adopting the decision referred to in Subsection (17) the Authority shall give the investment firm the opportunity to state its opinion on the deficiencies and impediments exposed.

Section 163[375]

(1) The Authority shall, at least annually, adopt a supervisory examination program for investment firms registered in Hungary:

a) for which the results of stress tests or the outcome of the supervisory review and evaluation process indicate significant risks to their ongoing financial soundness;

b) which are found in breach of the provisions of this Act, prudential requirements and Regulation 575/2013/EU;

c) which are considered systemically important under the financial system; or

d) which are to be subject to enhanced supervision by the decision of the Authority.

(2) The supervisory examination program shall inter alia include the following:

a) a plan for the execution of supervisory tasks;

b) distribution of resources for the execution of supervisory tasks;

c) an identification of which institutions are intended to be subject to enhanced supervision and the measures, exceptional measures necessary for such supervision; and

d) a plan for on-site inspections.

(3) For the purposes of Paragraph *c)* of Subsection (2), the Authority:

a) may increase the number or frequency of on-site inspections;

b) may appoint a supervisory commissioner;

c) shall order additional or more frequent reporting;

d) shall conduct additional or more frequent review of the operational, strategic or business plans;

e) shall perform thematic examinations monitoring specific risks that are likely to materialize.

Section 163/A.[376]

(1) The Authority shall review at least every three years the authorized internal approaches investment firms use for calculating own funds requirements, in particular their compliance with the relevant requirements, and whether the approaches used are well developed and up-to-date.

---

[373] Established by Subsection (9) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

[374] Enacted by Subsection (10) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

[375] Established by Section 102 of Act CCXXXVI of 2013, effective as of 1 January 2014.

[376] Enacted by Section 103 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(2) Within the framework of the review referred to in Subsection (1), the Authority shall take into account the changes in an investment firm's business and to the implementation of those approaches to new products.

(3) If the Authority identifies material deficiencies in risk capture by an investment firm's internal approach, the Authority:

a) shall order the investment firm to rectify its internal approach, or

b) shall take appropriate steps to mitigate the consequences of such deficiencies, including by imposing higher multiplication factors, or imposing capital add-ons, or taking other appropriate and effective measures.

(4) If the Authority finds that the internal approach used by an investment firm no longer meets the requirements for applying that approach, the Authority shall require the investment firm:

a) to demonstrate that the effect of non-compliance is immaterial, or

b) to present a plan for the timely restoration of compliance with the requirements and set a deadline for its implementation.

(5) In the case provided for in Paragraph *b)* of Subsection (4), the investment firm shall amend the plan if the Authority is of the opinion that it is unlikely to result in full compliance with the relevant requirements or that the deadline is inappropriate.

(6) If there is a demonstrated risk that the investment firm is unlikely to be able to restore compliance within the prescribed deadline and has not satisfactorily demonstrated that the effect of non-compliance is immaterial, the Authority:

a) shall revoke the permission to use the internal approach,

b) shall limit the permission to compliant areas or those where compliance can be achieved within the prescribed deadline.

(7) If for an internal market risk model numerous overshootings indicate that the investment firm's internal model is not or is no longer sufficiently accurate, the Authority:

a) shall revoke the permission for using the internal model, or

b) shall impose appropriate measures to ensure that the internal model is improved promptly.

Section 163/B.[377]

For the purposes of determining specific liquidity requirements on the basis of the review and evaluation, the Authority shall take into account:

a) the business model of the investment firm;

b) the arrangements, processes and mechanisms referred to in Paragraph *f)* of Subsection (1) of Section 101;

c) the outcome of the supervisory review and evaluation; and

d) systemic liquidity risk that threatens the integrity of the financial markets of Hungary.

Section 163/C.[378]

(1) Under Section 173/A, multi-party proceedings shall be conducted and decisions shall be adopted within the framework of such multi-party proceedings in the case where supervisory review is conducted on a consolidated basis.

[377] Enacted by Section 103 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[378] Enacted by Subsection (11) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

(2) When reviewing a group recovery plan, the competent supervisory authorities of the EEA Member States where significant branches of the group entity are located should also be involved in the multi-party proceedings.

(3) When reviewing a group recovery plan, it shall be assessed whether individual group entities are required to draw up their own recovery plan independent of the group recovery plan.

(4) If the Authority exercises supervision of an investment firm that is a subsidiary of an EU parent company, if the multi-party proceedings is considered to have failed the Authority may decide whether the subsidiary investment firm should be required to draw up its own recovery plan independent of the group recovery plan.

Chapter XXVIII

AUTHORITY MEASURES AND SANCTIONS

Section 164

(1) The Authority shall have powers to take the following measures in the event of any breach of the obligations laid down in this Act:

a) issue an official warning to investment firms, commodity dealers, operators of multilateral trading facilities, to executive employees and owners of investment firms, commodity dealers or operators of multilateral trading facilities in the event of any infringement of or non-compliance with the relevant statutory provisions, internal policies prescribed in this Act and the Authority's resolution for compliance with the said provisions, or - if necessary - shall order compliance within the prescribed deadline;

b) prohibit the conducting of the unauthorized provision of investment service activities and the provision of ancillary services, and the unauthorized provision of commodity exchange services;

c) demand reimbursement of the costs and expenses incurred in connection with the activities of an expert or a regulatory commissioner delegated by the Authority;

d)[379] initiate the dismissal of an executive employee or the auditor of an investment firm or commodity dealer, or initiate disciplinary action against an employee of such bodies;

e) order the management body of an investment firm or commodity dealer to call an extraordinary general meeting, and may specify the mandatory agenda for such sessions;

f) instruct an investment firm or commodity dealer to draw up a reorganization plan within the prescribed deadline, and submit it to the Authority;

g) order an investment firm, commodity dealer or a market operator to disclose specific data or information;

h) order the suspension of all or part of investment service activities, the provision of ancillary services or the provision of commodity exchange services for a fixed period of time;

i) withdraw the authorization of an investment firm, commodity dealer or the operator of multilateral trading facilities for investment service activities, the provision of ancillary services and the provision of commodity exchange services, respectively;

j) order an investment firm or commodity dealer to transfer its pending contractual commitments to another service provider;

k) appoint a regulatory commissioner to an investment firm or commodity dealer;

l)[380] impose fines having regard to Subsections (5) and (6) of Section 76 of the MNB Act;

---

[379] Established: by Section 157 of Act CIII of 2008. In force: as of 01. 01. 2009.

m) initiate procedures with other competent authorities;

n) suspend access to client accounts and securities accounts maintained by an investment firm or a commodity dealer for a fixed period of time;

o) ban, restrict or impose conditions on investment firms and commodity dealers, in terms of:

oa) their payment of dividends;

ob) any payment made to an executive officer;

oc) the obtaining of loans by their owners from the said organizations or the provision of any services to them by these organizations that involve any degree of exposure;

od) their provision of any loan or credit to, or any similar transaction with, companies in which their owners or executive officers have any interest;

of) the extension (prolongation) of deadlines specified in loan or credit agreements;

og) their opening of any new branches, introducing new services and new operations;

p) order investment firms and commodity dealers:

pa) to draw up new internal policies, or to revise or apply the existing policies along specific guidelines;

pb) to provide further training to employees (executives), or to hire employees (executives) with adequate professional experience and expertise;

pc) to reduce operating expenses;

pd) to set aside adequate reserves;

q) prohibit the outsourcing of investment service activities, ancillary services and commodity exchange services;

r) order the suspension of operations of multilateral trading facilities;

s) require the investment firm to take measures for the reinforcement of the arrangements, processes, mechanisms and strategies relating to its internal control mechanism, risk management procedures and internal models for the assessment of capital adequacy according to Section 106;

t)[381] order the investment firm to comply with the additional capital requirement prescribed under Subsection (4);

u)[382] order the suspension of trading in certain financial instruments on a multilateral trading facility, and may order the delisting of certain financial instruments;

v)[383] it may order the investment firm to determine the variable remuneration of persons covered by the remuneration policy as a percentage of total net revenue when it is inconsistent with the investment firm's compliance with prudential requirements;

x)[384] make a public statement which indicates the person responsible for the breach and the nature of the breach;

y)[385] adopt a resolution to declare the fact of infringement, and shall order the cessation of the infringement or prohibit any further infringement;

z)[386] order the investment firm to implement a recovery plan provided for in Section 102, and to take the measures contained therein, or - if the event invoking the measures to be taken by the Authority differs from the assumption set out in the recovery plan - to review the recovery plan within thirty days and to take the measures set out in the revised recovery plan.

