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ACT

Amending the Law on the Public Trading of Securities and Amending Other Acts¹⁾,

dated March 12th 2004

Art. 1.

The Act entitled “The Law on the Public Trading of Securities”, dated August 21st 1997 (Journals of Laws of 2002: No. 49, Item 447, as amended²⁾), is hereby amended as follows:

1) Art. 3 shall read as follows:

- “Art.3. 1. Securities, as defined in this Act, are shares, rights to shares, subscription warrants, depository receipts, bonds, mortgage bonds, investment certificates as well as other securities issued pursuant to applicable laws of the Republic of Poland or a foreign country.
2. The transferable property rights attached to the securities referred to in section 1 above are also understood to be securities under this Act.
3. Property rights other than enumerated in section 2 above whose price is directly or indirectly related to the price of the securities enumerated in sections 1 and 2 above (derivative rights), including in particular futures and options, are also securities.

¹⁾ The following acts are amended by this Act: the Act on Tax Supervision of September 28th 1991; the Act on Banking Law of August 29th 1997; the Act on Commodity Exchanges of October 26th 2000; the Act of December 8th 2000 Amending the Act on Act on Administrative Enforcement Proceedings, the Act on Local Taxes and Charges, the Act on Subsidised Interest on Certain Bank Loans, the Law on the Public Trading of Securities, the Tax Legislation, the Act on Public Finances, the Corporate Income Tax Act, and the Act on the Commercialisation and Privatisation of State-Owned Enterprises, in connection with the harmonisation of Polish laws with the European Union legislation; and the Act on the Final Nature of Settlements in Payment Systems and Securities Settlement Systems, and Rules of Supervision over These Systems, dated August 24th 2001.

²⁾ The amendments to the consolidated text of the Act were published in the Journal of Laws of 2002: No. 240, Item 2055; and the Journals of Laws of 2003: No. 50, Item 424; No. 84, Item 774, No. 124, Item 1151; No. 170, Item 1651, and No. 223, Item 2216.

4. From the date of admission to public trading, property rights other than those specified in sections 2 and 3, subject to a registration in the depository of securities, are also securities.”;

2) after Art. 3, Art. 3a and 3b shall be added to read as follows:

“Art. 3a. 1. Financial instruments, as defined in this Act, are:

- 1) transferable securities,
- 2) units in collective investment undertakings other than securities,
- 3) money-market instruments other than securities,
- 4) financial-futures contracts, forward interest-rate agreements, equity swaps, interest-rate swaps, currency swaps or options to acquire or dispose of any financial instrument, other than securities,
- 5) property rights whose price depends directly or indirectly on the value of items of specified type, specified types of energy, measurements and allowances of production or pollution emissions (derivatives on commodities),
- 6) any other instruments admitted or sought to be admitted to trading on a regulated market on the territory of the Republic of Poland or a Member State.

2. Money-market instruments as referred to in section 1 item 3 are securities or property rights incorporating solely monetary claims, which are exercisable no later than within one year as of their issuance and whose value may be established at any time,

Art. 3b. Unless otherwise provided herein, the provisions of the Act relating to financial instruments shall apply to financial instruments admitted or sought to be admitted to public trading or trading on a regulated market on the territory of the Republic of Poland or any other Member State, irrespective of whether the transactions on such instruments are executed on that market.

3) in Art. 4:

a) in item 2, point a) shall read as follows:

“a) in relation to which consent was granted to admit them to the public trading, the document referred to in Art. 62a section 1 item 3 was received, or the notification referred to in Art. 62b or Art. 63 was submitted,”,

b) item 3 shall read as follows:

“3) admission of securities to the public trading – shall be understood to mean approval by the Polish Securities and Exchange Commission of their introduction to the public trading, receipt of the document referred to in Art. 62a section 1 item 3, or submission of the notification referred to in Art. 62b or Art. 63,”,

c) item 14 shall read as follows:

“14) regulated market – this term shall be understood to mean the system for trading in financial instruments admitted to the public trading, functioning regularly, organised in line with statutorily defined rules, and ensuring that

investors have universal, equal and simultaneous access to market information during the matching of buy and sell offers of such financial instruments, and that uniform terms and conditions for buying and selling the said financial instruments are maintained; such market is created by the company which operates the stock exchange or the company which operates the over-the-counter market, respectively,”

d) after item 16, items 16a and 16b shall be added to read as follows:

“16a) subsidiary – this term shall be understood to mean an entity with respect to which another entity is a parent company, with all subsidiaries of a subsidiary also understood to be subsidiaries of the parent company,

16b) capital group – this term shall be understood to mean the parent company together with its subsidiaries”,

e) items 18 and 19 shall read as follows:

“18) professional secret – this term shall be understood to mean information obtained by a person bound by the obligation of professional secrecy, in connection with business duties performed under an employment or mandate contract or any other contract of similar nature, related to trade in financial instruments or other activities performed as part of the business of the statutorily regulated entities and entities which are subject to supervision by a foreign supervisory authority, if unauthorised disclosure of such information could be detrimental to the public interest or legally protected interest of a legal or natural person or an organisation to which or to whom such information relates, and in particular information containing:

a) personal data of a party to an agreement/contract or another legal action,

b) the substance of the agreement/contract or of the legal action,

c) data on the financial standing of a party to the agreement/contract, including identification of the party’s securities account or the cash account, as well as the number and description of securities and the value of monies kept in such accounts,

19) inside information – this term shall be understood to mean any information of a precise nature relating, directly or indirectly, to one or more issuers of financial instruments, one or more financial instruments, or acquisition or disposal of those instruments, which has not been made public, and which, which, if it were made public, would be likely to have a significant effect on the prices of financial instruments or related derivative financial instruments, with the proviso that such information:

a) shall be considered of a precise nature if it discloses circumstances or events which happened or may reasonably be expected to happen, and the nature of such information is sufficient to assess the potential effect of such circumstances or events on the price or value of the financial instruments or related derivative financial instruments,

b) shall be considered to be likely (if made public) to have a significant effect on the prices or values of those financial instruments or related derivative financial instruments if such information is likely to be

taken into account by a reasonable investor in making an investment decision,

- c) shall be considered inside information in relation to persons executing orders to trade in financial instruments also if it is disclosed to any such person by an investor or another person having knowledge of such orders, and relates to orders to acquire or dispose of financial instruments placed by an investor, provided that the premises specified in points a) and b) are satisfied,”

f) after item 19, item 19a shall be added to read as follows:

- “19a) inside information relating to derivatives on commodities – this term shall be understood to mean information of a precise nature, relating, directly or indirectly, to one or more derivatives on commodities, which has not been made public and which could be expected by the market participants to be made public in line with the established market practice. The market participants may in particular expect the disclosure of such information referring directly or indirectly to one or more derivatives on commodities which should be disclosed to market participants under the regulations, agreements and practice applicable on such commodity exchange markets, and which are disclosed to the market participants in accordance with the established market practice,”

g) items 24–28 shall be added to read as follows

- “24) foreign credit institution – this term shall be understood to mean entities defined in Art. 4 item 17 of the Act on Banking Law of August 29th 1997 (Journals of Laws of 2002, No. 72, Item 665, as amended³⁾), which additionally conduct brokerage activities on the territory of a Member State on the basis of a permit issued by a competent authority or conducts brokerage activities or keeps securities accounts on the basis of a permit issued by a competent authority on the territory of a Member State,
- 25) foreign investment firm – this term shall be understood to mean any legal person or an unincorporated organisation having its registered offices on the territory of a Member State, and if the laws of a given country do not require registration of offices – with a head office on the territory of a Member State, conducting brokerage activities on the territory of a Member State on the basis of a permit issued by a competent authority, as well as a foreign credit institution,
- 26) foreign bank – this term shall be understood to mean a bank having its registered offices outside the territory of the Republic of Poland, excluding foreign credit institutions,
- 27) total vote – this term shall be understood to mean the total number of the votes attached to all shares of a given company,
- 28) established market practice – this term shall be understood to mean actions which can reasonably be expected on one or more financial markets and

³⁾ The amendments to the consolidated text of the Act referred to herein were published in the Journals of Laws of 2002, No. 126, Item 1070; No. 141, Item 1178; No. 144, Item 1208; No. 153, Item 1271; No. 169, Items 1385 and 1387; and No. 241, Item 2074; and Journals of Laws of 2003, No. 50, Item 424; No. 60, Item 535 and No. 65, Item 594, No. 228, Item 2260, and No. 229, Item 2276.

which are approved by the Polish Securities and Exchange Commission in accordance with the guidelines set forth in its resolution.”;

4) Art. 5 section 1 item 2 shall read as follows:

“2) securities admitted to public trading may be traded exclusively on regulated markets with the intermediation of brokerage companies or banks, foreign investment firms or foreign legal persons referred to in Art. 52 section 2 which conduct brokerage activities in the Republic of Poland.”;

5) After Art. 5, Art. 5a shall be added to read as follows:

“Art. 5a. Issuers of securities admitted to public trading shall ensure that under the same circumstances holders of securities of the same kind are given equal treatment. Provided they are made in accordance with national law, this condition shall not prevent offers of early repayment of certain debt securities being made to holders by an issuer in derogation from the conditions of issue and in particular in accordance with social priorities,”

6) in Art. 9 section 1 item 1 shall read as follows:

1) companies and banks conducting a brokerage activity, banks keeping securities accounts, foreign investment companies, foreign legal persons referred to in Art. 52 section 2 and the National Depository – if these accounts are labelled in such a way so as to enable the identification of the persons entitled to the rights attached to the said securities,”;

7) in Art. 13:

a) in section 1, after item 1, item 1a shall be added to read as follows:

“1a) to supervise the observance, by brokerage houses, banks conducting brokerage activities and foreign legal persons referred to in Art. 52 section 2 which conduct brokerage activities in the Republic of Poland, of requirements concerning their financial standing, sufficient experience and good repute of the persons who effectively direct the business of such entities or their brokerage activities,”

b) section 3 shall be added to read as follows:

“3. The Commission is a competent authority in matters concerning market supervision of the financial instruments admitted to trading or for which a request for admission to trading has been made, within the meaning of the legal acts issued by the institutions and authorities of the European Union.”

8) in Art. 14

a) section 1 shall read as follows:

“1. The Commission shall be composed of a Chairman, two Deputy Chairmen, and five Members.”

b) in section 4:

- items 1 and 3 shall be repealed,

- item 5 shall read as follows:

“5) General Inspector of Banking Supervision,”

c) section 5 shall read as follows:

“5. Authorised representatives of:

- 1) companies operating stock exchanges,
- 2) companies operating over-the-counter market,
- 3) National Depository,
- 4) representative associations of securities brokers or investment advisers within the meaning of section 6,
- 5) economic chamber referred to in Art. 51 section 1,
- 6) organisations of securities issuers,
- 7) organisations of banks referred to in Art. 57,
- 8) economic chamber referred to in the legal provisions concerning investment funds,

- have the right to participate, with no voting right, in the meetings of the Commission regarding issues related to the regulations on the securities market or other regulations referring to the scope of activity or legal situation of a given entity.”,

d) section 7 shall read as follows:

“7. The right to participate in the meetings of the Commission, with no voting right, shall also be vested in the authorised representatives of

- 1) companies operating a commodity exchange,
- 2) exchange clearing houses,
- 3) representative associations of commodity brokers within the meaning of section 6,
- 4) the economic chamber referred to in Art. 49 section 1 of the Act on Commodity Exchanges of October 26th 2000 (Journal of Laws No. 103, Item 1099, as amended⁴⁾),
- 5) the economic chamber referred to in Art. 51 section 1,
- 6) representative associations of securities brokers or investment advisers within the meaning of section 6,

- regarding issues related to regulations on commodity market.”,

e) section 8 shall be added to read as follows:

“8. The Commission shall notify the entities specified in sections 5 and 7 on the planned dates of the Commission’s meetings devoted to the issues which give these entities the right to participate in such meetings.”;

9) in Art. 15:

a) section 2 shall read:

“2. Chairman of the Commission may issue:

- 1) decisions on the initiation of administrative proceedings,

⁴⁾ The amendments to the Act on Commodity Exchanges were published in the Journals of Laws of 2002, No. 200, Item 1686; and the Journal of Laws of 2003, No. 50, Item 424, No. 84, Item 774, and No. 223, Item 2216.

- 2) ordinances referred to in Chapters 2a and 2b,
- 3) recommendations referred to in Art. 19c,
- 4) decisions in matters referred to in Art. 81c section 2.”,

b) section 2a shall be added to read as follows:

“2a. The decisions of the Chairman of the Commission and the decisions referred to in section 2, item 4, are subject to approval by the Commission.”;

10) after Art. 15, Art. 15a and 15b shall be added to read as follows:

“Art. 15a 1. By virtue of a resolution, the Commission may resolve to disclose to the public information on:

- 1) instances of infringement of provisions of the Act,
 - 2) legal measures undertaken to counteract such infringement of provisions of the Act, including information on any sanctions applied or on filing a report of an offence, as well as on institution of administrative, penal or civil-law proceedings or results of such proceedings,
 - 3) suspected market manipulation as referred to in Art. 97,
- unless disclosure of such information jeopardises financial instruments market or would cause disproportionate losses to the persons to whom such information relates.
2. The information referred to in section 1 may not contain personal data of persons in relation to whom no valid judgement or final decision has been made concerning an infringement of the provisions of the Act by these persons.
 3. In the cases where there is a need for supervision by a foreign authority supervising the securities market or the financial market, which has concluded an agreement referred to in Art. 161 section 4 with the Commission, or where there is a need to carry out administrative or judicial proceedings on issues concerning supervision exercised by this authority, or at the request of a supervisory authority of a Member State, the Commission may initiate and conduct audit, explanatory, or administrative proceedings *ex officio*, as well as demand a supervisory authority of a Member State to initiate such proceedings. In such case, an authorised representative of the supervisory authority of a Member State may participate in the activities taken in the course of the proceedings.
 4. The Commission shall not act on a request for proceedings to be conducted as provided for in section 3, if:
 - 1) such proceedings might adversely affect the sovereignty, security, or public interest of the Republic of Poland, or
 - 2) judicial proceedings have already been initiated against the same persons and in respect of the same acts of violation of law before the authorities of the Republic of Poland or the home country of the supervisory authority, or a final judgement has already been delivered.

5. In the case referred to in section 4 item 2 the Commission shall provide the supervisory authority with detailed reasons for not initiating proceedings.
6. The Commission's supervisory and administrative powers referred to in sections 3–5, Arts. 19a–19e and Art. 85 in as far as they are relevant for Art. 81 section 4 and 4d and Art. 161e, and referred to in Art. 161 sections 7–13, Art. 161f section 3 and Art. 161h, as well as the prohibitions and requirements referred to in Art. 97 and 97a section 1 or resulting from regulations issued on the basis of Art. 97a section 2 or Art. 161g, and Arts. 161c–161f, may be exercised with respect to activities conducted on the territory of the Republic of Poland or a Member State concerning financial instruments admitted or sought to be admitted to public trading or admitted or sought to be admitted to trading on a regulated market on the territory of the Republic of Poland, and actions conducted on the territory of the Republic of Poland concerning financial instruments admitted or sought to be admitted to public trading or admitted or sought to be admitted to trading on a regulated market on the territory of any Member State.

Art. 15b. The Polish Securities and Exchange Commission shall determine in a resolution the guidelines to be followed for the assessment whether a specific behaviour is acceptable and the factors to be taken into account in analysing whether specific orders given or transactions undertaken give misleading signals as to the actual supply of, demand for or price of financial instruments, or lead to an abnormal or artificial fixing of a price of one or more financial instruments.”;

11) Art. 16 section 5 shall read as follows:

“5. Chairman of the Commission shall issue ordinances, which, with the exception of the ordinances referred to in Chapters 2a and 2b, shall be published in the Official Journal of the Polish Securities and Exchange Commission.”;

12) After Chapter 2, Chapters 2a and 2b shall be added, which shall read as follows:

“Chapter 2a

Inspection Proceedings

Art. 19a. 1. With a view to performing the Commission's tasks referred to in Art. 13 section 1 items 1 and 2, authorised employees of the Office of the Commission or – in the case referred to in section 2 – other persons, hereinafter referred to as “inspectors”, may carry out an inspection at an entity conducting brokerage activities, a bank keeping securities accounts, a company operating a regulated market, a company operating a commodity exchange, a company operating exchange clearing house, a commodity brokerage house and the National Depository, hereinafter referred to as the “inspected entity”, subject to Art. 44 sections 6 and 7. In the case of a branch of a foreign credit institution conducting brokerage activities on the territory of the Republic of Poland, the inspection would apply to the organisational unit conducting such activity. Inspection authorisation shall be issued in writing by the Chairman of the Commission, who shall specify in

the authorisation the subject, scope, place, date of commencement and anticipated duration of the inspection, which may not exceed six months.