---

[380] Established by Subsection (1) of Section 104 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[381] Established by Subsection (2) of Section 104 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[382] Established: by Section 140 of Act CL of 2009. In force: as of 1. 01. 2010.
[383] Enacted: by paragraph (14) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[384] Enacted by Subsection (3) of Section 104 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[385] Enacted by Subsection (3) of Section 104 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[386] Enacted by Subsection (12) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

(2) The Authority may impose the measure contained in Subparagraph oa) of Subsection (1) if payment of any dividend is likely to jeopardize the compliance of the investment firm or commodity dealer in question with the capital requirements contained in this Act.

(3) Upon taking the measures specified in Paragraph n) of Subsection (1), the Authority shall forthwith notify the supervisory authorities of the Member States in which the investment firm affected by the measure operates a branch or provides cross-border services.

(4)[387] In determining the level of extra capital requirement referred to in Paragraph *t)* of Subsection (1) hereof, the Authority shall take into account:

a) the quantitative and qualitative aspects of the investment firms' internal models for the assessment of capital adequacy;

b) the investment firms' internal control mechanisms and risk management processes; and

c) the findings of the investment firms' supervisory review.

(5)[388] In the event of taking measures and imposing fines upon an investment firm, the Authority shall notify the Befektető-védelmi Alap (*Investor Protection Fund*) simultaneously with adopting the resolution therefor if the resolution has any bearing on the Befektető-védelmi Alap carrying out its functions delegated under this Act and the CMA, or if it was adopted in connection with any infringement committed by an investment firm concerning the activities of the Befektető-védelmi Alap.

(6)[389] Moreover, the Authority shall notify the Befektető-védelmi Alap also if it detects any situation relying on information received from the competent authority supervising the investment firm's parent company that may have an impact on the Befektető-védelmi Alap carrying out its functions conferred by this Act and the CMA.

(7)[390] The Authority shall take the necessary measures if there is a demonstrated risk that the investment firm is unlikely to be able to comply within the twelve-month period ahead with the provisions of this Act and the regulations relating to prudential requirements.

(8)[391] If the investment firm fails to submit a revised recovery plan in spite of the Authority's decision, or if the revised recovery plan does not adequately remedy the deficiencies or potential impediments identified in the said decision, the Authority may direct the investment firm:

a) to reduce the risk profile of the investment firm, including liquidity risk;

b) to review the rules restricting a decision for any potential increase of the investment firm's capital;

c) to review the governance structure of the investment firm;

d) to make changes to the funding strategy so as to improve the resilience of the core business lines and critical functions.

Section 165

If there is a lawsuit filed for the review of the Authority's decision contained in Paragraphs h), n), o), and p) of Subsection (1) of Section 164, the court shall rule on such cases in expedited proceedings. The hearing shall be scheduled on or before the eighth day following the date on which charges are filed at the court, if no other action is required.

---

[387] Enacted: by paragraph (15) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[388] Enacted by Subsection (4) of Section 104 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[389] Enacted by Subsection (4) of Section 104 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[390] Enacted by Subsection (13) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[391] Enacted by Subsection (13) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

Section 166[392]

The Authority shall have powers to impose a fine upon any investment firm or commodity dealer, and upon their executive officers and other employees:

a) for any violation, circumvention, evasion, non-fulfillment or late fulfillment of the obligations set out in this Act or in specific other legislation adopted by authorization of this Act, in the MLT, in the resolution of the Authority and in its own internal regulations; or

b) if the fine is proposed by a foreign supervisory authority under Section 177.

Section 167[393]

Section 168

(1) The Authority may appoint one or more regulatory commissioners to oversee the activities of an investment firm or commodity dealer, particularly if:

a) it is in a situation where there is imminent danger that it cannot meet its liabilities;

b) its management body or any executive employee is unable to carry out his assigned duties, hence jeopardizing the interests of investors;

c) any discrepancies in its accounting system or internal control regime are of a magnitude whereby it is no longer possible to receive a true and fair view of its financial position.

(2) The situation referred to in Paragraph b) of Subsection (1) shall apply, among other reasons, if:

a) the owners or the founder of the branch fail to increase the equity capital of the investment firm or commodity dealer as prescribed; or

b) the management body fails to call a general meeting when it is ordered to do so by the Authority.

(3) The duties and powers of the regulatory commissioner shall be laid down in the resolution on his appointment.

(4) The regulatory commissioner shall present his report to the Authority within ninety days in which to outline the situation of the body in question, including any recommendations for further action. This time limit may be extended on one occasion, if justified, by maximum thirty additional days.

(5)[394] Based on the regulatory commissioner's recommendations the Authority shall decide on the course of further measures.

Section 169

(1)[395] Until the resolution ordering the appointment of a regulatory commissioner is delivered by service of process, the liability of members of the management body of the investment firm or commodity dealer concerned shall remain in effect as defined by the provisions of the Civil Code on legal persons.

---

[392] Established: by Section 114 of Act CXLIII of 2013. In force: as of 1. 10. 2013.

[393] Repealed: by subparagraph e) paragraph (5) Section 84 of Act CXLVIII of 2009. No longer in force: as of 1. 01. 2010.

[394] Amended: by Section 392 of Act LVI of 2009. In force: as of 1. 10. 2009.

[395] Established by Subsection (7) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.

(2)[396] During the period of the regulatory commissioner's appointment, members of the management body may not perform their tasks and exercise their signatory rights as provided for in the provisions of the Civil Code on legal persons, and in the articles of association. For the period of appointment, the regulatory commissioner shall exercise the rights of members of the management body provided for by law and the articles of association.

(3) By way of derogation from Subsection (2), members of the management body and the supervisory board shall have the right to seek remedy against the resolution appointing the regulatory commissioner and the resolution the Authority has adopted against the investment firm or commodity dealer, and to represent the investment firm or commodity dealer in such proceedings or delegate a representative on their behalf.

(4) The regulatory commissioner shall be responsible:

a) to assess the financial situation of the investment firm or commodity dealer concerned;

b) to analyze any potential to satisfy the claims of clients;

c) to restore the records of the investment firm or commodity dealer to the extent necessary for the actions defined in Paragraphs a) and b); and

d) to operate the investment firm or commodity dealer as a corporate entity to the extent necessary.