2. Inspections concerning the manner of operation of the inspected entity's IT systems or concerning the inspected entity's financial statements, accounting records or other financial information may also be carried out by persons who are not employees of the Office of the Commission but who have the necessary knowledge, following their authorisation by the Chairman of the Commission.
 3. Inspections shall be carried out by at least two inspectors who are obliged to show the Commission employee's identification card and the authorisation. The obligation to show the Commission employee's official identification card shall not apply to the persons referred to in section 2.
 4. The Commission employee's identification card and the authorisation shall be shown to a person representing the inspected entity prior to the commencement of the inspection. In the absence of such person, the authorisation and the identification card shall be shown to an employee of the inspected entity or any person active in the place where the inspection is to be conducted.
 5. Prior to the commencement of the inspection, an inspector has the duty to inform the person referred to in section 4 of the legal consequences of obstructing or preventing the inspection.
 6. An inspector has the right to enter the inspected entity's registered offices and premises, as well as the premises of a branch or representative office referred to in Art. 52, and to inspect the books, documents and other information carriers.
 7. At the inspector's request, persons who are members of the inspected entity's governing bodies, are employed by the inspected entity on the basis of an employment or mandate contract or any other contract of similar nature, must immediately prepare and deliver to the inspector, at the inspected entity's cost, copies of documents or other information carriers, and provide written or oral explanations, within the time limit specified in the request.
 8. The inspected entity shall ensure appropriate conditions for the inspector to be able to carry out the inspection in an efficient manner; in particular it shall ensure that the inspector is immediately provided with the requested books, documentation or other information carriers and is timely given all the explanations.
 9. An inspector may freely move around the inspected entity's premises (without the need to obtain a pass) and cannot be searched.
- Art. 19b.
1. In the course of the inspection the Chairman of the Commission may order the seizure of any document or other information carrier necessary for further proceedings.
 2. The person controlling the document or any other information carrier which is subject to seizure, shall be required to release it voluntarily; in the case of refusal on such person's part, such document or other

information carrier may be seized in accordance with the administrative enforcement procedure.

3. Released or seized information carriers shall be listed, described and a record of seizure thereof shall be prepared, whereupon they shall be secured against damage or distortion.
4. A record of seizure of information carriers shall specify the description of the case with which the seizure is connected, the time of commencement and completion of the seizure and a list of the seized carriers. The record shall be signed by the inspector seizing the information carriers and the person authorised to represent the inspected entity. An appropriate notice shall be made if the person authorised to represent the inspected entity refuses to sign the record.
5. Persons whose rights are infringed as a result of the seizure have the right to lodge a complaint. Complaints shall be considered by the Commission within seven days. The lodging of a complaint shall not suspend the seizure.
6. Information carriers which are not necessary for further proceedings shall immediately be returned to the entitled entity.

- Art. 19c. 1. The inspection results shall be presented by the inspector in an inspection report, to be prepared in two copies, one of which shall be delivered to the inspected entity within 30 days from the completion of the inspection.
2. Inspection report shall be signed by the inspector and the person authorised to represent the inspected entity. The provisions contained in Art. 19b section 4 sentence three shall apply accordingly.
 3. A refusal by a person authorised to represent the inspected entity to sign the inspection report shall not prevent the inspector from signing the report.
 4. On the basis of the inspection results, the Chairman of the Commission may instruct the inspected entity to remove any identified irregularities, within no less than 14 days.
 5. In urgent cases, if the security of trade or the interest of the investors so requires, the Chairman of the Commission may issue the instructions referred to in section 4 before the inspection is completed and set a time limit shorter than 14 days for the removal of the irregularities. A notice that such instructions have been issued must be made in the inspection report.
 6. The inspected entity has the right to submit justified objections to the inspection report. Objections must be submitted to the Chairman of the Commission within 14 days from the receipt of the inspection report.
 7. The Chairman of the Commission shall consider the objections and present his position to the inspected entity in writing within 30 days as of their receipt.
 8. If in the position referred to in section 7 the Chairman of the Commission admits that the inspected party's objections were legitimate,

the inspected party shall be released from the duty to abide by any instructions it received.

Art. 19d. The minister competent for financial institutions shall define, by virtue of a decree, the detailed manner of proceeding with the inspection and with the issuance of the follow-up instructions, taking into account the objectives of the inspection, efficiency of its progress and respect for the rights of the inspected entity.

Chapter 2b

Explanatory Proceedings

Art. 19e. 1. In order to determine whether there exist grounds for filing of a report of an offence against public trading in securities or for initiating administrative proceedings concerning breach of statutory provisions, which is punishable with a pecuniary penalty, the Chairman of the Commission may order the carrying out of explanatory proceedings.

2. Explanatory proceedings are carried out by an employee of the Office of the Commission holding a written authorisation from the Chairman of the Commission. The contents of the authorisation must be issued in compliance with Art. 19a section 1 sentence three, which shall apply accordingly.

3. Explanatory proceedings shall not entail the taking of expert evidence, the hearing of persons or any other actions which require the preparation of a record, with the exception of seizure of the objects referred to in Art. 19b section 1.

4. Explanatory proceedings taken with respect to entities referred to in Art. 19a section 1 or issuers of securities admitted to public trading shall be governed by Art. 19a sections 5–9 and Art. 19b, applied accordingly. Written or oral explanations and the release of any document or other information carrier may be requested of anyone who has the specific knowledge or controls a specific document or information carrier.

5. To the extent to which it is necessary for the purpose of establishing whether there are well-founded grounds to suspect that the offence referred to in section 1 has been committed or to initiate the administrative proceedings referred to in Art. 161h, the Chairman of the Commission may also:

1) request the provider of telecommunications services to make available the list of telephone connections or other data transmissions concerning the entity conducting factual or legal actions connected with the circumstances which are sought to be explained, such list to specify the time of connection/transmission and any other data on the connection/transmission which is not its content,

2) request the General Inspector of Treasury Control to provide specific secret tax information.

6. After the completion of the explanatory proceedings the Chairman of the Commission shall file a report of an offence, initiate administrative proceedings or order the closing of the explanatory proceedings.
7. Any report of an offence shall be supplemented with the files of the explanatory proceedings (together with appendices thereto).
8. If the explanatory proceedings are closed, any seized documents or other information carriers shall be returned to the entitled entity. Explanatory proceedings files shall be stored for five years.
9. Closing of any explanatory proceedings shall not prevent the Commission from carrying out new explanatory proceedings concerning the same case, unless a limitation period for the punishability of the offence concerned has lapsed”;

13) in Art. 22:

- a) in section 1, item 4 shall be repealed,
- b) section 3 shall be added and shall read as follows:

“3. In the case of persons who are not Polish citizens, whether a given person enjoys full civil rights is determined based on the laws of the country of their citizenship.”;

14) in Art. 23:

- a) after section 1, sections 1a and 1b shall be added to read as follows:

“1a. Persons qualified to practice the profession of a broker or an adviser in a Member State may be registered on the respective list of brokers or advisers without the need to pass the examination, according to the principles defined in the Act on the principles of recognition of qualifications to perform regulated professions, obtained in the Member States of the European Union, dated 26 April 2001 (Journal of Laws, , No. 87, Item 954, as amended ⁵⁾), if their qualifications as ascertained by the Commission on the basis of a performed proficiency test guarantee that they will practice this profession properly in the Republic of Poland.

1b. Holding of the qualifications referred to in section 1a shall be understood to mean possession of certificate confirming competences within the meaning of Art. 2 item 10 of the Act referred to in section 1a.”,

- b) section 2 shall read as follows:

“2. Persons without the qualifications referred to in section 1a, but holding a title specified in the regulations issued on the basis of section 6, awarded by a foreign institution upon verification of knowledge of a scope similar to the thematic scope of the examination for advisers, may be entered into a register of advisers with no need to take the examination, provided that their qualifications, as ascertained in a qualifications test, guarantee that they will practise their profession on the territory of the Republic of Poland in a due manner.”,

⁵⁾ The amendments to the Act on the principles of recognition of qualifications to perform regulated professions were published in the Journal of Laws, 2002, No. 71, Item 655 and 2003, No. 190, Item 1864.

c) section 6 shall be added to read as follows:

“6. The minister competent for financial institutions shall define by virtue of a decree a list of titles awarded by specified foreign institutions which authorise their holders to apply, pursuant to section 2, for the entry into a register of advisers with no need to take the examination; the Minister shall take into consideration exclusively titles awarded by foreign institutions which, in their own qualification procedures, honour the results of examination before the examination commission for advisers.”;

15) Art. 24 shall read as follows:

“Art 24.1. The Chairman of the Commission shall:

1) appoint:

- a) the examination commission for brokers,
 - b) the examination commission for advisers,
 - c) the examination commission competent to carry out the qualifications test referred to in Art. 23 section 2,
- 2) supervise the activities of the commissions referred to in item 1,
- 3) specify the thematic scope for these examinations and qualifications test referred to in Art. 23 section 2, as well as the procedure for carrying out these examinations and qualification tests,
- 4) set the examination fee and the fee for the qualifications tests referred to in Art. 23 section 2, as well as the compensation for the members of the examination commissions and the commission competent to carry out the qualifications test.

2. The examination fees and the fees for the qualifications test referred to in Art. 23 section 2 shall constitute a special source of income for the Office of the Commission and shall be allocated for the coverage of costs of carrying out the examinations and the qualification tests, including the compensation specified in section 1 item 4, and for the purpose of spreading knowledge of the principles of the securities market functioning. The Chairman of the Commission shall define the rules whereby this income shall be managed.”;

16) in Art. 25:

a) in section 1:

- item 2a shall read as follows:

“2a) a foreign legal person referred to in Art. 52, section 2,”,

- after item 2a, item 2b shall be added to read as follows:

“2b) a foreign investment firm,”,

b) after section 1a, section 1b shall be added to read as follows:

“1b. Practicing the profession of a broker or adviser shall be understood to include the performance of the activities specified in Art. 30b, section 1, items 1, 3, or 4, by a person registered on a list of brokers or advisers, under an employment or mandate contract or any other contract of similar nature with an entity conducting such activities as part of its business.”,

c) item 2 shall read as follows:

“2. Practicing the profession of a broker or an adviser shall be understood to include holding elected posts in the governing bodies of the associations referred to in Art. 14, section 5, item 4, or chambers referred to in Art. 51, by a person registered on a list of brokers or advisers.”,

d) section 3 shall read as follows:

“3. The title of a broker or an adviser may only be used by persons who meet the conditions specified in sections 1, 1a, 1b, or 2.”;

17) in Art. 26:

a) in section 1, item 5 is repealed,

b) section 2 is repealed;

18) in Art. 30:

a) sections 1 and 2 shall read as follows:

“1. Subject to Art. 52a, a permit from the Commission is required to conduct brokerage activities; it is issued at the request of the party concerned.

2. Brokerage activities encompass the performance of the following activities:

1) Reception and transmission of orders to acquire or dispose of:

a) transferable securities,

b) money-market instruments other than securities,

c) units in collective investment undertakings other than securities,

d) financial-futures contracts, forward interest rate agreements, equity swaps, interest rate swaps, and currency swaps other than securities,

e) options, other than securities, related to any of the financial instrument enumerated in points a)–d) or on interest rate and currency options, or options for such options,

2) execution of the orders referred to in item 1 for the client’s account,

3) acquisition or disposal, on the broker’s account, of financial instruments referred to in item 1,

4) managing portfolios including one or more of the financial instruments referred to in item 1,

5) offering financial instruments referred to in item 1,

6) provision of services under standby underwriting agreements and firm-commitment underwriting agreements or execution and performance of other contracts of similar nature whose subject matter are financial instruments specified in item 1.”,

b) item 2a and 2b shall read as follows:

“2a. The following activities shall also be considered as brokerage activities:

- 1) keeping securities accounts, with exclusion of securities accounts kept by a bank on the basis of a permit referred to in Art. 57, and monetary accounts used to serve the securities accounts,
 - 2) investment advice on securities admitted to public trading.”,
- 2b. The following actions by a brokerage house shall also be considered as brokerage activities:
- 1) safekeeping of financial instruments referred to in section 2 item 1, and registering changes in the number of the instruments held,
 - 2) recording and holding accounts where financial instruments, as referred to in section 2 item 1 are credited, except for securities accounts, and holding monetary accounts used to serve the accounts where financial instruments are credited, except for servicing securities accounts, as well as settling transactions in those instruments, except for securities admitted to public trading,
 - 3) making available of safety-deposit boxes,
 - 4) granting loans to finance transactions in one or more of the financial instruments referred to in section 2 item 1, if the transaction is effected through the brokerage house which grants the loan,
 - 5) advising to undertakings on capital structure, corporate strategy and other matters related to such structure or strategy,
 - 6) advising and services relating to mergers, divisions, and acquisitions of undertakings,
 - 7) investment advising on matters concerning the financial instruments referred to in section 2 item 1, except for securities admitted to public trading,
 - 8) rendering additional services related to standby underwriting and firm-commitment underwriting,
 - 9) providing foreign-exchange services where these are connected with the provision of brokerage services, as provided for in section 2.”,
- c) section 2c shall be repealed,
- d) section 3 shall read as follows:
- “3. The provisions of Art. 33, Art. 38 and Art. 39 shall apply respectively to offering financial instruments referred to in section 2 item 1, managing third-party portfolios comprising one or more such financial instruments, and investment advisory in reference to these financial instruments other than securities admitted to public trading.”;
- 19) after Art. 30, Art. 30a and 30b shall be added to read as follows:
- “Art. 30a. 1. Banks and other entities may provide services specified in Art. 30 section 2 in accordance with rules defined in separate regulations, unless such services concern securities admitted to public trading, with the exception of the securities referred to in Art. 6 section 1.
 2. The limitation referred to in section 1 shall not apply to the provision of the services referred to in Art. 30 section 2 item 6.

3. Provision of the services specified in Art. 30 section 2 by a bank or another entity in accordance with sections 1 and 2 shall not constitute brokerage activities.
4. The provisions of Art. 48, section 2, shall apply accordingly to banks and other entities providing, in accordance with sections 1–3 above, the services referred to in Art. 30, section 2.

Art. 30b. 1. The activities involving solely the activities specified below shall not be considered as brokerage activities:

- 1) activities referred to in Art. 30 section 2 or section 2a item 2 performed by an entity exclusively for other entities within the same capital group,
 - 2) purchase and disposal of financial instruments referred to in Art. 30 section 2 item 1 for one's own account, provided that it is not done on a regular basis or as a part of professional activities, and in particular, if it is not core business of a given entity,
 - 3) reception and transmission of orders to acquire or dispose of securities or units in collective investment undertakings to entities performing brokerage activities in the Republic of Poland, or to collective investment undertakings – provided that this service does not consist in safekeeping of cash or securities belonging to a third-party, and that these activities are performed by an entity the operation of which is regulated in separate provisions,
 - 4) execution, as a part of business activities, of transactions on markets of financial-futures contracts or options, for one's own account or for the account of other market participants, provided that the responsibility for the performance of the obligations under the transaction shall be borne by a clearing participant of such a market.
2. Performance of the activities referred to in section 1 item 3 requires notification to the Commission no later than 1 month prior to commencement of the activities. Provisions of Art. 19a–19d, Art. 44 section 2, Art. 47 and Art. 48 section 2, and provisions issued under Art. 60 section 1 item 1 shall apply accordingly to the entity performing activities referred to in section 1 item 3.
 3. Any entity performing the activities referred to in section 1 item 3 shall prepare and implement internal policies specifying the rules of investing in financial instruments:
 - 1) by the employees of such an entity on their own account – if the entity hires employees;
 - 2) by members of the governing bodies and employees of such an entity on their own account – if the entity is a legal person and hires employees;
 - 3) by such an entity on its own account – if the entity does not hire employees.
 4. The regulations issued pursuant to Art. 60 section 1 item 1 shall apply accordingly to such policies. The content of the policies shall be at-

tached to the notification referred to in section 2. Any amendments to the policies shall be reported to the Commission.

5. The provisions of Art. 48 section 2 shall apply accordingly to the entities conducting activities referred to in section 1 items 1 and 4.”;

20) in Art. 31 section 1 shall read:

“1. The performance of the following activities by brokerage houses shall not require a permit:

- 1) preparing an analysis of the advisability and methods of raising capital as well as an analysis of the factors affecting the client’s choice of a method to raise capital,
- 2) preparing an analysis of the advisability and methods for introducing the client’s securities to public trading,
- 3) preparing an analysis of the effects and costs of the issue or introduction to public trading of specific securities,
- 4) drawing up the prospectus and the information memorandum;
- 5) representing the holders of securities in relations with the issuers of such securities;
- 6) lending the financial instruments referred to in Art. 30 section 2 item 1, on the basis of separate regulations,
- 7) providing gratuitous information about investing in the securities referred to in Art. 30 section 2 item 1,
- 8) undertaking real and legal acts connected with services provided for investment fund companies, investment funds, pension fund companies and pension funds,
- 9) performance of acts connected with trading in commodities, within the meaning of the Act on commodity exchanges of October 26th 2000, with the exclusion of the commodities which constitute the financial instruments referred to in Art. 30 section 2 item 1.”;

21) in Art. 34:

a) section 6 shall read:

“6. The provisions of Art. 725–733 of the Civil Code shall apply accordingly to the monetary accounts used to serve the securities accounts, excluding the right of temporary use of free funds. This shall not preclude the Commission’s rights under Art. 44 of the Act.”,

b) section 7 shall be added to read as follows:

“7. The provisions of sections 1–6 shall not apply to securities admitted to public trading whose structure prevents the application of these provisions.”;

22) in Art. 34a:

a) section 2 shall read as follows:

“2. Securities acquired in a transaction specified in section 1 shall be registered in a securities account:

1) of a brokerage house, a bank conducting brokerage activities, a foreign investment firm conducting brokerage activities in the Republic of Poland or a foreign legal person referred to in Art. 52 section 2 conducting brokerage activities in the Republic of Poland – if the order referred to in section 1 has been placed directly with any of these entities, or

2) of a foreign investment firm or a foreign legal person referred to in Art. 52 section 2 that does not conduct brokerage activities in the Republic of Poland – if the entity serves as an intermediary in forwarding orders placed by clients to the entities specified in item 1”

- maintained for the purpose of keeping a record of securities acquired and disposed of on behalf of clients specified in section 1.”;

b) section 7 shall read:

“7. Transfer of securities as a result of the transaction referred to in section 1, and transfer of benefits from such securities, between the securities accounts of a client of a bank keeping securities accounts and that of the entity referred to in section 2, and between accounts of entities referred to in section 2, shall be deemed to be executed on a regulated market.”;

23) in Art. 36a, section 1 shall read as follows:

“1. The Commission shall grant its permit to conduct brokerage activities to a joint stock company which is:

1) a subsidiary of a foreign investment firm or legal person conducting brokerage activities in a member state of the OECD or the World Trade Organisation, hereinafter referred to as the “WTO”, or of a foreign bank, or

2) a subsidiary of a parent company of a foreign investment firm or of a legal person conducting brokerage activities in a member state of the OECD or the WTO, or of a foreign bank, or

3) under substantial influence of the same natural or legal persons that exert substantial influence on a foreign investment firm, a legal person conducting brokerage activities in a member state of the OECD or the WTO, or a foreign bank

- upon obtaining a written opinion from a supervisory authority of a member state or of a state that is a member of the OECD or the WTO, which granted permit to conduct activities in this state; the subject matter of such an opinion should be the manner in which such an activity is being conducted and, in particular, its compliance with applicable laws of such a country.”;

24) after Art. 39, Art. 39a shall be added to read as follows:

“Art. 39.a 1. Foreign-exchange service shall be understood to mean reception, disposal and purchase of foreign currencies by a brokerage house for the account of the client, connected with performance of obligations of the brokerage house towards the client, the obligations of the client towards the brokerage house arising from the services provided by the brokerage house to the client, obligations of the client towards the issuer of securities if it is represented by the brokerage house, or

the obligations of the issuer of securities towards the client if the brokerage house represents the client with respect to the activities specified in Art. 30 section 2.