Section 170

(1)-(2)[397]

Chapter XXIX

COOPERATION WITH THE SUPERVISORY AUTHORITIES OF OTHER MEMBER STATES OF THE EUROPEAN ECONOMIC AREA

Consultation Prior to Authorization of Investment Service Activities

Section 171

(1) The Authority shall consult the competent supervisory authority of another EEA Member State prior to the granting of authorization to an investment firm to engage in investment service activities if:

a) the applicant is a subsidiary of an investment firm or credit institution authorized by the competent supervisory authority of another EEA Member State;

b) the applicant is a subsidiary of the parent company of an investment firm or credit institution authorized by the competent supervisory authority of another EEA Member State; or

c) the applicant is controlled by the same natural or legal persons as control an investment firm or credit institution authorized in another EEA Member State.

(2) The Authority shall consult the competent supervisory authority of the EEA Member State responsible for the supervision of credit institutions or insurance companies prior to the granting of authorization to an investment firm to engage in investment service activities if:

---

[396] Established by Subsection (7) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.

[397] Repealed: by subparagraph d) paragraph (1) Section 137 of Act CLVIII of 2010. No longer in force: as of 1. 01. 2011.

a) the applicant is a subsidiary of a credit institution or insurance company authorized by the competent supervisory authority of another EEA Member State;

b) the applicant is a subsidiary of the parent company of a credit institution or insurance company authorized by the competent supervisory authority of another EEA Member State; or

c) the applicant is controlled by the same natural or legal persons as control a credit institution or insurance company authorized by the competent supervisory authority of another EEA Member State.

(3) In the cases referred to Subsections (1) and (2), and when contacted by the competent supervisory authority of another EEA Member State regarding the applicant established in that state, the Authority shall cooperate in the process of examination of compliance with the applicable statutory provisions relating to the investment firm and the operator of a multilateral trading facility, and their owners and executive employees.

(4) Subsection (3) shall apply to any changes in the details contained in Subsections (1) and (2), and for the purposes of monitoring compliance with regulations pertaining to the operation and activities of investment firms and multilateral trading facilities on an ongoing basis.

(5)[398] The Authority shall disclose the opinion it has received from the competent supervisory authority of the other EEA Member State affected in its resolution adopted after consulting the said authority.

Notification Before the Commencement of Cross-Border Operations and Before the Establishment of a Branch

Section 172

(1) The Authority shall forward the notice received under Subsection (4) of Section 27 from an investment firm it has authorized to engage in investment service activities within one month from the time of receipt to the competent supervisory authority of the Member State referred to in Paragraph a) of Subsection (4) of Section 27.

(2) The Authority shall forthwith publish a notice received from the competent supervisory authority of another EEA Member State that contains the information specified in Subsection (4) of Section 27.

(3) The provisions contained in Subsections (1) and (2) shall also apply if the investment firm alters its investment service activities.

Section 173

(1) The Authority shall forward the complete notice received under Subsection (7) of Section 27 from an investment firm it has authorized to engage in investment service activities - together with the regulations of the Investor Protection Fund - within three months from the time of receipt to the competent supervisory authority of the Member State referred to in Paragraph a) of Subsection (7) of Section 27.

(2) The Authority shall forthwith publish a notice received from the competent supervisory authority of another EEA Member State that contains the information specified in Subsection (7) of Section 27.

---

[398] Enacted: by Section 158 of Act CIII of 2008. In force: as of 01. 01. 2009.

(3) The provisions contained in Subsections (1) and (2) shall also apply in the event of any changes in the information contained in the investment firm's notice referred to in Subsection (7) of Section 27; the notice shall be sent to the Authority at least one month before the change is scheduled to take effect.

Section 173/A.[399]

The Authority and the competent supervisory authorities of EEA Member States where the EU parent company, EU parent financial holding company or EU parent mixed financial holding company is established shall cooperate in monitoring the:

a) internal capital adequacy assessment process,

b) liquidity risk,

c) supervisory review,

d) extra capital requirement, or

e) institution-specific liquidity requirements

of an EU parent company and its subsidiaries, or an EU parent financial holding company and its subsidiaries, or an EU parent mixed financial holding company and its subsidiaries (hereinafter referred to as "multi-party proceedings").

Authorization for the Combined Use of Different Risk Management Protocols

Section 174[400]

(1) If the Authority exercises supervision over the subsidiary investment firm of an EU parent company, EU parent financial holding company or EU parent mixed financial holding company, at the opening of the proceedings provided for in Section 173/A, the Authority:

a) shall forward the necessary information and documents without delay to the competent supervisory authorities of the EEA Member States, where any company is established that is subject to supervision on a consolidated basis together with the EU parent company, EU parent financial holding company or EU parent mixed financial holding company in question, and

b) shall simultaneously notify the competent supervisory authorities of the EEA Member States referred to in Paragraph *a)* concerning the deadlines for supplying an opinion, analysis or objection relating to the application to the Authority.

(2) The Authority's resolution in a multi-party proceedings shall be made in concert with all competent supervisory authorities of EEA Member States participating in the proceedings (hereinafter referred to as "resolution adopted in multi-party proceedings"), and it shall be adopted:

a) in respect of Paragraphs *a), c)* and *d)* of Section 173/A, upon receipt of the complete application within four months from the date of submission of the Authority's risk assessment report made on a consolidated basis (covering also the adequacy on the consolidated level of own funds held by the group taking into account the financial situation and risk profile of the group) to the competent supervisory authority participating in the proceedings,

b) in respect of Paragraphs *b)* and e*)* of Section 173/A, upon receipt of the complete application within one month from the date of submission of the Authority's liquidity risk analysis report

[399] Enacted by Section 105 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[400] Established by Section 106 of Act CCXXXVI of 2013, effective as of 1 January 2014.

made on a consolidated basis (covering also the measures taken to address any significant matters and material findings relating to liquidity, including the measures relating to risk management and the need for institution-specific liquidity requirements) to the competent supervisory authority participating in the proceedings.

(3) If the multi-party proceedings is considered to have failed in the absence of the consent of the competent supervisory authority of any EEA Member State participating in the proceedings, the Authority shall open negotiations within the time limit referred to in Subsection (2) at the request of either of the competent supervisory authorities of EEA Member States with the EBA concerning the failure of the multi-party proceedings, or may do so at its own initiative.

(4) If the multi-party proceedings is considered to have failed in the absence of the consent of the competent supervisory authority of any EEA Member State, the Authority shall adopt a decision within ten working days following conclusion of the multi-party proceedings, taking into consideration the opinions, analysis and objections of all competent supervisory authorities of EEA Member States given during the multi-party proceedings.

(5) If the Authority has opened negotiations with the European Banking Authority (hereinafter referred to as "EBA"), the deadline for adopting a decision shall expire, by way of derogation from Subsection (2), after ten working days following the date of submission of the decision adopted under Article 19(3) of Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/78/EC to the Authority.

(6) Following the negotiations provided for in Subsection (5), the Authority shall take its decision in conformity with the decision of EBA. If the Authority's decision differs considerably from the decision of EBA, it shall offer an explanation therefor.

(7) The Authority shall send a copy of its decision, with detailed reasons, to the competent supervisory authorities of each of the EEA Member States that participated in the proceedings, and to the parent company subject to supervision on a consolidated basis.

(8) If the competent supervisory authority of another EEA Member State has powers to conduct the proceedings, and the subsidiary credit institution of the EU parent company, EU parent financial holding company or EU parent mixed financial holding company is supervised by the Authority, the Authority shall send its opinion and/or objections within the time limit specified by the competent supervisory authority of that other EEA Member State of jurisdiction for conducting the proceedings.