2. The provision of foreign-exchange services by a brokerage house shall not be considered as foreign-exchange office activities within the meaning of the Foreign Currency Act of July 27th 2002 (Journal of Laws, No. 141, item 1178, and Journal of Laws of 2003, No. 228, Item 2260).”;

25) in Art. 40:

a) in section 1:

- item 2 shall read as follows:

“2) the list of shareholders holding shares of the applicant directly or indirectly through subsidiaries, and a list of shares held by them and the percentage of the total vote conferred by such shares,”,

- items 3–5 shall read as follows:

“3) in the case of shareholders who are natural persons and hold the right to at least 10% of the total vote or at least 10% of the applicant’s share capital – personal data of such persons, information on their professional career track record or on business activities conducted by them, and on the sources of funds for the acquisition of the brokerage house’s shares,

4) in the case of shareholders who are legal persons and hold the right to at least 10% of the total vote or at least 10% of the share capital of the joint-stock company who makes the application – information on their business activities, an up-to-date excerpt from the relevant register, and the most recent financial statements together with an opinion issued by an entity qualified to audit financial statements, and a report on the audit if such an audit is required by the law,

5) information on the entities of the same capital group as the applicant; the information shall include the company name or the first name and surname, address of the registered offices or address of residence, description of business, and, in the case of legal person being the parent company with respect to the applicant, list of members of their governing authorities,”,

- after item 5, item 5a shall be added to read as follows:

“5a) information specified in item 5 concerning shareholders of the parent company of the capital group of which the applicant is a member, if the parent company is not a subsidiary of any of the shareholders,”,

- item 12 shall read as follows:

“12) information on parent companies and subsidiaries of the shareholders holding the right to at least 10% of the total vote or 10% of the share capital of the joint-stock company which files the application, including the name of the company or first name and surname, the address of the registered offices or the address of residence, and a description of the conducted business activities.”,

b) in section 2 after item 4, items 4a and 4b shall be added to read as follows:

“4a) rules and regulations of investing in financial instruments by members of the executive board, the supervisory board and employees of a brokerage house for their own account,

4b) procedures for monitoring and control of interest-rate risk of all of the business.”,

c) after section 2, section 2a and 2b shall be added to read as follows:

“2a. The obligation to provide the information referred to in section 1 items 5 and 5a shall not arise if the information concerns an entity which is an issuer of securities admitted to public trading, a brokerage house, a commodity brokerage house, a bank, an insurance company, an investment fund, a pension fund, a foreign investment firm or a foreign legal person, referred to in Art. 52, section 2, a foreign fund or a managing company within the meaning of the regulations on investment funds, or another entity supervised by a body with which the Commission has executed an agreement as described in Art. 161, section 4, or an agreement referred to in the regulations on investment funds.

2b. To determine whether an entity holding directly or indirectly a number of the applicant’s shares representing at least 10% of the total vote will have a positive influence on the manner of conducting brokerage activities, compliance with the principles of fair trade, and due protection of the interest of the clients, the Commission may require other data concerning the legal or financial situation of this entity.”,

d) section 3 shall read:

“3. The executive board of a brokerage house and the governing bodies of an organisational unit of a bank conducting brokerage activities wherein such activities are conducted, as well as the governing bodies of an organisational unit of a bank keeping securities accounts wherein securities accounts are kept, should be composed of no fewer than two persons having university-degree education and at least three years of service in financial market institutions and enjoying a good opinion in connection with the positions held.”;

26) Art. 41 shall read as follows:

“Art. 41. A brokerage house shall employ at least:

1) one broker – to perform the activities specified in Art. 30 section 2 items 1–3 and 5, section 2a item 1 and section 2b items 1 and 2,

2) two advisers – to perform the activities specified in Art. 30 section 2 item 4,

3) one adviser – to perform the activities specified in Art. 30 section 2a item 2 and section 2b item 6.”;

27) Art. 41a shall read as follows:

“Art. 41a. 1. The initial capital to finance the business activities specified in Art. 30 section 2 and 2a, shall amount to, subject to sections 2–6, at least PLN 625,000 but no less than the equivalent of EUR

125,000, calculated at the current mid-exchange rate quoted by the National Bank of Poland.

2. If a brokerage house conducts solely the business activities specified in Art. 30 section 2a item 2, the initial capital shall amount to at least PLN 250,000 but no less than the equivalent of EUR 50,000, calculated at the current mid-exchange rate quoted by the National Bank of Poland.
3. If a brokerage house conducts solely the business activities specified in Art. 30 section 2 item 4, the initial capital shall amount to at least PLN 500,000 but no less than the equivalent of EUR 100 000, calculated at the current mid-exchange rate quoted by the National Bank of Poland.
4. If a brokerage house conducts solely the business activities specified in Art. 30 section 2 item 4 and Art. 30 section 2a item 2, the initial capital shall amount to at least PLN 500,000 but no less than the equivalent of EUR 100,000, calculated at the current mid-exchange rate quoted by the National Bank of Poland.
5. If a brokerage house conducts the business activity specified in Art. 30 section 2 item 3 or item 6, the initial capital shall amount to at least 4,000,000 but no less than the equivalent of EUR 800,000, calculated at the current mid-exchange rate quoted by the National Bank of Poland.
6. If the brokerage house conducts activities referred to in Art. 30 section 2 item 4 or in Art. 30 section 2a item 2, and activities referred to in Art. 30 section 2b item 1, 2 or 3, the initial capital shall amount to at least PLN 625,000 but no less than the equivalent of EUR 125,000, calculated at the current mid-exchange rate quoted by the National Bank of Poland.
7. With respect to a bank which conducts brokerage activities, initial capital shall be understood to mean the funds for the financing of brokerage activities appropriated from the bank's initial capital, as provided for in the Act on Banking Law of August 29th 1997, plus the capital reserves created by the bank conducting brokerage activities, other than the revaluation capital reserve.
8. With respect to a brokerage house, the initial capital shall be understood to mean the aggregate of the share capital (in so far as it has been paid up), reserve funds, retained profit brought forward, net profit in the course of approval (net of any dividend and only if such profit has been verified by persons responsible for auditing financial statements) and capital reserves other than the revaluation capital reserve, less accumulated loss brought forward.”;

28) after Art. 41a, Art. 41b shall be added to read as follows:

“Art. 41b. 1. In the event that:

- 1) the own funds held by a brokerage house, referred to in the regulations issued on the basis of Art. 60 section 1 item 2 or

- 2) the own funds appropriated by a bank for the financing of its brokerage activities, referred to in the regulations issued on the basis of Art. 60 section 3 item 2,
- hereinafter referred to as “own funds”, fall below the required level, the Commission shall demand that appropriate measures be taken to rectify the situation and sets a deadline by which the own funds must be brought back to the level required by the law.
2. If the deadline referred to in section 1 lapses with no effect, the Commission may impose one of the sanctions referred to in Art. 45 section 1.”;
- 29) in Art. 43 after item 2 item 2a–2c shall be added to read as follows:
- “2a) the applicant does not meet the requirements specified in Art. 41a,
 - 2b) the nature of the links between the entities of the same capital group as the applicant precludes determination of the capital group’s actual structure or its actual owners,
 - 2c) members of the applicant’s executive board do not meet the requirements specified in Art. 40 section 3,”;
- 30) in Art. 44:
- a) section 1 shall be deleted,
 - b) sections 4–9 shall be added to read as follows:
 - “4. With respect to branches and representative offices of foreign investment firms which conduct brokerage activities in the Republic of Poland, the powers specified in section 2 and in Art. 19a–19d shall also be conferred upon the representatives of institutions in charge of supervising the securities market or the financial market in the Member State in which a foreign investment firm has obtained a permit. Such powers may be exercised subject to a prior written notification of the Commission.
 5. At a written request of the supervisory authorities referred to in section 4, the powers specified in sections 2 and 3 with respect to branches or representative offices of a foreign legal person are exercised by the Commission or its authorised representative.
 6. With respect to a brokerage house branch in a Member State the Commission shall have the powers specified in sections 2 and 3 and in Art. 19a–19d. The Commission may exercise its powers subject to a prior notification of the relevant supervisory authority in the state in which the brokerage house branch is situated.
 7. With respect to a foreign investment firm conducting brokerage activities in the Republic of Poland without establishing a branch but using the means of remote communication and acting from its registered offices or branches situated elsewhere, the Commission or its authorised representatives shall have the powers referred to in section 2 to the extent to which the exercise of such powers is related to checking the compliance of the brokerage activities conducted in the Republic of Poland with the rules governing the provision of brokerage services defined in the regulations issued on the basis of Art. 60 section 1 item 1.

8. Entities qualified to audit financial statements of a brokerage house, a brokerage house's parent company or the entity exerting substantial influence on a brokerage house, within the meaning of Art. 36a section 2, shall have the duty to promptly report to the Commission any information they become aware of in connection with their activities, related to circumstances resulting in:

- 1) reasonable suspicion of breach of the laws, principles of fair trading or customers' interests by the brokerage house, members of its executive board or its employees,
- 2) risk of continuous functioning of the brokerage house, or,
- 3) refusal to certify the accounts of the brokerage house, to issuance of a negative opinion with respect to the accounts of the brokerage house or to the expression of reservations with respect to such accounts.

9. Fulfilment of the duty referred to in section 8, shall not be deemed a breach of the secrecy obligation referred to in Art. 4a of the Act on Chartered Auditors and their Self-Government, dated October 13th 1994 (Journal of Laws, 2001, No. 31, Item 359, as amended⁶⁾.”;

31) in Art. 45:

a) section 1 shall read as follows:

“1. The Commission may, subject to section 1a, revoke the permit to conduct brokerage activities or limit the scope of the conducted brokerage activities if the brokerage house:

- 1) materially violates the provisions of law, including provisions issued on the basis of Art. 60 section 1 items 1, 2 and 6 or Art. 60 section 3 item 2,
- 2) does not comply with the principles of fair trade,
- 3) the interests of its clients,
- 4) discontinues for six or more months the activities set forth in its permit,
- 5) ceases to meet the conditions which were the basis for the grant of the permit, or
- 6) has obtained its permit on the basis of fraudulent representations or false documents.”,

b) after section 1 sections 1a–1d shall be added to read as follows:

“1a. In the events referred to in section 1 item 1–3 or 6, the Commission may also:

- 1) refrain from the sanctions referred to in section 1 and impose a pecuniary penalty on the brokerage house in the amount of up to PLN 500,000, or

⁶⁾ The amendments to the consolidated text of the Act on Chartered Auditors and their Self-Government were announced in the Journal of Laws, 2002, No. 240, Item 2052 and 2003, No. 124, Item 1152.

2) to impose one of the sanctions referred to in section 1 above and, concurrently, impose the pecuniary penalty referred to in item 1

- if it is justified by the nature of violations committed by the brokerage house.

1b. If a permit to conduct brokerage activities is revoked, the entity which has lost the permit may not reapply for the permit to conduct such activities prior to the lapse of five years of the final revocation of the permit, unless the Commission agrees to shorten this period.

1c. If it is necessary to protect the public interest, the Commission may, at the moment of the instigation of proceedings concerning the issues referred to in section 1, suspend in full or in part a permit to conduct brokerage activities for a period not longer than a month.

1d. The Commission may impose a pecuniary penalty up to the amount of PLN 500,000 on an entity conducting the activities referred to in Art. 30b section 1 item 3 if it violates the regulations issued pursuant to Art. 60 section 1 item 1.”,

c) section 4 shall be added to read as follows:

“4. The provisions of Sections 1, 1a, 2 and 3 shall apply accordingly if the Commission becomes aware of violation of regulations governing the conduct of brokerage activities in a Member State by a brokerage house conducting brokerage activities in such a Member State. The Commission shall inform the competent authority of the home Member State about the sanctions imposed.”;

32) in Art. 46 section 1, item 1 shall read as follows:

“1) In the event of either a failure to commence brokerage activities within 12 months from the day in which a decision on a permit to conduct brokerage activities, referred to in Art. 42, has become final, or in a shorter period, if such a shorter period has been defined in the permit, or,”;

33) Art. 48 shall read as follows:

“Art. 48. 1. The brokerage house shall promptly inform the Commission of:

- 1) any changes in the data included in the permit application and appendices thereto, subject to item 2, and of changes in the data included in the notification referred to in Art. 43a,
- 2) changes in the group of shareholders holding directly or indirectly through subsidiaries at least 10% of the total vote or at least 10% of the share capital,
- 3) acquisition of shares in other companies in an amount representing at least 5% of the total vote.

2. A brokerage house which reasonably suspects that a transaction in financial instruments might constitute insider dealing or market manipulation referred to in Art. 97 shall notify the Commission without delay, providing detailed data on the suspicious transactions, together with reasons and certified copies of the documents relating to the suspicious transactions.”;

34) Art. 49 shall be repealed;

35) Art. 50 shall read as follows:

- “Art. 50. 1. Direct or indirect acquisition or taking hold of shares of a brokerage house which would result in reaching or exceeding 10%, 20%, 33% or 50% of the total vote or of the share capital requires notification of the Commission accordingly, with the proviso that the holding of shares in a brokerage house by entities belonging to the same capital group is deemed the holding of these shares by a single entity.
2. Indirect acquisition of shares of a brokerage house shall be understood to mean the acquisition or taking hold of shares or stocks of an entity holding directly or indirectly shares of this brokerage house if the acquisition or taking hold results in reaching or exceeding 50% of the total vote or 50% of the share capital of this entity.
3. The Commission shall have the right to raise an objection to the proposed acquisition within three months as from the receipt of the notification referred to in section 1, if there is a reasonable suspicion that the entity proposing to acquire shares of a brokerage house, could exercise influence which is detrimental to the management of this brokerage house. If no objection is raised the Commission may set a final date by which the brokerage houses’ shares may be acquired.
4. Exercise of the voting right attached to shares acquired despite an objection having been raised as referred to in section 3 shall be ineffective.
5. Brokerage house may not acquire on its own account securities of entities in relation to which it is a subsidiary.
6. The limitation referred to in section 5 shall not apply to securities issued by the State Treasury or the National Bank of Poland.
7. In the event the entity acquiring shares in a brokerage house is a foreign bank or a foreign investment firm, the Commission shall consult the supervisory authority that had granted the permit to such an entity.
8. The provisions of section 7 shall apply accordingly in cases where the entity acquiring shares in a brokerage house is a parent company of the entity referred to in section 7, or an entity exerting substantial influence thereon as defined in Art. 36a section 2.
9. The notification referred to in section 1 shall identify the number of shares that the acquirer proposes to buy, the share (proportion) of these shares in the share capital and the number of the votes (at the general meeting of shareholders) which the acquirer will come to hold.
10. If the Commission has not raised any objection to the proposed transaction within the time referred to in section 3, it should be deemed the Commission’s consent to the acquisition of shares in a brokerage house on the terms and conditions specified in the notification.”;

36) after Art. 50 Art. 50a–50c shall be added to read as follows:

“Art. 50a. 1. If a shareholder or shareholders of a brokerage house holding shares which represent at least 10% of the total vote or at least 10% of the share capital exert influence which is detrimental to the management of the brokerage house, the Commission may order that the exercise of the detrimental influence on the management of this brokerage house be discontinued, indicating the final date, the conditions for and the scope of appropriate measures, and in the event of non-compliance with such prohibition it may ban, for a period not longer than two years, the exercise of voting rights attached to the shares.

2. If following the lapse of the period of prohibition referred to in section 1 the reasons for the ban on the exercise of the voting right do not cease to exist, the Commission may order the shareholder or shareholders to whom the prohibition applies, to dispose of all or part of the shares they hold by a final date set in the decision.