(9) If the competent supervisory authority of the EEA Member State where the EU parent company, EU parent financial holding company or EU parent mixed financial holding company is established has adopted a decision following the proceedings under Section 173/A, such resolution shall be binding in its entirety and directly applicable in Hungary. The Authority shall post a notice on its website in Hungarian, indicating that the competent supervisory authority of the EEA Member State has adopted a resolution. The enforcement of resolutions adopted by the competent supervisory authority of any EEA Member State relating to a body supervised by the Authority, monitoring compliance and the measures that may be imposed shall be governed by the relevant Hungarian laws pertaining to the Authority's resolutions.

(10) The Authority shall assess the need for making changes in the resolution referred to in Subsection (2):

a) at least once a year, or

b) at the request of the competent supervisory authority of the parent or subsidiary subject to supervision on a consolidated basis made out in writing, with reasons, in respect of Paragraph *d)* or *e)* of Section 173/A,
with the proviso that the competent supervisory authority mentioned in Paragraph *b)* may also participate in the proceedings.

Section 175

(1)[401] If the competent supervisory authority of another EEA Member State has powers to conduct the proceedings under Subsection (1) of Section 174, and if prudential supervision over the subsidiary investment firm of the EU parent investment firm, EU parent financial holding company or EU parent financial holding company is exercised by the Authority, the Authority shall send its opinion and/or objections relating to the application referred to in Subsection (3) of Section 102 after the complete application is made available, within the time limit specified by the competent supervisory authority of the other EEA Member State conducting the proceedings.

(2)[402] If the competent supervisory authority of the EEA Member State where the EU parent investment firm, EU parent financial holding company or EU parent mixed financial holding company is established has adopted a decision concerning the application, such resolution shall be binding in its entirety and directly applicable in Hungary.

(3) The Authority shall post a notice on its official website in Hungarian, indicating that the competent supervisory authority of another EEA Member State has adopted a resolution.

(4) The enforcement of resolutions adopted by the competent supervisory authority of any EEA Member State relating to an investment firm over which prudential supervision is exercised by the Authority, monitoring compliance and the measures that may be imposed shall be governed by Hungarian laws pertaining to the Authority's resolutions.

Systemically Significant Branches[403]

Section 175/A.[404]

(1) If an investment firm that is established in Hungary has established a branch in another EEA Member State or if the Authority functions as the consolidating supervisor of the investment firm setting up the branch, the Authority may - if so requested by the competent supervisory authority of the other EEA Member State - declare the branch as systemically significant jointly with the requesting supervisory authority.

(2) The Authority may request - based on the reasons referred to in Subsection (3) which can be considered as substantial grounds - the consolidating supervisor of another EEA Member State, or failing this the competent supervisory authority of the EEA Member State where the investment firm is established, to declare the Hungarian branch of the investment firm established that other EEA Member State as systemically significant by joint decision.

(3) Request for considering a branch to be systemically significant shall provide reasons with particular regard to the following:

---

[401] Established: by paragraph (5) Section 24 of Act LXXXIII of 2013. In force: as of 22. 06. 2013.
[402] Established: by paragraph (5) Section 24 of Act LXXXIII of 2013. In force: as of 22. 06. 2013.
[403] Enacted: by Section 156 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[404] Enacted: by Section 156 of Act CLIX of 2010. In force: as of 1. 01. 2011.

a) the likely impact of a suspension or closure of the operations of the investment firm on market liquidity and the payment and clearing and settlement systems in the given EEA Member State;

b) the size and the importance of the branch in terms of number of clients within the context of the financial system of the given EEA Member State.

(4) The Authority shall do everything within its power to reach a joint decision with the competent supervisory authority of the other EEA Member State on the designation of a branch as being systemically significant.

(5) If no joint decision is reached within two months of receipt of a request mentioned above, and if Hungary is the host Member State, the Authority shall take its own decision within a further period of two months on whether the branch is systemically significant taking into account any views and reservations of the competent supervisory authorities of other EEA Member States involved expressed during the proceedings for reaching a joint decision.

(6) The Authority shall send a copy of its decision referred to in Subsection (5) to the competent supervisory authority of the EEA Member State concerned.

(7) The joint decision referred to in Subsection (4), and the decision of the competent supervisory authority of the host Member State, if other than Hungary, declaring a branch as systemically significant shall be binding in its entirety and directly applicable in Hungary.

Section 175/B.[405]

If an investment firm that is established in Hungary has established a branch in another EEA Member State that is considered systemically significant, the Authority shall notify the competent supervisory authority of this other EEA Member State if it receives information concerning adverse developments in the investment firm or in other entities of a group to which supervision on a consolidated basis applies jointly with the investment firm, which could seriously affect the investment firm, as well as on imposing any sanctions upon or taking exceptional measures against the investment firm, including the supervisory measures under Paragraph *t)* of Subsection (1) of Section 164.

Powers and Competence of host EEA Member States

Section 176[406]

The Authority shall have powers to supervise the operations of the Hungarian branches of non-resident investment firms authorized by the supervisory authorities of other EEA Member States for carrying out investment service activities for the purpose of compliance with the provisions laid down in Sections 40-51, Sections 55-56, Sections 62-65, Sections 67-69, Sections 73-76 and Sections 151-153.

Section 177

[405] Enacted: by Section 156 of Act CLIX of 2010. In force: as of 1. 01. 2011.

[406] Established: by Section 141 of Act CL of 2009. In force: as of 1. 01. 2010. Amended: by subparagraph b) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012. The change does not effect the English version.

(1)[407] In the event of any infringement of the relevant statutory provisions and internal regulations in connection with the provision of cross-border services in the territory of Hungary by an investment firm or a market operator established in another EEA Member State, or by their Hungarian branches, the Authority shall have powers to impose the sanctions specified in Paragraphs *a), b), e), h), m), n), p)* and *s)* of Subsection (1) of Section 164 for the protection of investors, and may apply the sanctions specified in the UCPA within the meaning of Section 179.

(2) In the event of any infringement of the provisions not mentioned in Section 176 the Authority shall notify the competent supervisory authority of the home EEA Member State.

(3) If the Authority finds that, following the notification referred to in (2), the investment firm or its branch affected remain engaged in conduct violating the relevant statutory provision and internal regulations unbecoming or contrary to the measures adopted by the competent supervisory authority of the home EEA Member State, the Authority - upon notifying the competent supervisory authority of the home EEA Member State - shall take all measures necessary in order to protect investors and the stability of the financial system.

(4)[408] The Authority shall forthwith notify the investment firm or market operator affected, as well as the Commission and the European Securities and Markets Authority, concerning the measures the Authority has taken under Subsections (1) and (2), as well as its justification.

Section 178[409]

The Authority may, for statistical purposes, require all market operators established in other EEA Member States providing cross-border services in the territory of Hungary to report periodically on those activities, similar to the disclosure requirements applicable to investment firms established in Hungary.

Section 178/A.[410]

(1)[411] Where the Authority has good reasons to suspect that acts contrary to the provisions of Directive 2004/39/EC - as adapted into the relevant national laws -, carried out by entities not subject to its supervision, are being or have been carried out on the territory of another Member State, it shall notify this in as specific a manner as possible to the competent supervisory authority of the other Member State and the European Securities and Markets Authority.

(2)[412] The Authority shall take appropriate action upon being notified by the competent supervisory authority of another Member State concerning any infringement of the provisions of this Act carried out by entities subject to its supervision. Consequently, the Authority shall inform the notifying competent authority and the European Securities and Markets Authority of the outcome of the action and, to the extent possible, of significant interim developments.

---

[407] Established: by paragraph (2) Section 50 of Act XLVII of 2008. In force: as of 01. 09. 2008. Amended on the base: of subparagraph e) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[408] Established: by paragraph (16) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[409] Amended: by subparagraph h) paragraph (2) Section 178 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[410] Enacted: by Section 142 of Act CL of 2009. In force: as of 1. 01. 2010.