3. If persons who indirectly acquired shares in a brokerage house exercise influence which is detrimental to the management of this brokerage house, the Commission may order that the exercise of the detrimental influence on the management of this brokerage house be discontinued, indicating the final date for undertaking appropriate measures, as well as conditions and scope thereof.

Art. 50b. 1. Whenever a person holding shares in a brokerage house in a number conferring rights to at least 10%, 20%, 33% or 50% of the total vote or representing at least 10%, 20%, 33% or 50% of the share capital intends to dispose of shares in this brokerage house which have not been admitted to public trading, this person shall first notify the Commission accordingly if this disposal results in this person holding shares in the brokerage house in a number conferring rights to less than 10%, 20%, 33% or 50% of the total vote or representing less than 10%, 20%, 33% or 50% of the share capital, with the proviso that the holding of shares in a brokerage house by entities belonging to the same capital group is deemed the holding of these shares by a single entity. The notification shall be delivered by the disposing party not later than two weeks prior to the proposed disposal of shares.

2. The notification referred to in section 1 shall identify the number of shares that the disposing person proposes to dispose of, the share (proportion) of these shares in the share capital and the number of the votes (at the general meeting of shareholders) which the disposing person will come to hold as a result of the disposal, and the persons acquiring the shares.

3. The notification to the Commission identifying the proposed disposal of shares in a brokerage house shall not exclude the obligation to deliver the notification referred to in Art. 50 section 1.

Art. 50c. 1. The Commission may impose, by way of a relevant decision, a pecuniary penalty up to the amount of PLN 500,000 on any person who fails to file the notification referred to in Art. 50 section 1 or Art. 50b or commits such a violation acting on behalf of or in the interest of a legal person or an unincorporated organisation.

2. The Commission may, by way of a relevant decision, impose the penalty referred to in section 1 also on a person who acquires or subscribes to the shares of a brokerage house despite the objection referred to in Art. 50 section 3 or commits such violation acting on behalf of or in the interest of a legal person or an unincorporated organisation.
3. The decision referred to in section 1 or 2 is issued upon conducting a trial.
4. The Commission's resolution which serves as a basis for issuing the decision referred to in section 1 or 2 shall be announced in the Official Journal of the Polish Securities and Exchange Commission. The Commission may order that such a decision be announced in two daily newspapers of countrywide circulation at the cost of the violating party.”;

37) in Art. 51, section 5 shall be added to read as follows:

“5. Brokerage houses whose exclusive scope of business is the management of a third party portfolio, referred to in Art. 30 section 2 item 1, to an order, or advising on public securities admitted to public trading may become members of the chamber or of the chamber referred to in Art. 14 section 5 item 8.”;

38) in Art. 52:

a) section 1 shall read as follows:

“1. A foreign investment firm may conduct brokerage activities in the Republic of Poland through branches or, without establishing a branch, out of its registered offices or branches by means of remote communication.”,

b) sections 3–8 shall read as follows:

“3. A branch of a foreign investment firm or of a foreign legal person, referred to in section 2, is an unincorporated organisational unit, separated within the organisational structure of such an investment firm or legal person, that conducts brokerage activities in the Republic of Poland. All the places of business set up in the Republic of Poland by such a foreign investment firm or a foreign legal person referred to in section 2 and conducting brokerage activities shall be regarded as a single branch.

4. A foreign investment firm or a foreign legal person referred to in section 2 may establish a representative office in the Republic of Poland.

5. A representative office of a foreign investment firm or of a foreign legal person, referred to in section 2, is an unincorporated organisational unit, separated within the organisational structure of such a firm or a legal person which conducts exclusively advertising and promotional activities for and on behalf of the foreign investment firm or foreign legal person in the Republic of Poland.

6. A foreign investment firm or a foreign legal person, referred to in section 2, shall immediately notify the Commission of the establishing of a representative office in the Republic of Poland.

7. The Commission shall extend permits to a foreign investment firm or a foreign legal person, referred to in section 2, to conduct brokerage activities

upon written consultation with the supervisory authority which had granted a permit to conduct activities in the state where the investment firm or a legal person has its registered offices. The subject matter of such an opinion should be the manner in which such an activity is to be conducted and, in particular, its compliance with applicable laws of such a country.

8. A foreign investment firm or a foreign legal person conducting brokerage activities through a branch in the Republic of Poland shall be governed by the provisions of Art. 30, Art. 31–34, Art. 38–48, Art. 51 and regulations issued on the basis of Art. 60 section 1 item 1–4 and 6 and section 5, subject to Art. 52a.”,

c) section 9 shall be added to read as follows:

- “9. A foreign investment firm conducting brokerage activities in the Republic of Poland without establishing a branch shall be subject to Art. 30, Art. 31–34, Art. 38–40, Art. 42–43, Art. 43a, Art. 45, Art. 46, Art. 48 and regulations issued on the basis of Art. 60 section 1 items 1, 3 and 4, subject to Art. 52a.”;

39) after Art. 52, Art. 52a–52c shall be added to read as follows:

- “Art. 52a. 1. A foreign investment firm may, without the permit specified in Art. 30, perform in the Republic of Poland any brokerage activities within the meaning of Art. 30 sections 2–2b, provided that the investment firm holds a permit to conduct such an activity conferred upon it by a supervisory authority of the Member State wherein it has its registered offices or such a permit is required to conduct the activity and the person conducts the activity in such a state.
2. The provision of section 1 shall not apply to activities performed under agreements with the National Bank of Poland, the State Treasury or the authority performing activities in connection with the Republic of Poland’s management policies for monetary matters, currency exchange-rate, public-debt and State Treasury’s free funds.
3. The conditions for performing brokerage activities by a foreign investment firm within the scope set out in section 1 shall be:
- 1) notification of the intention to commence activity delivered to the Commission through the competent authority which has granted to this investment firm a permit to conduct brokerage activities,
 - 2) compliance with the rules governing brokerage activities as set forth in the Polish law,
 - 3) fulfilment of the financial conditions for conducting such activities, defined in the legal provisions of the home country.
4. Within two months of receiving the information referred to in section 3 item 1, the Commission shall prepare for the supervision of the investment firm and advise it of the conditions under which that business must be carried on in the Republic of Poland.
5. The conditions under which brokerage activities must be carried out, referred to in section 3 item 2, shall be understood to mean:

- 1) if these activities are conducted through a branch – rules specified in the regulations issued on the basis of Art. 60 section 1 item 1 and in Art. 41,
 - 2) if these activities are conducted without establishing a branch in the Republic of Poland, out of a foreign firm's registered offices or branch by means of remote communication – rules specified in the regulations issued on the basis of Art. 60 section 1 item 1.
6. The provisions of the Act on Business Activity, dated November 19th 1999, shall not apply to establishment and activities of branches of foreign investment firms (Journals of Laws of 2000: No. 86, item 958⁷), except for Art. 38 of the Act.

Art. 52b. In addition to the activities specified in Art. 30 section 2 – 2b, a foreign investment firm which conducts brokerage activities in a Member State may, without the need to seek a permit, conduct in the Republic of Poland only activities specified in Art. 31.

- Art. 52c. 1. A foreign investment firm which conducts brokerage activities in the Republic of Poland is subject, in a Member State, to supervision by an appropriate authority which had granted it a permit to conduct brokerage activities, with the proviso that the Commission shall supervise the compliance with rules for brokerage activities provided for in Polish law.
2. If the Commission finds that the foreign investment firm referred to in section 1 has violated the provisions of law governing the conduct of brokerage activities in the Republic of Poland, the Commission shall demand that appropriate measures be taken to rectify the situation and set a deadline for removing effects of such violation.
 3. The Commission shall notify the supervisory authority referred to in section 1 of any violation referred to in section 2 and of failure to meet the deadline for removing effects of such violation.
 4. If the foreign investment firm referred to in section 1 has failed to rectify the situation and remove the effects of the violation by the specified date, the Commission may, after one month following its notification of the supervisory authority pursuant to section 3, subject to notifying the authority:
 - 1) prohibit, in full or in part, conducting brokerage activities on the territory of the Republic of Poland, or
 - 2) suspend, in full or in part, the right to conduct brokerage activities on the territory of the Republic of Poland, or
 - 3) impose a pecuniary penalty of up to PLN 500,000, or
 - 4) apply one of the sanctions specified in item 1 and 2 and impose the pecuniary penalty specified in item 3.

⁷ The amendments to the Act on Business Activity have been announced in the Journal of Laws of 2001, No. 49, Item 509, No. 67, Item 679, No. 102, Item 1115, No. 114, Item 1193, No. 147, Item 1643, of 2002 No. 1, Item 2, No. 115, Item 995, No. 130, Item 1112, and of 2003 No. 86, Item 789, No. 128, Item 1176 and No. 217, Item 2125.

5. The decision shall be issued upon conducting a trial.
6. If a foreign investment firm's permit to conduct brokerage activities in the Republic of Poland is prohibited, such a firm may not engage in such activities for the period of five years from the date on which a decision to prohibit the permit to conduct such activities became final, unless the Commission agrees to reduce that period.
7. If it becomes necessary to protect the public interest, the Commission may, prior to applying the procedures specified in sections 2–5, suspend, in full or in part, for a period of no more than one month, a foreign investment firm's right to conduct brokerage activities in the Republic of Poland; in such an event, the Commission shall notify the European Commission and proper supervisory authority of the Member State which granted the permit to the foreign investment firm of the suspension.
8. The Commission shall inform the European Commission on measures taken in accordance with section 4.”;

40) in Art. 54:

a) in section 1:

- item 3 and 4 shall read as follows:

“3) in the case of a bank being a joint-stock company – list of shareholders holding the right to at least 10% of the total vote or at least 10% of the share capital,

4) information on the entities of the same capital group as the applicant,”,

b) in section 2 after item 4, item 4a and 4b shall be added to read as follows:

“4a) rules and regulations governing investments in financial instruments by employees of organisational unit in the bank conducting brokerage activities, and by persons managing or supervising the unit, for their own account,

4b) information on means of monitoring and controlling of the interest rate risk related to all of the activities conducted.”,

c) in section 3, item 2 shall be deleted,

d) section 5 shall be added to read as follows:

“5. The regulations on financial separation of brokerage activities within the structure of a bank shall not apply to a bank conducting brokerage activities exclusively in the area of taking and transmitting orders for acquisition or disposal of financial instruments referred to in Art. 30 section 2 item 1.”;

41) in Art. 56:

a) section 1 shall read as follows:

“1. To the extent not provided for in Art. 53 and 54, the provisions of this division concerning brokerage houses, with the exception of Art. 29 section 2–4, Art. 40, Art. 42, Art. 50 and Art. 50b, shall apply accordingly to the activities of a bank conducting brokerage activities.”,

b) section 2 shall read as follows:

“2. The provision set forth in Art. 44 section 3 applies exclusively to the financial statements filed by the organisational unit of a bank conducting brokerage activities. The provision set forth in Art. 44 section 8 applies to the part of a bank’s financial statements which concerns exclusively brokerage activities”;

42) in Art. 57:

a) after section 1, section 1a shall be added to read as follows:

“1a. Maintaining securities accounts in a Member State requires the permit referred to in section 1.”,

b) in section 4, item 2 shall read as follows:

“2) in the case of a bank being a joint-stock company, identification of each shareholder holding at least 10% of the total vote or at least 10% of the share capital,”,

c) in section 5, item 5 shall be added to read as follows:

“5) the contents of internal procedures providing for the rules of investing in financial instruments by members of such bank’s executive board and supervisory board, as well as its employees, on their own account.”;

43) after Art. 58, Art. 58a shall be added to read as follows:

“Art. 58a. 1. At the request of the Commission or its authorised representative, a bank keeping securities accounts shall be obliged to forthwith deliver information on the funds which are credited to the bank accounts kept by this bank and are security instruments specified in the regulations issued under Art. 60 section 1 item 3, as well as the funds deposited by way of security with respect to transactions in securities referred to in Art. 3 sections 3 and 4, if the structure of given securities implies the obligation to maintain a security deposit.

2. The provisions of section 1 shall be without prejudice to the rights referred to in Art. 44 section 2, vested in the Commission under Art. 59 with regard to a bank’s activities consisting in keeping securities accounts.”;

44) Art. 59 shall read as follows:

“Art. 59. To the extent not provided for by Art. 57, the provisions of this chapter, with the exception of Art. 30, Art. 32–40, Art. 41a 42, Art. 50, Art. 50b, Art. 52–52c and Art. 54–56, shall apply accordingly to banks keeping securities accounts.”;

45) after Art. 59a, Art. 59b shall be added to read as follows:

“Art. 59b. 1. Brokerage houses, banks conducting brokerage activities and banks keeping securities accounts are obliged to notify the Commission of their intent to establish a branch or conduct business without establishing a branch in a Member State.

2. The notification referred to in section 1 shall include:

- 1) name of the Member State where a branch is planned to be opened or business is to be conducted without establishing a branch,
 - 2) projected scope of operations and organisational structure,
 - 3) address where the documents relating to the conducted operations will be available,
 - 4) personal data of persons managing the operations.
3. The provisions of section 2 items 3 and 4 shall not apply if the brokerage activities are conducted without establishing a branch.
 4. The Commission shall forward the information referred to in section 2, within three months – if the business is to be conducted through a branch, or within one month – if the business is to be conducted without establishing a branch – of its receipt, to the competent authority of the Member State in which the branch is to operate or in which activities are to be conducted, along with information on the general rules concerning the Polish compensation scheme.
 5. The Commission shall inform the brokerage house or bank concerned about communicating the information referred to in section 2 to a competent authority of the Member State.
 6. In the event of a change in the rules governing the compensation scheme, the Commission shall communicate the information to the supervisory authority of the Member State, where the entity referred to in section 1 operates.
 7. The entity referred to in section 1 shall communicate the information on any changes in the data provided in the notification, to the Commission and the proper supervisory authority of the Member State in which a branch operates or in which activities are conducted, not later than one month prior to the effective date of the changes.
 8. The Commission may, within three months – if the business is to be conducted through a branch – or within one month – if the business is to be conducted without establishing a branch – of notice submission, raise an objection to the intention to establish a branch or commence business without establishing a branch outside of the Republic of Poland, if such actions may pose a threat to the operation in the Republic of Poland of the entity referred to in section 1.
 9. Brokerage activities or activities which involve keeping securities accounts in a Member State may be commenced upon receipt of information specifying terms and conditions for conducting the activities from a competent authority of the state, or in the case of expiration of the period of two months from the day of receiving by the supervisory authority in the state in which the activities are to be conducted of the notification defined in section 1. Activities which are to be conducted without establishing a branch may be commenced upon receipt of the information referred to in section 5 by the brokerage house or bank.

10. The Commission shall promptly inform the supervisory authority of the Member State where the entity referred to in section 1 operates about a withdrawal or expiry of the permit to conduct brokerage activities or to keep securities accounts, which constitutes a basis for conducting business in a given state.
11. The Commission shall inform the European Commission of the number of cases in which objections, referred to in section 8, have been raised.
12. The provisions of sections 1–11 shall not apply to a brokerage house conducting brokerage activities exclusively in the scope defined in Art. 30 section 2a or 2b.”;

46) after Art. 59b, Art. 59c shall be added to read as follows:

“Art. 59c. 1. The following shall require a Commission’s permit issued at the request of a brokerage house:

- 1) repayment by the brokerage house of liabilities:
 - a) under securities and other financial instruments of indeterminate maturity,
 - b) under loan or credit which gave rise to subordinated loan capital, before the maturity date specified in the agreement,
- 2) inclusion of liabilities under securities and other financial instruments with indeterminate maturity in the brokerage house’s equity,
- 3) using by a brokerage house of a model, other than that prescribed on the regulated market, of calculating the ratio of the change in option’s value to the change in the value of the underlying instrument,
- 4) calculation of capital requirements to cover particular risks by the use of internal risk management models by the brokerage house.