[411] Established: by paragraph (17) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

[412] Established: by paragraph (17) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.

Section 178/B.[413]

When so requested by the home Member State of multilateral trading facilities, the Authority shall disclose information concerning the members of multilateral trading facilities.

Chapter XXX

PROCEEDINGS IN CONNECTION WITH ANY INFRINGEMENT OF THE REGULATIONS RELATING TO BUSINESS-TO-CONSUMER COMMERCIAL PRACTICES[414]

Section 179[415]

In connection with any infringement of the regulations relating to business-to-consumer commercial practices, the authority specified in the UCPA shall have competence in accordance with the provisions contained therein, if the infringement concerns any consumer to whom the definition under Paragraph *a)* of Section 2 of the UCPA applies, or a retail client or potential client after they are bound by any agreement, with the exception that any person recognized as a retail client (potential client) under this Act shall be treated as a consumer within the meaning of the UCPA, also if other than natural persons.

PART NINE

CLOSING PROVISIONS

Authorizations

Section 180

(1) The Government is hereby authorized to decree:

a) the requirements in terms of personnel, equipment, technical and security facilities for carrying out investment service activities, providing ancillary services and commodity exchange services;

b) the mandatory layout of the standard service agreement of providers of investment services and ancillary services and commodity dealers, and of the contracts for investment service activities, ancillary services, and commodity exchange services;

c)[416] the detailed regulations for the enforcement of a pledge relating to financial instruments and certain securities, for exercising the right to satisfaction directly, and for sales other than by judicial enforcement;

d)[417]

---

[413] Enacted: by Section 142 of Act CL of 2009. In force: as of 1. 01. 2010.
[414] Established: by paragraph (3) Section 50 of Act XLVII of 2008. In force: as of 01. 09. 2008.
[415] Established: by Section 77 of Act CXLVIII of 2009. In force: as of 1. 01. 2010.
[416] Established by Subsection (2) of Section 278 of Act XVI of 2014, effective as of 15 March 2014.
[417] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.

e) the regulations concerning the risk management system employed relative to interest-rate risks;

f)-g)[418]

h)[419] the detailed regulations concerning the application of the remuneration policy having regard to the size, nature, scale and complexity of the activities of the investment firm concerned.

(2)[420] The minister is hereby authorized to decree the detailed regulations concerning the minimum content requirements for information to be provided before the conclusion of a contract concluded with the client, during and upon the termination of the contractual relationship.

(3)[421] The Governor of the Magyar Nemzeti Bank is hereby authorized to decree the detailed regulations concerning the procedure for providing information to consumers before the conclusion of a contract, during and upon the termination of the contractual relationship, and for handling client complaints in terms of formal and procedural requirements.

(4)[422] The Governor of the MNB is hereby authorized to decree, acting within its function as supervisory authority of the financial intermediary system, to determine:

a) in accordance with Article 465(2) of Regulation 575/2013/EU, the levels of the Common Equity Tier 1 and Tier 1 capital ratios that investment firms shall meet or exceed;

b) the applicable percentage falling within the ranges specified in Article 467(2) of Regulation 575/2013/EU;

c) in accordance with Article 468(3) of Regulation 575/2013/EU, the applicable percentage of unrealized gains relating to assets and liabilities measured at fair value that is not removed from Common Equity Tier 1 capital;

d) in accordance with Article 478(3) of Regulation 575/2013/EU, the applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items;

e) the applicable percentages provided for in Article 479(4) of Regulation 575/2013/EU for the temporary application of the items that qualified as consolidated Common Equity Tier 1 capital under the regulations in force by 31 December 2013, which, however, do not qualify as such under the provisions of Regulation 575/2013/EU currently in force;

f) in accordance with Article 480(3) of Regulation 575/2013/EU, the value of the applicable factor for recognition in consolidated own funds of minority interests and qualifying as Additional Tier 1 and Tier 2 capital items;

g) in accordance with Article 481(5) of Regulation 575/2013/EU, the applicable percentages prescribed under the regulations in force by 31 December 2013 for Common Equity Tier 1, common equity, Additional Tier 1 and own-fund items, pertaining to the temporary application of filters or deductions not provided for in Regulation 575/2013/EU;

h) in accordance with Article 486(6) of Regulation 575/2013/EU, the applicable percentages prescribed under the regulations in force by 31 December 2013 for Common Equity Tier 1, Additional Tier 1 and Tier 2 capital items, pertaining to the temporary application of such items, which, however, do not meet the requirement set out in Regulation 575/2013/EU.

(5)[423] The Governor of the MNB is hereby authorized to decree, acting within its function as supervisory authority of the financial intermediary system, the rules for the calculation,

---

[418] Repealed by Paragraph a) of Section 112 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[419] Enacted: by Section 157 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[420] Established: by paragraph (2) Section 115 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[421] Enacted: by paragraph (3) Section 115 of Act CXLIII of 2013. In force: as of 1. 10. 2013.
[422] Enacted by Section 107 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[423] Enacted by Subsection (14) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.

registration and publication of the discount rate applicable for determining the present value of payments for the performance-based component of remuneration.

Entry into Force

Section 181

(1) This Act - with the exception set out in Subsection (2) - shall enter into force on 1 December 2007.

(2) [424]

(3) [425]

(4) [426]

(5) [427]

Transitional Provisions[428]

Section 182[429]

(1)[430] Investment firms are required to comply with the provisions contained in Schedule No. 4 relating to internal remuneration policies and to the setting up of remuneration committees, as established by Subsection (2) of Section 159 of Act CLIX of 2010 on the Amendments of Financial Regulations, as of 31 August 2011 at the latest.

(2) Securities and core loan capital existing at the time of Act CLIX of 2010 on the Amendments of Financial Regulations entering into force, which are in compliance with the requirements set out in Schedule No. 2 to this Act, as effective on 31 December 2010, relating to core loan capital, but which will not satisfy either of the requirements set out in Points 3, 6, 7 and 10 of Schedule No. 2 after 1 January 2011, shall be treated until 31 December 2040 to have satisfied the requirements prescribed for subscribed and paid up capital of mixed properties, or core loan capital, where such securities and core loan capital may be included in the core capital subject to the following conditions:

a) between 1 January 2020 and 31 December 2029 they may not exceed 20 per cent of the core capital;

b) after 1 January 2030 they may not exceed 10 per cent of the core capital.

(3) Any loan existing at the time of Act CLIX of 2010 on the Amendments of Financial Regulations entering into force that is treated as subsidiary loan capital according to Schedule No. 2 to this Act, as effective on 31 December 2010, shall be treated until 31 December 2025 to have satisfied the requirements prescribed for subsidiary loan capital.

(4) The book value of core loan capital, subsidiary loan capital or subordinated loan capital of own issue, that the investment firm has called and shown in the financial records under assets at

---

[424] Repealed by Subsection (5) of Section 181 of this Act, effective as of 16 December 2007.
[425] Repealed by Subsection (4) of Section 181 of this Act, effective as of 2 December 2007.
[426] Repealed by this same Subsection effective as of 2 December 2007.
[427] Repealed by this same Subsection effective as of 16 December 2007.
[428] Enacted: by Section 158 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[429] Enacted: by Section 158 of Act CLIX of 2010. In force: as of 1. 01. 2011.
[430] Amended: by paragraph (9) Section 30 of Act XCVI of 2011. In force: as of 15. 07. 2011.

the time of Act CLIX of 2010 on the Amendments of Financial Regulations entering into force, shall not be deducted until 31 December 2011 when determining own funds.

(5)[431] Effective as of 1 January 2016, investment firms shall calculate the amount of capital conservation buffer under Section 110/A, as established by Act CCXXXVI of 2013 on the Amendments of Financial Regulations (hereinafter referred to as "Act CCXXXVI/2013") as per the following:

a) in the period between 1 January 2016 and 31 December 2016, 0.625 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU;

b) in the period between 1 January 2017 and 31 December 2017, 1.25 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU; and

c) in the period between 1 January 2018 and 31 December 2018, 1.875 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU.

(6)[432] Investment firms shall, in accordance with Section 110/B as established by Act CCXXXVI/2013 - with the exceptions set out in Subsection (2), (3) or (4) -, maintain an institution-specific countercyclical capital buffer at the latest as of 1 January 2019.

(7)[433] Where a countercyclical capital buffer is prescribed by the MNB under Section 183/A of the MNB Act, as established by Act CCXXXVI/2013, investment firms shall maintain an institution-specific countercyclical capital buffer:

a) in the period between 1 January 2014 and 31 December 2014, up to 0.625 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU;

b) in the period between 1 January 2015 and 31 December 2015, up to 1.25 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU; and

c) in the period between 1 January 2016 and 31 December 2016, up to 1.875 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU; with the proviso that it shall be calculated as of 1 January 2017 by the rate specified in Section 110/B, as established by Act CCXXXVI/2013.

(8)[434] Where a countercyclical capital buffer is prescribed by the MNB under Section 183/A of the MNB Act, as established by Act CCXXXVI/2013, investment firms shall maintain an institution-specific countercyclical capital buffer:

a) in the period between 1 January 2015 and 31 December 2015, up to 0.625 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU;

b) in the period between 1 January 2016 and 31 December 2016, up to 1.25 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU; and

c) in the period between 1 January 2017 and 31 December 2017, up to 1.875 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU; with the proviso that it shall be calculated as of 1 January 2018 by the rate specified in Section 110/B, as established by Act CCXXXVI/2013.

(9)[435] Where a countercyclical capital buffer is prescribed by the MNB under Section 183/A of the MNB Act, as established by Act CCXXXVI/2013, investment firms shall maintain an institution-specific countercyclical capital buffer:

a) in the period between 1 January 2016 and 31 December 2016, up to 0.625 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU;

---

[431] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[432] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[433] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[434] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[435] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.

b) in the period between 1 January 2017 and 31 December 2017, up to 1.25 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU; and

c) in the period between 1 January 2018 and 31 December 2018, up to 1.875 per cent of the total risk exposure amount provided for in Paragraph 3 of Article 92 of Regulation 575/2013/EU; with the proviso that it shall be calculated as of 1 January 2019 by the rate specified in Section 110/B, as established by Act CCXXXVI/2013.

(10)[436] If an investment firm proceeds according to Subsections (5) and (7) of Section 182 and the designated authority of another EEA Member State or a third country where the investment firm operates has not set a countercyclical buffer rate, in determining the institution-specific countercyclical capital buffer the investment firm shall maintain a 0 per cent countercyclical capital buffer rate in respect of its exposures to counterparties located in that EEA Member State or third country.

(11)[437] Effective as of 1 January 2016, investment firms shall calculate the amount of capital buffers applicable to global systemically important investment firms under Section 110/D, as established by Act CCXXXVI/2013, as per the following:

a) in the period between 1 January 2016 and 31 December 2016, 25 per cent of the capital buffer requirement relating to global systemically important investment firms provided for in Section 92;

b) in the period between 1 January 2017 and 31 December 2017, 50 per cent of the capital buffer requirement relating to global systemically important investment firms provided for in Section 92; and

c) in the period between 1 January 2018 and 31 December 2018, 75 per cent of the capital buffer requirement relating to global systemically important investment firms provided for in Section 92.

(12)[438] Investment firms shall make public the information provided for in Paragraphs *a)-c)* of Subsection (1) of Section 123/A, as established by Act CCXXXVI/2013, from 1 July 2014, and the information provided for in Paragraphs *d)-f)* of Subsection (1) of Section 123/A, as established by Act CCXXXVI/2013, from 1 January 2015.

(13)[439] Global systemically important investment firms shall disclose to the European Commission the information provided for in Paragraphs *d)-f)* of Subsection (1) of Section 123/A, as established by Act CCXXXVI/2013, from 1 July 2014.

(14)[440] The decision adopted under Section 174 shall be updated at least once in a year, or before the expiry of the annual review at the reasoned request of the institution referred to in Subsection (1) of Section 102.

(15)[441] The provisions of Points 7-23 of Schedule No. 4 shall apply to remunerations paid after 1 January 2014 also if the agreement pertaining to such distribution was concluded before the time of this Act entering into force. Investment firms existing at the time of this Act entering into force may - by way of derogation from Point 5 of Schedule No. 4 - use up to 30 June 2014 a remuneration policy approved by the supervisory board and examined by the supervisory board.

---

[436] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[437] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[438] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[439] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[440] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[441] Enacted by Section 108 of Act CCXXXVI of 2013, effective as of 1 January 2014.

(16)[442] The recovery plan provided for in Section 102, as established by Subsection (4) of Section 157 of the Resolution Act, and the group recovery plan shall be submitted to the Authority by the management body in its managerial function of an investment firm existing or whose authorization is pending at the time of entry into force of the Resolution Act for the first time at the latest by 31 December 2014.

Section 182/A.[443]

The Institution referred to in Section 123/B shall make available the information provided for in Subsection (1) of Section 123/C relating to financial accounts opened before the time of entry into force of the FATCA Act in writing or - on general principle in a manner which precludes identification of account holders - on its website at the latest by 30 June 2015.

Approximation Clause

Section 183

(1) This Act serves the purpose of conformity with the following legislation of the Communities:

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

b) Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organizational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;

c)[444] Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions.

d)[445] Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector.

e)[446] Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

f)[447] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and

---

[442] Enacted by Subsection (15) of Section 157 of Act XXXVII of 2014, effective as of 16 September 2014.
[443] Enacted by Section 14 of Act XIX of 2014, effective as of 16 July 2014.
[444] Amended: by paragraph (2) Section 66 of Act CLI of 2012. In force: as of 28. 10. 2012.
[445] Enacted: by Section 159 of Act CIII of 2008. In force: as of 01. 01. 2009.
[446] Enacted: by paragraph (19) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[447] Established by Subsection (1) of Section 109 of Act CCXXXVI of 2013, effective as of 1 January 2014.

investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC;

g)[448] Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate.

(2)[449] This Act contains provisions for the implementation of the following legislation:

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

b) Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012.

Amendments

Sections 184-219[450]

Amendment of Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities

Section 220[451]

Schedule No. 1 to Act CXXXVIII of 2007

1.[452] PFA: Act CXCV of 2011 Act on Public Finances;

2. RTA: Act XCII of 2003 on the Rules of Taxation;

3. Insurance Act: Act LX of 2003 on Insurance Institutions and the Insurance Business;

4.[453] Criminal Code: Act C of 2012 on the Criminal Code;

5. CRA: Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings;

6. Bankruptcy Act: Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings;

7. FCA: Act CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign-Registered Companies;

8.[454] UCPA: Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices (hereinafter referred to as "UCPA"),

9.[455]

---

[448] Enacted: by paragraph (6) Section 24 of Act LXXXIII of 2013. In force: as of 22. 06. 2013.
[449] Established by Subsection (2) of Section 109 of Act CCXXXVI of 2013, effective as of 1 January 2014.
[450] Repealed, together with the previous subtitle, by Subsection (4) of Section 181 of this Act, effective as of 2 December 2007.
[451] Repealed by Subsection (5) of Section 181 of this Act, effective as of 16 December 2007.
[452] Amended: by paragraph (3) Section 113 of Act CXCV of 2011. In force: as of 1. 01. 2012.
[453] Established: by paragraph (2) Section 304 of Act CCXXIII of 2012. In force: as of 1. 07. 2013.
[454] Enacted: by paragraph (5) Section 50 of Act XLVII of 2008. In force: as of 01. 09. 2008.
[455] Repealed by Subsection (8) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.