2. The Minister competent for financial institutions shall determine by decree the requirements to be met by the requests referred to in section 1, taking into account the fact that evaluation of possible effects of the activities referred to in the requests upon the financial standing of the brokerage house is to be made based on the applications”;

47) in Art. 60:

a) in section 1:

- item 1 shall read as follows:

“1) the procedures and conditions for brokerage houses, banks conducting brokerage activities, foreign investment firms, foreign legal persons conducting brokerage activities in the Republic of Poland and banks keeping securities accounts; such a decree should stipulate the procedures and conditions to be followed and complied with in contacts with customers when providing brokerage services,

transacting business and clearing transactions, when recording and archiving these transactions, when setting up and executing the collateral for repayment of bank and non-bank loans extended to buy securities and when securities admitted to public trading have been used to collateralise amounts due, taking into account rules of safe and efficient operations”,

- items 3 and 4 shall read as follows:

“3) detailed principles, procedures and conditions for lending securities by brokerage houses, banks conducting brokerage activities, foreign investment firms, foreign legal persons conducting brokerage activities in the Republic of Poland and banks keeping securities accounts, outside the system ensuring the liquidity of transaction clearing referred to in Art. 127 section 2 item 12; the decree should specify the terms and conditions of establishing collateral, in a manner ensuring security and efficiency of the clearing system,

4) the scope, procedure, form and terms of delivery of the information other than specified in Art. 48 concerning the activities and financial standing of brokerage houses, banks conducting brokerage activities, banks keeping securities accounts, foreign investment firms and foreign legal persons conducting brokerage activities in the Republic of Poland; the decree should provide for the disclosure requirements in a manner enabling the Commission to exercise supervision over the compliance with fair trade rules and security of trade, to the extent specified in the Act,”

- item 6 shall read as follows:

“6) the organisational and technical requirements regarding the conduct of brokerage activities imposed on brokerage houses, banks conducting brokerage activities, foreign investment firms and foreign legal persons conducting brokerage activities in the Republic of Poland and regarding the keeping of securities accounts imposed on banks keeping securities accounts; the decree should stipulate the organisational and technical requirements, taking into account the principles of safe and efficient conduct of business.”

b) section 5 shall read as follows:

“5. The Minister competent for financial institutions shall determine by decree the reporting requirements for brokerage houses, banks conducting brokerage activities, foreign investment firms and legal persons conducting brokerage activities in the Republic of Poland, banks keeping securities accounts, entities specified in Art. 9 section 1 item 2 and the National Depository on trading the securities issued by the State Treasury so as the reports enable analyses regarding the balance, dynamics and structure of the state budget debt under Treasury securities by investors’ group and by type of these securities.”;

48) after Art. 62, Art. 62a and 62b shall be added to read as follows:

“Art. 62a. The Commission’s consent shall not be required for admission to public trading of securities whose issuer has its registered office in a Member State, if at the same time applications have been filed, with

respect to the same securities, for approval of prospectus drawn up in connection with the public offering or admission of those securities to trading on the market in one or more Member States, indicated to the European Commission as the official regulated market, referred to later as “official listing”, and subject to the fulfilment of the following conditions:

- 1) the issuer has provided the Commission with a notification concerning the securities,
 - 2) the prospectus has been approved in one of the Member States, and
 - 3) the Commission has received from a supervisory authority of the Member State a document confirming that the prospectus has been approved in that state.
2. The securities specified in the notification shall be admitted to public trading upon receipt of the document referred to in section 1 item 3.
- Art. 62b. 1. The Commission’s consent shall not be required for admission to public trading of securities which have been admitted to official listing in a Member State, if the issuer provides the Commission with a notification concerning the securities within three months following the admission.
2. The securities specified in the notification provided for in section 1 shall be admitted to public trading upon receipt of the notification.”;

49) Art. 63 shall read as follows:

- “Art. 63. 1. The Commission’s consent shall not be required for admission to public trading of securities:
- 1) issued by a company whose shares are listed on an official exchange market referred to in Art. 90 section 1 item 1 if:
 - a) such company has been subject to disclosure requirements specified in Art. 81 section 1 item 3 for an uninterrupted period of at least 18 months, or
 - b) the offer to purchase such shares in the primary trade has been addressed exclusively to qualified investors, or
 - 2) if the secondary trade in such securities is performed exclusively on the unofficial market referred to in Art. 90 section 1 item 2
- provided that the issuer has filed a notification with the Commission not later than 30 days prior to the commencement of subscription for, sale of or trade in such securities.
2. The filing of a notification shall have the same effects as the Commission’s consent to admission of securities to public trading.
3. Not later than 16 days before:
- 1) the commencement of subscription, sale or trade, or
 - 2) the prospectus availability date determined pursuant to Art. 75, in any case other than specified in item 1

- the Commission shall have the right to raise an objection to the proposed admission of securities into public trading according to section 1 and 2, if the notification does not fulfil the requirements referred to in Art. 73 section 6, or the conditions stipulated in Art. 72 section 5 item 1 or 3 have been fulfilled, or the additional report or opinion referred to in Art. 71a have not been prepared as demanded by the Commission or their content indicates that the financial statements have not been prepared properly or contain false information.

4. Raising an objection shall annul the effects of the notification. Should this be the case, the admission of such securities to public trading shall require the Commission's consent.”;

50) in Art. 67, section 1 shall read as follows:

“1. Securities issued in the form of a document may be admitted to public trading provided that they had been deposited in a brokerage house, a bank conducting brokerage activities, a bank keeping securities accounts, a branch of a foreign investment firm conducting brokerage activities in the Republic of Poland, or a branch of a foreign legal person specified in Art. 52, section 2, conducting brokerage activities in the Republic of Poland, or the National Depository. Such entities are obliged to create a register of holders of rights under these securities.”,

51) in Art. 68:

a) in section 1, item 5 shall be added to read as follows:

“5) information on whether an application for approval of the prospectus in one or more Members States has been filed or will be filled.”,

b) in section 2, item 1 shall read as follows:

“1) An issue prospectus, hereinafter referred to as the “prospectus” and an abbreviated prospectus, both prepared in accordance with the provisions of the decree specified in Art. 71 section 3, subject to section 5 and 6,”

c) section 5 and 6 shall be added to read as follows:

“5. If the application concerns securities admitted to official listing in the Member State, listed in that Member State no longer than six months from the date of the admission, the application referred to in section 1, submitted by the issuer, shall be accompanied by:

1) information identifying the supervisory authority in the Member State competent for the admission of securities to listing,

2) a prospectus and abbreviated prospectus, provided that the latter has been required, accompanied by a translation into the Polish language serving as a basis for the admission to trading in the Member State, drawn up and updated in conformity with the Member State's law, supplemented with information on factors posing a high risk to investors acquiring the securities described in the application, and description of taxation of trade in and income on these securities, as well as information on the financial institutions conducting financial settlements (payment agents) for the issuer in the Republic of Poland and the manner of publishing information for investors.

6. The Commission shall have the right, within 7 days from the date of submission of the application, to raise an objection to the admission of the securities into public trading on the basis of the prospectus referred to in the section 5 item 2. In such a case the issuer in order to receive the consent referred to in the Art. 61 section 1, shall enclose a prospectus drawn up according to the provisions issued on the basis of the Art. 71 section 3”;

52) Art. 69 shall read as follows:

“Art. 69. The Council of Ministers shall, by a decree, specify entities entitled to submit applications for a consent to admit securities specified in Art. 3 section 3 and 4 to public trading, define special conditions to be met by such entities and a detailed procedure and conditions for admitting such securities to public trading, including the necessary conditions for such securities to be traded. The decree should in particular stipulate the conditions to be met by the issuers of such securities in order to ensure an appropriate level of security with respect to the performance of the obligations under such securities. The decree should further define the scope of disclosure requirements so as to ensure that acquirers of the securities have access to basic data necessary for them to assess the risk of investing in such securities.”;

53) Art. 71 shall read as follows:

“Art. 71. 1. The prospectus should include all information significant for evaluation of the economic and financial situation of the issuer assets, and the issuer’s prospects for development, as well as information on procedures of subscription or sale of securities; the abbreviated prospectus should include concise information on the issuer and the securities.

2. In the case of an issue of securities by a subsidiary, the prospectus and the abbreviated prospectus should also include information on the parent company, presented in the scope and in the manner as described in section 3.

3. The Council of Ministers shall determine, by decree, the detailed conditions to be met by the prospectus and abbreviated prospectus, which shall take into account the type of offering, the parties to which an offering is addressed, the manner in which securities will be introduced to public trading and requirements applicable in the regulated market where such securities will be listed. The decree shall define the contents and scope of information to be disclosed in a prospectus and abbreviated prospectus, indicating the accounting regulations which served as a basis for disclosure of information, and the scope of financial information to be disclosed.”;

54) after Art. 71, Art. 71a–71c shall be added to read as follows:

“Art. 71a. If suspicions arise as to the correctness of preparation or accuracy of information contained in the audit report or the auditor’s opinion on the unconsolidated or consolidated accounts contained in the prospectus, enclosed to the application or notification, the Commission

may inform the issuer or the entity responsible for the drawing up of those documents about reservations as to the content and require that an additional report or opinion in the defined scope be drawn up and submitted to the Commission in the appointed deadline

Art. 71b. If a prospectus has been published in a Member State or in the Republic of Poland within the previous 12 months, the following prospectus drawn up by the same issuer, but relating to different securities, may indicate only those changes likely to influence the value of the securities which have occurred after the prospectus is made available. In such an event, that prospectus may be made available only accompanied by the prospectus to which it relates or refers.

Art. 71c. If the issuer prepares both unconsolidated and consolidated accounts, the Commission may allow inclusion in the prospectus of either unconsolidated or consolidated accounts, under the condition that the accounts that will not be included do not contain any additional significant information”;

55) Art. 72 and 73 shall read as follows:

“Art. 72. 1. The decision on admission of securities to public trading is issued by the Commission upon finding that the content of documents relating to the introduction of securities to public trading meets the requirements provided in law.

2. In its decision referred to in section 1, the Commission may, at the issuer’s request, release the issuer from the obligation to publish, in the prospectus, any information whose disclosure might be:

- 1) contrary to the public interest, or
- 2) materially detrimental to the issuer, provided that such withholding from publication will not mislead investors with regard to facts and circumstances the knowledge of which is essential for the assessment of the securities in question.

3. If the decision referred to in section 1 is to apply to securities issued by an entity having its registered office in a Member State, which have not been admitted to trading on a regulated official market in a Member State, the Commission shall make its decision upon obtaining a written opinion of a supervisory authority which admitted other securities of the issuer to trading on a regulated official market in the Member State.

4. In the event of admission to public trading of securities which are at the same time covered by an application for approval of prospectus drawn up in connection with public offering or admission to official listing in a Member State, the Commission shall send to a competent authority in that state a document confirming the admission of such securities to public trading and indicating which information has been exempted from the requirement to be included in the prospectus serving as the basis for the admission of securities into public trading.”;

5. The Commission may refuse the consent to admission referred to in section 1 if:

- 1) the content of documents referred to in Art. 68 section 2 items 1–3 does not comply with the requirements provided for in the law,
- 2) the opinion referred to in section 3 implies that the issuer does not fulfil its duties resulting from the admission of other securities to trading on a regulated official market in a Member State, as set forth in the law of the respective State,
- 3) the contents of the documents referred to in the Art. 68 section 2 imply that:
 - a) admission of the securities to trading on an official stock exchange would be materially detrimental to the investors' interests,
 - b) the issuer was incorporated in gross violation of the law and the consequences of such a violation continue,
 - c) the issuer's business was or is conducted in gross violation of the law,
 - d) the legal status of the securities does not comply with the law,
- 4) the additional report or the opinion, as referred to in the Art. 71a, have not been drawn up according to requirement of the Commission or their content indicates that the financial statements have not been properly prepared or contain false information.

Art. 73.1. The notification referred to in Art. 62a shall contain:

- 1) information and documents referred to in Art. 68 section 1 and section 2 items 2–5,
 - 2) information identifying the supervisory authority in the Member State competent for the approval of the prospectus of securities being subject of the notification,
 - 3) a prospectus and, if required, an abbreviated prospectus, accompanied by a translation into the Polish language, serving as a basis for the approval in a Member State, drawn up and updated in conformity with the Member State's law, and supplemented with information on factors posing a high risk to investors acquiring the securities described in the notification and information on the terms and the procedure for acquiring securities in the Republic of Poland and description of taxation of trade in and income on these securities, as well as information on the financial institutions mandated as payment agents for the issuer in the Republic of Poland and the manner of publishing information for investors.
2. The notification referred to in Art. 62b shall contain:
- 1) information and documents referred to in Art. 68 section 1 and section 2 items 2–5,

- 2) information identifying the supervisory authority in a Member State competent for the approval of the prospectus which is subject of the notification,
 - 3) the date of the prospectus approval by the authority referred to in item 2,
 - 4) the document confirming approval of the prospectus by the authority referred to in section 2,
 - 5) a prospectus and, if required, an abbreviated prospectus, accompanied by a translation into the Polish language, serving as a basis for the approval in the Member State, drawn up and updated in conformity with the Member State's law, and supplemented with information on factors posing a high risk to investors acquiring the securities described in the notification and information on of taxation of trade in and income on these securities, as well as information on the financial institutions mandated as payment agents for the issuer in the Republic of Poland and the manner of publishing information for investors.
3. The prospectus, as referred to in section 1 item 3 or section 2 item 5, shall be drawn up according to the laws of the Member State in which the issuer has its registered office and approved by the competent authority of that state. If the issuer's registered office is not situated on the territory of the states in which the applications have been submitted, the prospectus shall be drawn up and approved according to the laws binding in one of the states, at the issuer's discretion.
 4. In the case of the notification referred to in Art. 62a or Art. 62b, the Commission is obliged to cooperate with the competent authority or authorities in the Member States in order to expedite and simplify the procedure of the securities admission to the public trading and determine additional conditions, if any, required for the admission.
 5. In the case of the notification referred to in the Art. 62a, public offering of securities may not be conducted on the territory of the Republic of Poland before the Commission receives the document referred to in the Art. 62a section 1 item 3.
 6. The notification to be given in cases specified in Art. 63 section 1 shall contain information and documents referred to in Art. 68 sections 1 and 2, as well as the date on which the prospectus and the abbreviated prospectus are to be made publicly available.
 7. In the case of the notification referred to in Art. 63 section 1, the prospectus to be made available may be published without information whose disclosure might be:
 - 1) contrary to the public interest, or
 - 2) materially detrimental to the issuer, provided that such withholding from publication will not mislead investors with regard to facts and circumstances the knowledge of which is essential for the assessment of the securities in question,
 - subject to the Commission's approval."

56) after Art. 73, Art. 73a shall be added to read as follows:

“Art. 73a. Where an application for admission to public trading or official listing in the Member State, concerning convertible bonds, bonds with preemptive rights, or other equity securities, meets the following conditions:

- 1) is submitted simultaneously in the Republic of Poland and in one or more other Member States,
- 2) the registered office of the issuer of the shares into which the securities described in the application are to be converted or which are to be acquired under such securities, is situated in a state other than the state indicated in item 1,
- 3) such shares are admitted to public trading or official listing in a Member State,

- the Commission shall consider this application after having consulted the competent authorities of the Member State in which the registered office of the issuer of the shares in question is situated.

57) Art. 76 section 2 shall read as follows:

“2. Standby underwriters may only be brokerage houses, investment fund companies, investment funds, banks, insurance companies, foreign investment firms, foreign financial institutions whose registered offices are located in OECD member states or syndicates of such entities.”;

58) Art. 77 section 5 shall read as follows:

“5. Firm commitment underwriter may only be brokerages houses, banks, foreign investment firms, foreign financial institutions whose registered offices are located in OECD member states or syndicate of such entities.”;

59) in Art. 79, after section 1, section 1a shall be added to read as follows:

“1a. A prospectus, subject to Art. 62a and 62b, may not be made available to the public before being approved by the Commission. The granting of the consent referred to in Art. 72 section 1 or absence of the objections referred to in Art. 63 section 3 shall be considered the approval of the prospectus.”,

60) in Art. 81:

a) in section 1, item 2 shall read as follows:

“2) inside information,”,

b) section 2 shall read as follows:

“2. The issuer shall furnish the information referred to in section 1 items 1 and 2 immediately following the occurrence or obtaining knowledge of events or circumstances which justify their disclosure, but not later than within 24 hours, subject to section 4. The information referred to in section 1 item 2, excluding personal data, must be made public by the issuer on its website, subject to section 4.”,

c) section 4 shall read as follows:

“4. If the performance of the obligation referred to in sections 1 could affect the legitimate interest of the issuer of financial instruments admitted to public trading or admitted to trading on a regulated market on the territory of the Republic of Poland or any Member State, irrespective of whether transactions in such instruments are executed on such a market, the issuer may, with respect to the information referred to in section 1, delay the performance of the obligations for a specified period at its own responsibility, by notice to the Commission of the delay of the disclosure along with justification for the delay, and indicating the date on which the said information will be furnished to the entities referred to in section 1.”,

d) after section 4c, sections 4d and 4e shall be added to read as follows:

“4d. The delay in furnishing the information referred to in section 4 may take place only on condition that:

- 1) the issuer ensures confidentiality of the information until the time of the performance of the obligation, and
- 2) it does not mislead the public.

4e. In the case of the delay referred to in section 4, the issuer shall furnish the information on the date indicated to the Commission in accordance with the provision of section 4.

e) section 5 shall read as follows:

“5. The Council of Ministers shall determine, by decree, the type, scope and form of the current and periodic information referred to in section 1 item 3, as well as the dates and frequency of submitting such information by issuers of any financial instruments admitted to:

- 1) trading on an official stock exchange,
 - 2) public trading but not to listing on a regulated market,
- considering the type of market where the securities are or are to be listed, accounting regulations serving as a basis of disclosure of financial data, and the scope of financial data disclosed, in a manner allowing investors to accurately assess the issuer’s economic and financial standing and assets,”,

f) sections 6–8 shall be added to read as follows:

“6. The Council of Ministers shall determine, by decree, the type and scope of information referred to in section 1 item 3 to be disclosed to the public by the company operating the stock exchange on which the securities referred to in the Art. 3 section 3 and 4 are listed, as well as the deadlines and frequency of the disclosure of information in a manner allowing investors to assess the investment risk in relation to the investment in those securities.

7. The Council of Ministers shall determine, by decree, the types of information which may affect the legitimate interest of the issuer and the procedure for the issuer to follow in relation to delay in disclosing to the public of inside information, taking into account the necessity of keeping the information confidential until the disclosure thereof.