10.[456] Banking Act: Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises;
11.[457] Duties Act: Act XCIII of 1990 on Duties;
12.[458] APA: Act CXL of 2004 on the General Rules of Administrative Proceedings and Services;
13.[459]
14.[460] MNB Act: the Act on the Magyar Nemzeti Bank;
15. [461] MLT: Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing;
16.[462] Civil Code: Act on the Civil Code of the Republic of Hungary;
16.[463]
17. Accounting Act: Act C of 2000 on Accounting;
18.[464]
19. DMFC: Act XXV of 2005 on the Distance Marketing of Consumer Financial Services;
20. Arbitration Act: Act LXXI of 1994 on Arbitration;
21. JEA: Act LIII of 1994 on Judicial Enforcement.
22.[465] PRJ: Act XLVII of 2009 on the Penal Register, on the Register of Judgments Delivered by the Courts of Member States of the European Union Against Hungarian Nationals, and on the Register of Biometric Data Related to Criminal Prosecution and Law Enforcement;
23.[466] Collective Investments Act: Act XVI of 2014 on Collective Investment Trusts and Their Managers, and on the Amendment of Financial Regulations.

Schedule No. 2 to Act CXXXVIII of 2007[467]

Multiplication factor for distributions

The multiplication factor under Subsection (2) of Section 110/J for distributions shall be determined as follows:

a) where the Common Equity Tier 1 capital maintained by the investment firm is above the level of own funds requirement provided for in Article 92 of Regulation 575/2013/EU, and it is within the first (that is, the lowest) quartile of the combined buffer requirement, the factor shall be 0;

---

[456] Numbering amended by paragraph (5) Section 50 of Act XLVII of 2008. Amended by Paragraph d) of Section 111 of Act CCXXXVI of 2013.
[457] Numbering amended: by paragraph (5) Section 50 of Act XLVII of 2008. In force: as of 01. 09. 2008.
[458] Numbering amended: by paragraph (5) Section 50 of Act XLVII of 2008. In force: as of 01. 09. 2008.
[459] Repealed: by subparagraph d) paragraph (2) Section 59 of Act V of 2012. No longer in force: as of 1. 03. 2012.
[460] Established: by Section 72 of Act CCVIII of 2011. In force: as of 1. 01. 2012.
[461] Established by Subsection (2) of Section 220 of this Act, effective as of 15 December 2007. Numbering amended: by paragraph (5) Section 50 of Act XLVII of 2008. In force: as of 01. 09. 2008.
[462] Established: by Section 143 of Act CL of 2009. In force: as of 1. 01. 2010.
[463] Repealed: by subparagraph t) Section 54 of Act XLVII of 2008. No longer in force: as of 01. 09. 2008.
[464] Repealed by Subsection (8) of Section 165 of Act CCLII of 2013, effective as of 15 March 2014.
[465] Enacted: by paragraph (20) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[466] Established by Subsection (4) of Section 278 of Act XVI of 2014, effective as of 15 March 2014.
[467] Established by Section 110, Schedule No. 4 to Act CCXXXVI of 2013, effective as of 1 January 2014.

b) where the Common Equity Tier 1 capital maintained by the investment firm is above the level of own funds requirement provided for in Article 92 of Regulation 575/2013/EU, and it is within the second quartile of the combined buffer requirement, the factor shall be 0.2;

c) where the Common Equity Tier 1 capital maintained by the investment firm is above the level of own funds requirement provided for in Article 92 of Regulation 575/2013/EU, and it is within the third quartile of the combined buffer requirement, the factor shall be 0.4;

d) where the Common Equity Tier 1 capital maintained by the investment firm is above the level of own funds requirement provided for in Article 92 of Regulation 575/2013/EU, and it is within the fourth (that is, the highest) quartile of the combined buffer requirement, the factor shall be 0.6.

The lower and upper bounds of each quartile of the combined buffer requirement shall be calculated as follows:

Lower bound of quartile = *Combined buffer requirement*/4× *(Qn* - 1)

Upper bound of quartile = *Combined buffer requirement*/4× *Qn*

"Qn" indicates the ordinal number of the quartile concerned.

Schedule No. 3 to Act CXXXVIII of 2007

Rules and principles for the assessment, documentation and disclosure of earnings achieved in a portfolio managed by a body providing portfolio management services

1. All data and information, which are necessary to demonstrate the results achieved in a portfolio and to perform the prescribed calculations must be compiled and kept on file.
2. All source information for portfolio assessment and the methods employed must be made available to the investors.
3. All portfolios must be evaluated at least monthly.
4. Portfolios must be evaluated on a market value basis.
5. For the evaluation of interest-bearing bonds and all other instruments on which any interest is paid the amount of interest accrued for a given period must be taken into consideration.
6. Yields from moneys and other similar instruments must be included in total earnings.
7. Yields shall be computed on each trading day.
8. Unless otherwise prescribed by legal regulation, the yield of portfolios shall be calculated on a capital-weighted monthly average or time-weighted daily average.
9. Return must be assessed on the whole, including any and all capital gains and profits, realized or not.
10. The earnings of the various periods must be shown in a geometrical sequence.
11. The return achieved in periods of less than one year cannot be computed on an annual basis.
12. Every yield figure must have an indication as to which period it pertains.
13. The costs and expenses of trading shall not be included when rating the efficiency of management.
14. Non-refundable withholding tax on dividends, interest income and capital gains must be deducted from the yield amount. Withholding tax that can be refunded shall be taken into consideration.

15. It shall be indicated whether the yield calculated is net or gross, namely, whether it includes the fees paid by the investor to the portfolio manager or to its affiliated company.

16. Any fact and additional information that may be of importance for making an informed judgement of a portfolio's performance, or to offer an explanation for the yield calculated shall also be indicated.

17. In terms of efficiency rating, any diversification of capital or use of derivative instruments, and the extent of such, shall be demonstrated in a yield calculation so as to permit the identification of risks.

18. Where a reference index has been made part of a portfolio, in line with the underlying investment policy, the yield of such a reference index is to be shown for the same period or periods to which the yield of a portfolio pertains using the same yield calculation methods.

19.[468] When rating the efficiency of a portfolio manager, the yield figures shall cover the past five years or, if less than five years, the full period of their activities, broken down by calendar year.

Schedule No. 4 to Act CXXXVIII of 2007[469]

Remuneration Policy

1. Investment firms shall have in place internal remuneration policies consistent with their size, internal organization and the nature, the scope and the complexity of their activities.

2. The remuneration policy shall apply to the investment firm's executive employees, the staff of risk takers and the staff engaged in control as defined in internal policies - including the employees carrying out the internal control functions -, and any employee of the same remuneration category as the previous categories of staff whose professional activities have a material impact on the investment firm's risk profile.

3. The remuneration policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking that exceeds the level of tolerated risk of the investment firm. The remuneration policy is in line with the business strategy, objectives, values and long-term interests of the investment firm, and incorporates measures to avoid conflicts of interest.

4. The investment firm shall apply the provisions on remuneration policy to all entities to which supervision on a consolidated basis applies jointly with the investment firm.

5. The supervisory board shall adopt and periodically review the general principles of the remuneration policy and the management body is responsible for its implementation, subject, at least annually, to internal review.

6. Investment firms whose balance sheet total for the previous year exceed two hundred billion forints are required to establish a remuneration committee that shall be responsible for overseeing the remuneration of the senior officers in the risk management and compliance functions, and for the preparation of decisions regarding remuneration, taking into account the long-term interests of shareholders, investors and other stakeholders in the investment firm. The chair and the members of the remuneration committee shall be members of the management body who do not perform any executive functions in the investment firm concerned. If the management body of the investment firm concerned does not have at least three members who do not perform any

[468] Established: by paragraph (20) Section 164 of Act CXCIII of 2011. In force: as of 1. 01. 2012.
[469] Established by Section 110, Schedule No. 5 to Act CCXXXVI of 2013, effective as of 1 January 2014.

executive functions, independent members of the supervisory body may participate in the remuneration committee.

7. Investment firms shall define the ratio that fixed salary and incentives represent within the total remuneration. Investment firms shall fix in their internal policy the ratio that basic remuneration represent within the total remuneration, where the variable component shall not exceed 100 per cent of the fixed component of the total remuneration, save where Point 8 applies.

8. Investment firms may provide payments under the pay-for-performance principle up to 200 per cent of the basic remuneration:

a) if so authorized by the investment firm's general meeting;

b) if the motion tabled in the general meeting provides a detailed explanation for the higher bonus based on performance;

c) provided that in the general meeting members of the investment firm act:

ca) by a majority of at least 66 per cent provided that at least 50 per cent of the shares or equivalent ownership rights are represented, or

cb) by a majority of 75 per cent of the ownership rights represented; and

d) the investment firm notifies the Authority of the motion before the general meeting, and of the resolution adopted under Paragraph *c)*.

9. The motion provided for in Paragraph *b)* of Point 8 shall contain:

a) the reasons for the higher basic remuneration - performance pay ratio;

b) the maximum percentage recommended;

c) information relating to the number and positions of the executive and other employees affected; and

d) the impact on the maintenance of the investment firm's sound capital base.

10. The persons referred to in Paragraph *c)* of Point 9 shall not, directly or indirectly, exercise their shareholder, proprietary or membership rights in passing the resolution provided for in Paragraph *c)* of Point 8.

11. The Authority shall assess the information received under Paragraph *d)* of Point 8 and shall monitor the investment firms' remuneration practices.

12. Investment firms shall verify to the Authority that the increased basic remuneration - performance pay ratio proposed does not violate the provisions of this Act, prudential requirements and the provisions of Regulation 575/2013/EU.

13. Investment firms shall apply the discount rate provided for in the Authority's decree for determining the amount to a maximum of 25 per cent of total variable remuneration provided it is paid in instruments that are deferred for a period of not less than five years.

14. Taking into account the restrictions fixed in Points 7 and 8, the basic remuneration should be of an amount to allow the operation of fully flexible remuneration policy, including the possibility to pay no variable remuneration, but a fixed basic remuneration only.

15. Where remuneration is performance related, the performance of the executive employee or other staff member and of the business unit concerned, as well as the overall results of the investment firm shall be assessed simultaneously, with financial and non-financial criteria taken into account. The assessment of the performance is set in a multi-year framework in order to ensure that the assessment process is based on longer-term performance, and guaranteed variable remuneration occurs only when hiring new staff and is limited to the first year of employment. The measurement of performance used to calculate variable remuneration components includes an adjustment for all types of current and future risks and takes into account the cost of the capital and the liquidity required.

16. Guaranteed variable remuneration is not permitted, and shall not be a part of prospective remuneration plans.

17. The variable remuneration can be paid or vests upon the executive employee or other staff member only if:

a) it is sustainable according to the financial situation of the investment firm, and

b) it is justified on the basis of the performance of the investment firm, the business unit and the executive employee or other staff member concerned.

18. At least 50 per cent of any variable remuneration shall consist, unless otherwise provided for by law, of the following:

a) shares or equivalent ownership interests of the investment firm concerned, subject to the legal structure of the investment firm concerned and taking into account the resulting unique characteristics, or share-linked instruments or equivalent non-cash instruments, in case of a non-listed investment firm, and

b) where appropriate, Additional Tier 1 instruments, Tier 2 instruments or other instruments, and

ba) which can be fully converted to Common Equity Tier 1 instruments, or

bb) which can be written down from the said instruments, and

that in each case adequately reflect the credit quality of the investment firm as a going concern and are appropriate to be used for the purposes of variable remuneration. with the proviso that the instruments referred to in this point shall be subject to an appropriate retention policy.

19. Where the financial performance of an investment firm is subdued to an extent defined by the internal policy due to the excessive risk-taking behavior of any executive employee or member of staff, the total variable remuneration of this executive employee or member of staff shall be reduced.

20. A substantial portion, and in any event at least 40 per cent - or at least 60 per cent in the case of a variable remuneration component of an amount above the limit specified in the internal policy - of the variable remuneration component shall be deferred aligned with the nature of the business, its risks and the activities of the executive employee or member of staff in question, and paid at the time the employment is terminated if employed for less than three years, or over a period which is not less than three to five years in other cases.

21. Up to 100 per cent of the total variable remuneration shall be subject to malus or clawback arrangements. Investment firms shall set specific criteria in the internal policy for the application of malus and clawback. Such criteria shall in particular cover situations where the executive employee or the staff member:

a) participated in or was responsible for conduct which resulted in significant losses to the investment firm, or if held responsible for significant losses to the investment firm; and

b) failed to meet appropriate standards of fitness and propriety.

22. Payment of variable remuneration must not limit the ability of the investment firm to strengthen its capital base to the extent necessary, and may not employ any vehicles or methods which are not consistent with the implementation of the principles of the remuneration policy.

23. Payment of variable remuneration must not result in non-compliance with the provisions of this Act, prudential requirements and the provisions of Regulation 575/2013/EU.

24. Payments related to the early termination of a contract shall reflect performance achieved over time and are designed in a way that does not reward failure.

25. Remuneration packages relating to full compensation for remuneration or buy out from contracts in previous employment must align with the long-term interests of the investment firm including retention, deferral, performance and clawback arrangements.

26. If the investment firm has a pension policy, it shall be in line with the business strategy, objectives, values and long-term interests of the investment firm. If, according to the pension policy, pension benefits are granted on a discretionary basis by an investment firm to an executive employee or staff member as part of that employee's variable remuneration package, such discretionary pension benefits shall be paid by the investment firm in the form of instruments referred to in Point 18 subject to a five-year retention period following the termination of employment.

27. The remuneration of staff engaged in control functions shall be independent from the business units they oversee, and are calculated in accordance with the achievement of the objectives linked to their functions.

28. Subject to the exception set out in Point 29, the remuneration of the staff members carrying out supervisory functions (including internal control functions) and risk management functions shall be directly overseen by the supervisory board, unless the investment firm has a remuneration committee.

29. If the investment firm has a remuneration committee, the remuneration committee shall be responsible to oversee the remuneration of the employees concerned.

30. Executive employees and staff members of investment firms are required to undertake not to use personal hedging strategies to undermine the risk alignment effects embedded in their remuneration arrangements.

31. The Hungarian branches of investment firms established in other EEA Member States shall apply the provisions of the national law of the State where the investment firm is established.