8. The Minister competent for financial institutions shall determine, by decree:

- 1) the technical means which are to be used to furnish, respectively:

- a) the information referred to in section 1, and
 - b) other information to be furnished in the course of the performance of the disclosure, publication and reporting obligations specified under the Act or secondary legislation issued thereunder,
- 2) the technical conditions for furnishing information with the use of such technical means,
- taking into account the necessity to ensure those entities possibility of proper fulfilment of obligations, without increasing considerably costs of their operation on the market”;

61) after Art. 81, Arts. 81a–81e shall be added to read as follows:

“Art. 81a.1. At the demand by the Commission or its authorised representative, persons who are members of the issuer’s management or supervisory authorities, or persons who have an employment contract with such issuer of securities admitted to public trading, are required to immediately prepare and deliver, at the issuer’s cost, copies of documents and other information carriers and to provide written or oral explanations in order to enable performance of the Commission’s statutory tasks as to:

- 1) supervision over the methods of the fulfilment by those entities of the disclosure requirements
 - 2) disclosing and preventing market manipulation referred to in Art. 97
 - 3) disclosing and preventing the disclosure or use of inside information.
2. The obligation described in section 1 shall also rest on the chartered auditor and persons who are members of the management authorities of the entity qualified to audit financial statements or having an employment contract with such entity – with respect to actions taken by such persons or entity in connection with the audit of accounts of the issuer of securities admitted to public trading or of the issuer who seeks such admission, or the provision to such issuer of other services specified in Art. 10 section 3 of the Act on Chartered Auditors and their Self-Government, dated October 13th 1994. Fulfilment of this obligation shall not constitute a breach of the secrecy obligation referred to in Art. 4a of that Act.
3. If the Commission has any doubts concerning the correctness or accuracy of the periodic information referred to in Art. 81 section 1 item 3, or correctness of bookkeeping, the Commission may mandate an entity qualified to audit financial statements to inspect such information or accounting books. If the inspection proves that the doubts were justified, the issuer shall refund the costs of the inspection to the Commission.

Art. 81b. In particularly justified cases, the Commission may extend the time limit for publication of the periodic information, prepared for periods other than a fiscal year.

Art. 81c. 1. If publication of any information which is not inside information, contained in:

- 1) periodic reports prepared for the periods other than a fiscal year,
 - 2) other information than specified in item 1, concerning natural persons who are members of the issuer's management or supervisory authorities,
- could be contrary to the public interest or materially detrimental to the issuer's interests and provided that lack of such information does not frustrate the investors' ability to correctly assess the economic and financial standing as well as assets of the issuer or the risk related to the investment in the issuer securities, the issuer may disclose such information only to the Commission and apply to the Commission to be released from the obligation to disclose the information to other entities specified in Art. 81 section 1 and to the general public.
2. In the event of the application not being granted, the Chairman of the Commission shall order the issuer, by way of a relevant decision, to disclose the information. In such case, the issuer shall disclose the information immediately but in no case later than within 24 hours from the delivery of the decision.
 3. The issuer may appeal against the decision to an administrative court within seven days of the decision's delivery date. The provisions of Art. 127 par. 3 of the Code of Administrative Procedure shall not apply.
 4. If detailed requirements concerning the content of periodic information, specified in Art. 81 section 1 item 3, do not correspond to the specificity of the issuer's activity, the Commission may allow certain exceptions and adjustment of the requirements. A decision by the Commission shall specify the extent of such exceptions allowed and the manner of presentation of the data to which the requirements relate, after receiving the issuer's proposition and justification.
 5. An issuer shall be required to deliver a copy of the periodic information concurrently to the Commission and the competent authorities of all the Member States in which its securities are admitted to official listing no later than at the time such information is for the first time published in a Member State or on the territory of the Republic of Poland.
 6. If an issuer with registered offices in a state other than a Member State or the Republic of Poland discloses periodic information to the public, prepared for a period other than a fiscal year, in a state other than a Member State or the Republic of Poland, the Commission may authorise it to disclose such information instead of the periodic information referred to in Art. 81 section 1 item 3, for a period other than a fiscal year, provided that the information given corresponds to the periodic information for the same period which would result from the application of Art. 81 section 1 item 3.
 7. If the issuer prepares both unconsolidated and consolidated periodic information, the Commission may permit the disclosure to the public

of only unconsolidated or consolidated periodic information, provided that information that will not be disclosed to the public does not contain any additional significant information.

Art. 81d. 1. In the event when the issuer of securities admitted to public trading is obliged to disclose, on the territory of the Republic of Poland or in one or more Member States, periodic information for the period other than one fiscal year, the Commission shall, without delay, refer to competent authorities in these Member States to agree that this information shall be subject to publication on the territory of the Republic of Poland and in each of these Member States in the scope as envisaged by regulations:

- 1) in the state where the issuer's shares had been admitted to official listing, or
 - 2) in the state where the issuer has its registered office – if the admission to official listing has been made simultaneously on two or more stock exchanges situated or operating on the territory of the Republic of Poland or on the territory of at least one Member State.
2. The abovementioned agreement may also relate to publication of periodic information whose content is most approximate to the content referred to section 1 item 1.
 3. If it is ascertained, subject to the rules specified in section 1 or section 2, that the contents of periodic information to be published in each of these Member States should conform with the requirements resulting from Polish regulations, the Commission shall – asking for an agreement on the scope of periodic information – inform about it competent authorities in these Member States.
 4. The Commission shall, without delay, notify the issuer on the agreed scope and contents of the periodic information.
 5. The issuer, after receiving the notification referred to in section 4, shall deliver, pursuant to Art. 81 section 1 – instead of periodic information prepared in accordance with Art. 81 section 5 – information prepared in accordance with the regulations of the Member State specified in the notification.
 6. If the issuer does not receive the notification referred to in section 4 at least 30 days before the last day of the period for which the periodic information is to be prepared, the issuer shall deliver, pursuant to Art. 81 section 1, information in accordance with the regulations issued pursuant to Art. 81 section 5.
 7. In the event:
 - 1) the issuer has its registered office in a state other than the Republic of Poland or another Member State – provisions specified in section 1 item 2 and sections 3–6 shall apply accordingly,
 - 2) of the agreement, referred to in section 1, initiated by one of the Member States, sections 3–6 shall apply accordingly.

- Art. 81e. 1. An information campaign related to securities may be conducted on the territory of the Republic of Poland no earlier than after the issuer had submitted to the Commission the application referred to in Art. 68 section 1, and the notification referred to in Art. 62a, Art. 62b or Art. 63 section 1 unless separate regulations provide for an obligation of earlier publication of the specified information.
2. An information campaign shall be understood to mean public dissemination of detailed information relating to:
- 1) conduct subscription or sale of securities in the primary trading or initial public offering, or
 - 2) apply for admission of securities to trading on a regulated market
 - in each form, in particular in announcements and notices in the media, including the Internet, posters and all kinds of documents and other information materials.
3. In the event of an information campaign, any information materials should explicitly:
- 1) state that they are provided for information purposes only,
 - 2) state that a prospectus, which is the only legally binding document containing information about the issuer and the securities which are to be offered in a public offering or admitted to listing on a regulated market, has been or will be published,
 - 3) specify the places where the prospectus is or will be available.
4. The issuer or the underwriter shall submit to the Commission, no later than 10 working days before the beginning of the information campaign, information about the timetable of the information campaign including all information materials which will be subject to publication.
5. If the Commission finds that the requirements referred to in section 3 or section 4 are not fulfilled, it may, no later than 3 working days before the planned day of the beginning of the information campaign:
- 1) suspend their publication for a period no longer than 10 working days in order to remove the indicated incorrectness, or
 - 2) prohibit their publication if the issuer or the underwriter fails to remove the indicated incorrectness in the time limit specified in item 1, or if the contents of the information materials breaches the provisions of the Act.
6. The Commission's failure to issue a decision suspending or prohibiting commencement of the information campaign within the time limit specified in section 5 shall be deemed as acceptance of the campaign.
7. In the event of suspension or prohibition of information campaign, its recommencement requires the approval of the Commission including fulfilling conditions referred to in sections 4–6.
8. If the issuer or the underwriter fails to meet the obligations referred to in section 1 or repeats commencement of the information campaign

without fulfilling the requirement referred to in section 7, the Commission may:

- 1) impose pecuniary penalty up to the sum of PLN 250,000, or
- 2) publish at the issuer's or underwriter's cost, information that the information campaign is being conducted in breach of the law, and indicate breach of law, or
- 3) publish at the issuer's or underwriter's cost, information that the information campaign is being conducted in breach of the law, and impose the pecuniary penalty referred to in item 1.”;

62) Art. 82 shall read as follows:

“Art. 82 The type and form and applicable regulations and, respectively, the scope of the current and periodic information specified in Art. 81 section 1 item 3, as well as the dates of its submission by issuers of securities admitted solely to trading on regulated unofficial market described in Art. 90 section 1 item 2, will be specified, separately for each market type, in the rules and regulations specified in Art. 105 and 115 section 2. The scope of information and frequency of its submission to be provided in the rules and regulations should allow investors to evaluate the issuer's operations and financial standing, as well as the investment risk related to investing in the securities.”;

63) after Art. 83, Art. 83a shall be added to read as follows:

“Art. 83a. In the event that the shares of a company which is an issuer of shares admitted to trading on a regulated stock exchange on the territory of the Republic of Poland are simultaneously admitted to official listing:

- 1) in at least one Member State – the company shall make public disclosure of current and periodic information required by separate regulations on an official stock exchange market on the territory of the Republic of Poland in a scope not less than information of this kind disclose to the public in each Member State, or
- 2) in at least one Member State and in other states – the company shall make a public disclosure of current and periodic information required by separate regulations on an official stock exchange market on the territory of the Republic of Poland and Member States, in a scope not less than information of this kind disclose to the public in each Member State, as long as this information may be of importance for risk evaluation connected with purchase of these shares.

64) in Art. 84, after section 1, section 1a shall be added to read as follows:

“1a. A public company with registered offices in the Republic of Poland whose shares are traded on the regulated market shall be required to apply for admission to public trading on the regulated market with respect to any new public issue of shares of the same class as those already listed, within 12 months as of the closing of the subscription or as of the time when the shares became freely transferable, if any limitation had been imposed on their transferability.”;

65) in Art. 85

a) section 1 shall read as follows:

“1. If an issuer fails to perform or duly perform the obligations referred to in Arts. 76–81, Art. 81c, Art. 81d sections 5 and 6, and Art. 84, or resulting from the regulations referred to in Arts. 63, 73, 75, 82, 83, 83a, 148 and 161e, the Commission may:

- 1) issue a decision to exclude the securities from public trading, or
- 2) impose a pecuniary penalty of up to 500,000 PLN, or
- 3) issue a decision to exclude securities from public trading while simultaneously imposing a pecuniary penalty as specified in item 2.”,

b) after section 2, section 2a shall be added to read as follows:

“2a. The Commission may make a public disclosure of the contents of the decision stating that the issuer fails to fulfil obligations resulting from admission of the issued securities to public trading.”

66) in Art. 90, section 5 shall read as follows:

“5. The decrees specified in sections 2 and 4, as well as information on each change thereto shall be submitted by the Commission to the European Commission and the Member States.”.

67) Art. 92 shall read as follows:

“Art. 92. The Commission may, for a specified period, grant an entity conducting brokerage activities a secondary trading permit outside the regulated market of securities admitted to public trading, provided that the conditions referred to in Art. 91 are met.”.

68) Art. 97 shall read as follows:

“Art. 97. 1. Manipulation involving financial instruments, hereinafter referred to as “market manipulation”, shall be prohibited.

2. Market manipulation shall mean:

- 1) placing orders, concluding transactions or undertaking other activities which are or may be misleading as to the actual supply of, demand for or price of financial instruments, unless the reasons behind such activities were legitimate, and the placed orders, concluded transactions or other activities did not breach the established market practice on the relevant regulated market,
- 2) placing orders or concluding transactions securing the price of one or several financial instruments at an abnormal or artificial level, unless the reasons behind such activities were legitimate, and the placed orders, concluded transactions or other activities did not breach the established market practice on the relevant regulated market,
- 3) placing orders or concluding transactions whose contents reflects intention to produce legal consequences other than the actual objective of a given legal transaction,
- 4) dissemination, through the media, including the Internet, or by any other means, of false or inaccurate information, which are or may be misleading as regards financial instruments:

- a) in respect of a journalist – if, acting in his/her professional capacity, he/she has failed to follow the rules governing his/her profession with utmost diligence or if he/she obtained financial benefits for him/herself or another person with the use of such information, even acting in compliance with such rules;
 - b) in respect of another person – if the person has known or, acting with due diligence, should have known such information to be false or misleading.
- 5) placing orders or concluding transactions based on the knowledge of, or in order to benefit from, the market participants being misled as regards the price or value of a financial instrument or the issuer of a financial instrument,
 - 6) behaviour of a person or persons acting in concert, aiming at acquiring control over demand for or supply of a financial instrument, resulting in a direct or indirect fixing of the purchase or selling prices or in the trade being non-compliant with the law or the applicable market standards,
 - 7) acquisition or disposal of financial instruments at the end the trading with a view to misleading investors who act on the basis of the price established in that phase of trading,
 - 8) temporary or regular use of media, including the Internet, with the purpose of obtaining benefits from the influence of opinions expressed in those media, relating to the financial instrument or its issuer, on the price of the financial instrument, by a prior acquisition or disposal of the financial instrument, if it is not accompanied by disclosure of a conflict of interest as provided for in the law.

3. Provisions of section 2 shall not apply to:

- 1) purchase of own shares in “buy-back programmes” by a public company or an entity acting on its account or behalf, provided that the purchase is carried out in the manner, time and on the terms specified in the European Union legislation on exemptions for buy-back programmes and stabilisation of financial instruments,
- 2) transactions carried out in the performance of statutory responsibilities concerning the monetary, exchange-rate or public debt-management policies of a state, concluded by persons authorised to represent relevant governmental authorities or the National Bank of Poland, as well as by the European System of Central Banks,
- 3) purchase of financial instruments with a view to stabilising their prices in trading on a regulated market, provided that the purchase is carried out in the manner, time and on the terms specified in the European Union legislation on exemptions for buy-back programmes and stabilisation of financial instruments.”;

69) After Art. 97, Art. 97a shall be added to read as follows:

“Art. 97a. 1. Persons who produce or disseminate recommendations concerning financial instruments or issuers of financial instruments, such recommendations to be distributed among investors, shall be required to exercise due care to ensure that such information is fairly presented and to disclose their legitimate interests or indicate conflicts of interest existing at the time of such production or dissemination.

2. The Council of Ministers may by means of a decree define types of information deemed recommendations concerning financial instruments or issuers of financial instruments, manner of preparation and dissemination of such recommendations, detailed conditions to be met by these recommendations, taking into account the necessity to ensure their fair presentation and disclosure of their legitimate interests and conflict of interests, with a view to ensuring the security of market participants and public trading.”;

70) in Art. 99, section 2 shall read as follows:

“2. The shares of a company operating a stock exchange may only be purchased by brokerage houses, the State Treasury, banks, foreign investment firms conducting brokerage activities in the Republic of Poland, foreign legal persons specified in Art. 52 section 2 conducting brokerage activities in the Republic of Poland, investment fund companies, insurance companies and issuers of securities admitted to public trading and listed on the stock exchange. Upon the consent of the Commission, shares of a company operating a stock exchange may be purchased by other domestic and foreign legal persons subject to the Commission’s supervision or to the supervision by a proper supervisory authority of a member state of the OECD or of a Member State.”;

71) in Art. 105 section 2:

a) item 1 shall read as follows:

“1) criteria and conditions for admission of securities to trading on stock exchange, including securities listed in a Member State.”

b) item 15 shall be added to read as follows:

“15) provisions aimed at prevention and detection of market manipulation practices.”;

72) in Art. 106, after section 1, section 1a shall be added to read as follows:

“1a. The rules and regulations referred to in section 1 and notifications on each amendment thereto shall be submitted by the Commission to the European Commission and the Member States.”;

73) After Art. 107, Art. 107a shall be added to read as follows:

“Art. 107a. 1. If the security of trading so requires or there is a threat to investors’ interests, at the Commission’s request, a company operating a stock exchange shall suspend trading in specific financial instruments.

2. The request referred to in section 1 should specify in detail the grounds for filing the request.”;

74) In Art. 109, section 1a shall read as follows:

“1a. The parties to transactions on a stock exchange may also be foreign investment firms conducting brokerage activities in the Republic of Poland, foreign legal persons referred to in Art. 52 section 2, which conduct brokerage activities in the Republic of Poland, and, subject to the terms set forth in the rules and regulations referred to in Art. 105, other entities participating in the National Depository which acquire and dispose of securities on their own behalf and account, and, as regards trading in securities referred to in Art. 6 section 1 item 1 and 3 and other debt securities, banks which acquire and dispose of such securities on their own behalf and account.”;

75) In Art. 110, section 5 shall be added to read as follows:

“5. The resolution refusing admission to trading on the official stock exchange market may be appealed against by the applicant to the court with territorial jurisdiction over the registered office of the company operating this market, within 14 days as of the applicant becoming aware of the resolution, if the refusal of admission is in breach of the stock exchange rules. The court judgement allowing an appeal substitutes the resolution on admission of these securities to trading on the official stock exchange market”;

76) In Art. 112 section 2, shall read as follows:

“2. The shares of companies operating over-the-counter markets may only be purchased by brokerage houses, banks, foreign investment firms conducting brokerage activities in the Republic of Poland, foreign legal persons specified in Art. 52 section 2 conducting brokerage activities in the Republic of Poland, investment fund companies, insurance companies and issuers of securities admitted to public trading. Upon the Commission’s consent, the shares of companies may be purchased by other domestic and foreign legal persons.”;

77) in Art. 115, section 3 shall read as follows:

“3. The provisions of Art. 106, 107, 107a and 110 shall apply accordingly to the company operating the over-the-counter market.”

78) In Art. 117, sections 1 and 2 shall read as follows:

“1. The parties to transactions made on the over-the-counter market may only be brokerage houses, banks conducting brokerage activities, foreign investment firms conducting brokerage activities in the Republic of Poland or foreign legal persons specified in Art. 52 section 2 conducting brokerage activities in the Republic of Poland which are shareholders in the company operating the over-the-counter market, subject to Art. 137 section 3. The parties to the transactions on the over-the-counter market may also be, on terms named in the rules and regulations specified in Art. 115 section 2, other entities, participating in the National Depository, which purchase and dispose of securities on their own behalf and account, and, as regards trading in securities referred to in Art. 6 section 1 item 1 and 3 and other debt securities, banks which acquire and dispose of such securities on their own behalf and account.

2. The entities referred to in section 1 performing activities relating to the organisation of a regulated market may conclude buy and sell transactions directly with the party placing the orders.”;

79) in Art. 118, section 2 shall read as follows:

“2. The purpose of the compensation scheme is to provide investors with payments up to the amounts defined in the Act, as well as to compensate for the value of lost financial instruments referred to in Art 30 section 2 item 1, that they have accumulated in brokerage houses or their branches outside of the Republic of Poland on account of services provided to them and listed in the scope of activities specified in Art. 30 sections 2 and 2a item 1 and in section 2b items 1 and 2, if:

- 1) a brokerage house is declared bankrupt, or
- 2) a petition in bankruptcy is lawfully dismissed due to the fact that the assets of the brokerage house are insufficient to cover the costs of proceedings, or
- 3) the Commission determines that due to reasons closely connected with the financial standing of the brokerage house, neither then nor in the nearest future can the brokerage house perform its obligations arising from the investors’ claims.”;

80) in Art. 119 in item 2:

a) the initial sentence shall read as follows:

“an investor shall mean a natural person, a legal person or an unincorporated organisation, being a party to an agreement with a brokerage house which provides for the performance of a service falling within the scope of the activities referred to in Art. 30 section 2, 2a item 1 and section 2b item 1 and 2, excluding:”;

b) points c) and d) shall read as follows:

“c) brokerage houses, foreign investment firms and foreign legal persons referred to in Art. 52 section 2,

d) entities operating pursuant to the Act on Insurance Activities dated May 22nd 2003 (Journal of Laws No. 124, Item 1151),”;

c) point f) shall read:

“f) members of the executive board and of the supervisory board of a brokerage house and persons holding the posts of directors and deputy directors of departments of a brokerage house, as well as directors and deputy directors of branches of a brokerage house and branches referred to in Art. 52, if such persons held such posts on the date the bankruptcy was declared or the petition in bankruptcy was dismissed because the assets of the brokerage house were insufficient to cover the cost of proceedings, on the date the Commission determined the occurrence of circumstances referred to in Art. 118 section 2 item 3, or in the current or previous financial year,”;

d) point n) shall read as follows:

“n) investors whose failure to perform their obligations towards the brokerage house prompted its bankruptcy or determining the occurrence of circumstances referred to in Art. 118 section 2 item 3 by the Commission,”;

81) in Art. 120 sections 1 and 2 shall read:

“1. The membership of brokerage houses in the compensation scheme shall be mandatory, subject to Art. 120a.

2. The provisions of this Chapter shall apply accordingly to branches of foreign legal persons specified in Art. 52 section 2, unless such persons are participants in the compensation scheme of the state where they have their registered office or unless the compensation scheme in the state where they have their registered offices fails to provide compensation in the amount stated in the Act.”

82) after Art. 120, Art. 120a shall be added to read as follows:

- “Art. 120a. 1. If the compensation scheme of the state where foreign investment firm which conducts brokerage activities through a branch in the Republic of Poland has its registered offices fails to provide compensation in the amount, or to the extent, provided for in the Act, the branch of the foreign investment firm may file a motion with the National Depository to accede to the compensation scheme, in order to guarantee its investors compensation payments in the amount, and to the extent, specified in the Act. Filing the motion by a branch of the foreign investment firm is tantamount to the branch’s participation in the system.
2. The aim of the annual contributions referred to in Art. 121 section 1 made by branches of foreign investment firms is to make the amount and extent of the compensations under the compensation scheme in its home country equal to those under the compensation scheme.
 3. The National Depository shall promptly inform the Commission of any event of non-performance or undue performance by a branch of a foreign investment firm of its obligations arising from participation in the compensation scheme. The Commission shall transfer the information from the National Depository to the competent authority which granted permit to conduct brokerage activities to the foreign investment firm indicating the deadline, no longer than 12 months from the day of information transfer, for excluding the branch of the foreign investment scheme from the compensation scheme.
 4. The National Depository cooperates with the supervisory authority referred to in section 3 in taking measures to ensure due performance of the obligations arising from participation in the compensation scheme by a branch of a foreign investment firm.
 5. If, after lapse of deadline referred to in section 3 and despite taking the measures referred to in section 3, the branch of the foreign investment firm continues the non-performance or undue performance of its obligations arising from the participation in the compensation scheme, the National Depository may, subject to approval by the supervisory authority referred to in section 3, exclude the branch of the foreign investment firm from the compensation scheme.
 6. Payments made by the branch of the foreign investment firm to the compensation scheme shall not be returned in the event of exclusion from the scheme.
 7. The compensation scheme ensures payment of compensations to investors that are parties to agreements with the foreign investment

firm with respect to the services rendered to such investors prior to the date of exclusion.

8. The branch of the foreign investment firm shall promptly notify the clients of the exclusion from the compensation scheme, specifying in particular the exclusion date.
9. In the event referred to in section 1, the National Depository shall define principles and procedures for compensation payments to investors that are parties to agreements with the foreign investment firm conducting brokerage activities through a branch in the Republic of Poland.
10. The principles and procedures referred to in section 9 shall be established in cooperation with the entity managing a proper compensation scheme effective in the state where the registered offices of the foreign investment firm are located.
11. The principles and procedures referred to in section 9 should ensure in particular:
 - 1) a possibility for the National Depository to demand from foreign investment firm information necessary for due performance of the obligations arising from participation in the compensation scheme, and a possibility to request verification of the information by a competent authority in the state where the registered offices of the foreign investment firm are located,
 - 2) payment of compensations in equal to the difference between the amount of compensations paid out under the scheme of the state where the registered offices of the foreign investment firm are located and the amount of the compensations payable to the investors that are parties to agreements with the brokerage house, upon receipt of information on the events referred to in Art. 118 section 2 from a competent authority of the state where the registered offices of the foreign investment firm are located.
 - 3) the right for the National Depository to verify the rights of the investors that are parties to agreements with the foreign investment firm,
 - 4) close cooperation between the National Depository and the entity managing the compensation scheme in the state where the registered offices of the foreign investment firm are located, which aims at ensuring efficient compensation payment of amounts the investors are entitled to.
12. The principles and procedures referred to in section 9 should provide for a manner of determining the amount of compensations payable under particular compensation schemes to investors entitled to counterclaims against the foreign investment firm conducting brokerage activities through a branch in the Republic of Poland.
13. All matters concerning participation of a branch of a foreign investment firm in the compensation scheme not regulated by the provisions of sections 1–12 shall be governed accordingly by the other provisions of this chapter.”;

83) in Art. 121:

a) in section 1, item 2 shall read as follows:

“2) a rate not exceeding 0.01% of the average value of financial instruments referred to in Art. 30 section 2 item 1, held by the clients of the brokerage house over the last 12 months.”,

b) section 3 shall read as follows:

“3. The average value of financial instruments referred to in Art. 30 section 2 item 1, held by the customers, shall be understood to mean the ratio of the total value of securities and property rights held by the clients of the brokerage house per individual working days during the 12-month period to the number of working days in that period.”,

c) section 5 shall read as follows:

“5. The value of financial instruments referred to in Art. 30 section 2 item 1, held by the customers, shall be understood to mean their current price established in accordance with the rules prescribed in the regulations on special accountancy rules for brokerage houses.”,

d) after section 11, sections 11a–11e shall be added to read as follows:

“11a. The National Depository shall promptly inform the Commission of any event of non-performance or undue performance by a brokerage house of its obligations arising from the participation in compensation scheme. The Commission shall take the measures referred to in Art. 45 section 1 in order to ensure due performance by the brokerage house of its obligations arising from the participation in the compensation scheme.

11b. In the event of a non-performance or undue performance by a branch of a brokerage house conducting brokerage activities in a Member State of its obligations arising from the participation in the compensation scheme it acceded, the Commission shall, upon receipt of information on the occurrence of such circumstances from the entity managing the scheme, cooperate with such entity and take measures referred to in Art. 45 section 1 in order to ensure due performance of the obligations of the branch of the brokerage house arising from the participation in the scheme.

11c. If, despite taking the measures referred to in Art. 45 section 1, within 12 months following the notification of the Commission by the relevant scheme, the branch of the brokerage house continues the non-performance or undue performance of its obligations arising from the participation in the compensation scheme of a Member State, the Commission, at a request by the entity managing the compensation scheme of the Member State, may approve exclusion of the branch of the brokerage house from the compensation scheme.

11d. The branch of the brokerage house shall promptly notify the clients of the exclusion from the compensation scheme, specifying in particular the exclusion date.

11e. The Commission shall inform the compensation scheme in the Member State, to which the branch of brokerage house acceded about the occurrence of the situation referred to in Art. 118 section 2.”;

84) in Art. 122:

a) in section 1, the initial sentence shall read as follows:

“The compensation scheme secures the payment of the investors’ funds referred to in Art. 118 section 2, less the amounts due from the investor to the brokerage house for the services provided, according to the balance as at the date the brokerage house is declared bankrupt or the date on which the court’s decision dismissing the petition in bankruptcy becomes final because the assets of the brokerage house are insufficient to cover the cost of proceedings, up to the amount.”,

b) after section 4, section 4a shall be added to read as follows:

“4a. If the financial instruments referred to in Art. 30 section 2 item 1 and the funds are co-owned, each of the owners has the right to file claims against the scheme in the amount proportionate to the share held but not higher than the amount specified in sections 1 and 2. In the case of joint ownership, the amount of share shall be determined by regulations on expiry of such joint ownership.”,

c) section 6 shall read as follows:

“6. In the case of particularly substantiated circumstances preventing the payment of compensation within the time specified in section 5, the Commission may, at the request of the National Depository, extend the date of payment by up to 3 months.”;

85) in Art. 122a:

a) section 3 shall read as follows:

“3. Should substantiated reservations arise as to the amount of expenditures referred to in section 1 item 3, as provided by the receiver or trustee, the National Depository shall refer to the Judge-Commissioner to approve the expenditures by applying the procedure provided in Art. 168 of the Act on Bankruptcy and Remedy Law dated February 28th 2003 (Journal of Laws No. 60, Item 535, and No. 217, Item 2125), such an action not to prevent the adoption, by the National Depository, of a resolution to appropriate amounts to be paid out as compensation.”,

b) section 6 shall read as follows:

“6. Once the receiver, court supervisor or trustee draws up a list of claims and once such claims are ascertained by a valid court decision, the list referred to in section 1 item 1 shall be supplemented by the addition of claims of investors not included in the former list.”;

86) in Art. 122b, section 4 shall read as follows:

“4. For the funds handed over to the receiver or trustee, the National Depository shall acquire rights to a claim to the bankruptcy estate for the return of amounts handed over; satisfaction of such claims falls in the first category as specified in Art. 342 section 1 item 1 of the Bankruptcy and Remedy Law, dated February 28th 2003, directly after the payment of costs of the bankruptcy proceedings and salaries. The provisions of Art. 343 section 1, first sentence, of the Bankruptcy and Remedy Law shall apply accordingly.”;

87) Art. 123a shall read as follows:

“Art. 123a. In the event the petition in bankruptcy is repealed in a valid way on the grounds that the assets of the brokerage house are insufficient to cover the costs of the proceedings, or in the event that own administration is established with respect to all of the assets referred to in Art. 76 section 1 of the Act referred to in Art. 122a section 3, or the Commission determines occurrence of the circumstances referred to in Art. 118 section 2 item 3:

- 1) actions referred to in Art. 122a sections 1 and 5, Art. 122b section 3 and Art. 123 sections 1–3 to be performed by the receiver or trustee, shall be performed by the executive board of a participant of compensation scheme,
- 2) the provisions of Art. 122, Art. 122a sections 2–4 and section 6, Art. 122b sections 1 and 2 and sections 4–6, and Art. 123 sections 4 and 5 shall apply accordingly,
- 3) the National Depository shall notify the proper registration agency regarding the occurrence of circumstances specified in Art. 122a sections 3 and 4 and Art. 123 section 5.”;

88) in Art. 128, section 2 shall read as follows:

“2. Subject to section 3, the participants may only be entities whose business includes keeping securities accounts, issuers of securities admitted to public trading, and other financial institutions, if the purpose of their participation is to cooperate with the National Depository in the area of the performance of the National Depository’s tasks.”;

89) in Art. 129, section 2 shall read as follows:

“2. The entity which was granted the Commission’s consent to keep securities accounts or which keeps securities accounts pursuant to Art. 52a and meets the requirements specified in the National Depository regulations, is entitled to claim the conclusion of a participation agreement.”;

90) Art. 143 section 2 shall read as follows:

“2. The clearing fund ensures the settlement of transactions concluded by brokerage houses, banks conducting brokerage activities, foreign investment firms which conduct brokerage activities in the Republic of Poland and foreign legal persons referred to in Art. 52 section 2, conducting brokerage activities in the Republic of Poland, on the regulated market, to the extent defined in the rules and regulations of the clearing fund.”;

91) in Art. 147:

a) section 1 shall read as follows:

“1. An entity, which:

- 1) obtains or exceeds 5% or 10% of the total vote by buying shares in a public company, or
- 2) prior to the sale held shares in public company ensuring at least 5% or 10% of the total vote and after the sale holds shares ensuring no more than 5% or 10% of the total vote, respectively

- is obliged to notify the Commission and the company within four days after the date of change in the number of votes held, or after the date the obliged entity became aware, or could have become aware through exercise of due professional care, of the change.”;

b) in section 2, item 1 shall read as follows:

“1) 2% of the total vote – in the case of a public company whose shares have been admitted to trading on an official stock exchange,”,

c) section 5 shall read as follows:

“5. The notification regarding the reaching or exceeding of 10% of the total vote shall additionally include information on any intent to continue to increase the share held in a public company within the period of 12 months following the date of its submission and the purpose for which such an increase will be sought. Each time such intent or the purpose thereof changes, within 12 months of the submission of the notification or later, the shareholder is obliged to immediately notify accordingly the Commission and this company.”;

92) after Art. 148, Art. 148a shall be added to read as follows:

“Art. 148a. The Commission may release a public company from the obligation to provide the information referred to in Art. 148 item 1 if disclosure of such information could:

- 1) be detrimental to the public interest, or
- 2) cause material harm to the business of a given company, provided that the non-disclosure of such information does not mislead investors as to the value of the securities.

93) in Art. 158 section 4 shall read as follows:

“4) by entities enumerated in Art. 5 section 1 item 2, in order to perform the tasks related to organisation of the regulated market.”

94) in Art. 158a:

a) in section 3:

- in item 3 point c) shall be added to read as follows:

“c) by a third party with which the said entity concluded an agreement providing for transfer of the voting rights,”,

- item 4 shall be added to read as follows:

“4) binding upon entities which conclude an agreement referred to in item 1, having the shares of a public company in the amount assuring the reaching or exceeding, in aggregate, of the given threshold of the total vote specified in the provisions of this chapter.”

b) section 4 shall be added to read as follows:

“4. The obligations specified in this Chapter shall also arise in the case of voting rights attached to:

- 1) securities which are lodged as security; except where the entity holding the security controls the voting rights and declares his intention of

exercising them, in which case they shall be regarded as the latter's voting rights,

- 2) shares to which a given entity has a personal and lifelong right,
- 3) securities deposited or registered with an entity which can exercise them at its discretion”;

95) in Art. 159, section 1 item 3 point a) shall read as follows:

“a) brokerage house, bank conducting brokerage activities, foreign investment firm conducting brokerage activity in the Republic of Poland and foreign legal person, referred to in Art. 52 section 2, conducting brokerage activity in the Republic of Poland, bank keeping securities accounts and entity performing activities referred to in Art. 30b section 1 item 3,”;

96) in Art. 160:

a) after section 1a, section 1b shall be added to read as follows:

“1b. The professional secrecy obligation shall not be breached by disclosure of information covered by professional secrecy:

- 1) in the performance of the agreements referred to in Art. 161 sections 3 and 4,
- 2) in the cases specified in Art. 15a, Art. 85 section 2a, and Art. 161 section 7,
- 3) to the General Inspector of Financial Information – to the extent and on the terms defined in the Act of 16 November 2000 on Counteracting Introduction into Financial Circulation of Property from Illegal or undisclosed Sources and on Counteracting the Financing of Terrorism (Journal of Laws of 2003, No. 153, Item 1505),
- 4) to the General Inspector of Treasury Control or persons authorised by the General Inspector of Treasury Control – to the extent to which such information is necessary for the performance of the Inspector's statutory duties,
- 5) by the brokerage house to the bank which is its parent company within the meaning of Art. 4 section 1 item 8 of the Act referred to in Art. 41a section 7 – for the purpose of preparation of consolidated financial statements, and to the Banking Supervision Commission to the extent to which such information is necessary for the purpose of exercising consolidated supervision over such bank in line with the rules determined in the aforementioned Act,
- 6) between the Commission or a relevant supervisory authority in a Member State, referred to in Art. 44 section 4 or section 6, and:
 - a) a chartered auditor qualified to audit financial statements of a brokerage house, a bank conducting brokerage activities or a bank keeping securities accounts; or an entity qualified to audit financial statements of a foreign investment firm,
 - b) a Judge-Commissioner, court supervisor, receiver, trustee, or liquidator of a brokerage house, a bank conducting brokerage activities or a bank keeping securities accounts; or an authority

responsible for conducting bankruptcy or liquidation proceedings of a foreign investment firm,

- if such information is essential for the performance of supervisory duties by the Commission or the relevant supervisory authority in a Member State, or for an efficient conduct of bankruptcy proceedings, maintenance of trusteeship, or conduct of liquidation, or – with respect to the information specified in the accountancy regulations – for the purpose of auditing financial statements of such brokerage houses, banks, or foreign investment firms,

7) to the National Depository – if such information is essential for the performance of its statutory duties, particularly those related to creation, organisation and management of the compensation scheme,

8) by the Commission:

a) to an exchange clearing house operating pursuant to the Act on Commodity Exchanges dated October 26th 2000, with respect to settlement of transactions on financial instruments referred to in Art. 30 section 2 item 1, if such information is essential for the performance of statutory duties of such clearing house, particularly related to ensuring proper performance by such house members of their obligations under such transactions,

b) to the President of the National Bank of Poland, if such information is essential for the performance of statutory duties of the National Bank of Poland with respect to monetary policy and supervision over the payment system.”,

b) section 3 shall be repealed,

c) sections 5–7 shall be added to read as follows:

“5. In order to establish the state of affairs in audit proceedings, with respect to data concerning the audited entity, auditors of the Supreme Auditing Chamber shall have access to the information covered by professional secrecy, on the basis of a separate authorisation issued by the President of the Supreme Auditing Chamber.

6. The Commission may provide the information held by it and covered by the professional secrecy obligation:

1) to the disciplinary spokesman or the disciplinary court of the association referred to Art. 14 section 5 item 4 to the extent necessary to ascertain, for the purposes of a disciplinary procedure, whether a broker or an adviser who is a member of the association, has violated the principles of professional ethics,

2) a court commissioner or a chamber court, solely to the extent necessary to ascertain, for the purposes of ongoing proceedings, whether a member of the chamber has violated the principles of ethics and fair business practice.”;

7. The obligation to keep professional secrecy shall also extend to the persons to whom the information constituting professional secrecy was disclosed in the cases specified in sections 1, 1a, 1b, 2, 5, and 6, unless such persons are allowed to disclose such information under the law.”;

97) Art. 161 shall read as follows:

“Art. 161. 1. In connection with the performance of its supervisory duties, the Commission, its authorised representatives and employees of the Commission’s office, shall have access to inside information and other information, including information covered by the professional secrecy obligation, controlled by natural persons and other entities, in particular those specified in sections 3–11 and in Art. 159. This information and the information obtained by the Commission in accordance with the provisions of sections 3–11, may, unless statutorily provided otherwise, be used solely for the purpose of the performance by the Commission of its statutory supervisory duties, and in particular may be used as evidence in administrative proceedings conducted by the Commission.

2. With respect to branches and representative offices of foreign investment firms conducting brokerage activities in the Republic of Poland, the right to access to the information covered by the professional secrecy obligation, controlled by such entities or by individuals working for such entities under employment contracts, mandate contracts or other contracts of similar nature, shall also extend – in connection with the exercise of the powers referred to in Art. 44 sections 2 and 3 – upon representatives of supervisory authorities of the Member State in which the foreign investment firm obtained its permit.

3. The Commission or its authorised representative may, on a reciprocity basis, deliver to and obtain from the Commission for Insurance and Pension Funds Supervision, the President of the National Bank of Poland and the Banking Supervision Commission, information, including opinions, which is necessary for the purpose of:

- 1) the correct performance of these authorities’ supervisory duties, or
- 2) ensuring correct course of administrative or penal proceedings in cases related to exercise of these authorities’ supervisory duties.

The terms and the manner of providing information shall be defined in agreements between the Commission with these supervisory authorities.

4. The Commission or its authorised representative may, on a reciprocity basis, deliver to and obtain from a foreign authority supervising the securities market or the financial market the information necessary for the purposes referred to in section 3. The terms and the manner of provision of information shall be defined in an agreement between the Commission and the relevant foreign supervisory authority.

5. The Commission may provide the information on the basis of the agreement referred to in section 4, if:

- 1) the provision of such information does not adversely affect the sovereignty, security, or economic interests of the Republic of Poland,

- 2) the laws binding in the state of the foreign supervisory authority to which information is communicated ensure that:
 - a) the information will be used solely for the purpose of exercising supervision or conducting administrative or judicial proceedings in cases related to the exercise of such supervision,
 - b) the information will be covered by the professional secrecy obligation binding upon the foreign supervisory authority,
- 3) there is assurance that the information obtained from the Commission will not be forwarded to other competent authorities, or used for purposes other than those referred to in section 3, without a prior consent from the Commission, to be sought on a case-by-case basis.
6. Information obtained by the Commission on the basis of the agreement referred to in section 4 may not, without a consent of the foreign supervisory authority, be used for purposes other than those referred to in section 3, or forwarded to the competent authority of another State.
7. At the request of a supervisory authority of a Member State, the Commission or its authorised representative shall deliver to such an authority the information controlled by the Commission, which is required for the purposes referred to in section 3. If the Commission does not have the required information, it shall take the necessary measures to gather such information, and if fails to do so, it shall promptly notify the requesting supervisory authority of that fact.
8. The Commission may refuse to act on a request for the information referred to in section 7 if:
 - 1) its communication might adversely affect the sovereignty, security or economic interest of the Republic of Poland, or
 - 2) judicial proceedings have already been initiated in respect of the same violations of the law and against the same persons as those to which the request for information relates before the authorities of the Republic of Poland or final judgement has been delivered; in any such case the Commission shall communicate to the requesting authority detailed information on the pending proceedings or issued decisions or judgements.
9. If the Commission agrees, information provided by the Commission to a supervisory authority in a Member State may be used for purposes other than those referred to in section 3 or forwarded to a competent authority of another state.
10. If a supervisory authority of a Member State agrees, information necessary for the purposes referred to in section 3, obtained by the Commission from that supervisory authority, may be used for other purposes, or forwarded to a competent authority of another state, in particular a state which is a party to the agreement referred to section 4.

11. If actions violating provisions of the law have occurred or occur in a Member State or relate to financial instruments traded on the regulated market in a Member State, the Commission or its authorised representative shall communicate to the supervisory authority of such Member State detailed information on such actions.
12. After the Commission gathers information on the actions referred to in section 11, which have occurred or occur in the Republic of Poland or relate to financial instruments traded on the regulated market in the Republic of Poland, the Commission or its authorised representative shall inform the supervisory authority of the Member State referred to in section 11 about the relevant steps the Commission has taken and, if necessary, about the stages of the pending proceedings.”;
13. If the actions referred to in section 11 occur on the territory of more than one Member State, such Member States carry out consultations as regards the steps they plan to undertake in accordance with their respective powers.”;

98) after Art. 161, Art. 161a shall be added to read as follows:

“Art. 161a. 1. The Commission shall notify the European Commission of:

- 1) the grant of a permit to conduct brokerage activities to a legal person which is a direct or indirect subsidiary of an entity that is subject to the laws of a non-Member State – within one month as of the grant of such permit,
 - 2) the acquisition of a block of shares in an entity conducting brokerage activities, in cases where the buyer is subject to the laws of a non-Member State and where as a result of the transaction the buyer becomes the parent company of the entity whose shares it acquires.
2. The Commission shall enclose, with the notifications referred to in section 1, a description of the organisational structure of the capital group, provided that, in the case of the notice referred to in section 1 item 2, the description shall present the organisational structure as after the acquisition of the shares of the entity concerned.”;
 3. The Commission shall notify the European Commission of any legal, regulatory, or organisational obstacles faced by brokerage houses or banks conducting brokerage activities in connection with such activities being conducted on the territory of states not being Member States.”;

99) in Art. 161b, section 1 shall read as follows:

- “1. Brokerage houses, banks conducting brokerage activities, foreign investment firms conducting brokerage activities in the Republic of Poland, foreign legal persons referred to in Art. 52 section 2 conducting brokerage activities on the territory of the Republic of Poland and banks keeping securities accounts may exchange information covered by the professional secrecy obligation and concerning the debt owed to them by clients to whom they provide services, to the extent to which such information is necessary to protect their interests against unfair clients.”;

100) after Art. 161b, Arts. 161c–161h shall be added to read as follows:

“Art. 161c. 1. Each person who:

- 1) possesses inside information by virtue of his/her membership in the governing authorities of the company, by virtue of his/her interest in the capital of the company, or as a result of having access to inside information by virtue of the exercise of his/her employment, profession, or their duties under any mandate contract or any other contract of similar nature, and in particular:
 - a) the members of the executive board, supervisory board, proxies or representatives of the issuer, its employees, chartered accountants or other persons related to this issuer under any mandate contract or any other contract of similar nature, or
 - b) the shareholders of a public company, or
 - c) persons employed or fulfilling functions referred to in point a) in the subsidiary or dominant entity towards issuer of financial instruments admitted to public trading, or remaining with this entity under any mandate contract or any other contract of similar nature, or
 - d) brokers or investment advisers, or
- 2) comes to possess inside information by virtue of his/her criminal activities, or
- 3) possesses inside information obtained otherwise than as described in items 1 and 2, if the person has known or, acting with due diligence, could have known such information to be inside information,
 - may not use such information, subject to section 7.
2. The persons referred to in section 1 must not disclose inside information, subject to section 6.
3. If inside information comes into possession of a legal person or an unincorporated organisation, the prohibition laid down in section 1 shall also apply to the natural persons who participate in the making of decisions on investments in the name or for the account of the legal person or unincorporated organisation concerned.
4. Use of the inside information shall consist in:
 - 1) acquisition or disposal of, or any other legal action which leads or might lead to making disposition with respect to, financial instruments admitted or sought to be admitted to public trading, or admitted or sought to be admitted to trading on a regulated market on the territory of the Republic of Poland or any other Member State (irrespective of whether transactions on such instruments are executed on that market), or of or with respect to other financial instruments, whose price or value directly or indirectly depends on the price of the financial instrument to which

the information relates, for one's own account or for the account of a third party, based on inside information,

- 2) recommending to another person to take any of the steps referred to in section 1 or taking any other factual actions with a view to inducing any such person to take any of the steps referred to in section 1.
5. Disclosure of inside information shall consist in communicating to an unauthorised person or making it possible or easy for an unauthorised person to come into possession of, inside information concerning:
- 1) one or more issuers of financial instruments referred to in section 4 item 1,
 - 2) one or more financial instruments referred to in section 4 item 1,
 - 3) acquisition or disposal of the financial instruments referred to in section 4 item 1.
6. The prohibition on disclosure of inside information shall not apply to disclosure of such information:
- 1) by persons referred to in section 1, if such disclosure is made as part of the legal relations referred to in section 1 item 1, and at the same time relevant measures are taken to ensure that the persons to whom the information is so disclosed, shall keep it confidential,
 - 2) in the manner and on the terms referred to in Art. 15a,
 - 3) on the basis of Art. 83, Art. 161 and Art. 161f section 2,
 - 4) by the Commission or its authorised representative to the General Inspector of Financial Information, to the extent and on terms defined in a separate Act.
7. The following shall not be deemed use of inside information:
- 1) transactions carried out in pursuit of statutory tasks with respect to monetary, exchange-rate or public debt-management policies, by persons authorised to represent the competent official authorities, including the National Bank of Poland, as well as by the European System of Central Banks,
 - 2) acquisition of financial instruments for the purpose of stabilisation of their price in trading on the regulated market, made in such manner, at such times and on such terms as specified in European Union regulations concerning exemptions for buy-back programmes and stabilisation of financial instruments,
 - 3) acquisition of own shares by a public company or entity acting for its account, made in such manner, at such times and on such terms as specified in European Union regulations concerning exemptions for buy-back programmes and stabilisation of financial instruments,
 - 4) transactions concluded to discharge an obligation to dispose of or acquire financial instruments, where that obligation results

from an agreement concluded in writing with the certified date before the person concerned possessed the inside information.

- Art. 161d. If in the course of the activities specified in Art. 161c section 6 item 1 the issuer of financial instruments admitted to public trading or admitted to trading on a regulated market on the territory of the Republic of Poland or any Member State, irrespective of whether transactions in a given instrument are executed on such market, or any person acting on its behalf or for its benefit, discloses inside information to an unauthorised person, the issuer shall – if the disclosure was intentional – simultaneously reveal the information to the Commission, the company operating the regulated market where the issuer securities are listed, and to the public by way of the procedure provided for in Art. 81 section 1, and – if the disclosure was unintentional – to reveal the information immediately, unless the provisions of separate laws, relevant agreement or articles of association impose on the person the obligation to keep such information confidential.
- Art. 161e. 1. The issuer of financial instruments admitted to public trading or admitted to trading on a regulated market on the territory of the Republic of Poland or any Member State, irrespective of whether transactions in a given instrument are executed on such market, is obliged to prepare and maintain separate registers of individuals who are employed, mandated or otherwise legally engaged by the issuer or other entity acting on its behalf and for its benefit, and who have access to specific inside information.
2. Upon request by the Commission or its authorised representative, the issuer shall promptly submit the registers referred to in section 1, provide information about new entries in the register made after the date as at which it was prepared and about any changes in the data included therein.
- Art. 161f. 1. Persons making up managing or supervision authorities of the issuer, proxies and other persons holding executive positions within the organisational structure of the issuer who have constant access to inside information and powers to make decisions concerning the issuer's development and economic prospects, are obliged to present to the Commission any information about transactions of sale or purchase of:
- 1) the issuer shares or derivatives,
 - 2) other financial instruments related to the instruments referred to in item 1,
- concluded by them or their close persons, or entities directly or indirectly controlled by them, entities where any of them hold positions in executive or supervisory bodies or managing positions, having constant access to inside information and the powers to make decisions concerning the development and economic prospects of the issuer, or entities from whose activities they derive profits or whose interests are equivalent with their interests.

2. The Commission shall make available the information obtained by it under section 1.
3. Information shall be revealed by the obliged person referred to in section 1 and made available by the Commission as described in Art. 161g.
4. The Commission may impose a pecuniary penalty of up to PLN 100,000 on person who failed to perform or unduly performed the obligation referred to in section 1, unless the person:
 - 1) ordered the authorised entity conducting brokerage activities the management of its securities portfolio in a way which excludes the knowledge of this person of transactions concluded in the scope of that management,
 - 2) despite exercising due care, did not know or could not find out about the transaction.
5. The decision shall be issued upon conducting a trial.
6. Close persons, referred to in section 1, shall be understood to mean spouse, cohabitating partner, persons related through blood or marriage up to the second degree in kinship line or persons related through adoption, custody or guardianship.

Art. 161g. Having regard to the correct exercise by the Commission of its supervisory duties and the necessity to ensure access to information for market participants, the minister competent for financial institutions shall define, by virtue of a decree, the manner and time for revealing the information referred to in Art. 161f section 1, and the scope, the manner and the time of making such information available by the Commission, as well as the data that should be included in the register referred to in Art. 161e and the manner of its updating and keeping.

- Art. 161h. 1. Except as provided for in section 4, the Commission may, by way of a relevant decision, impose on natural persons enumerated in Art. 161c section 1 point a, who having access to inside information took advantage of it, a pecuniary penalty of up to PLN 200,000 or a pecuniary penalty of up to five times the obtained financial benefits, or both these penalties jointly.
2. The decision shall be issued upon conducting a trial.
 3. The Commission may publish in the Official Journal of the Polish Securities and Exchange Commission, or have published by the party, at the party's cost, the whole or a part of the Commission's resolution being the basis for the decision referred to in section 1, unless that would result in disproportionate losses to the party or enormous losses to investors.
 4. If the use of inside information allowed the party to derive financial benefit of at least material value, as defined in the Polish Criminal Code, the Commission shall not issue a decision on the imposition of the pecuniary penalty referred to in section 1. Instead, the Commission shall file a report of an offence.”;

101) Art. 166 shall read as follows:

“Art. 166. Whosoever conducts an activity in the field of public trading in financial instruments without the required permit shall be subject to a pecuniary penalty of up to PLN 5,000,000.”;

102) Art. 166a shall be repealed;

103) after Art. 174, Art. 174a shall be added to read as follows:

“Art. 174a. 1. Whosoever, being responsible for the correctness of information furnished to the Commission, in order to obtain the delay referred to in Art. 81 section 4, furnishes untrue data or conceals true data which materially affects the contents of the information, shall be subject to a pecuniary penalty of up to PLN 2,000,000.

2. The same pecuniary penalty may be imposed on anyone who, being responsible for the correctness of information furnished to the Commission, in order to obtain for an issuer the exemption from disclosure of information to the public, furnishes untrue data or conceals true data which is material for the contents of the application referred to in Art. 81c section 1.”;

104) Arts. 176-178 shall read as follows:

“Art. 176. 1. Whosoever in violation of the ban referred to in Art. 161c discloses inside information shall be subject to a pecuniary penalty of up to PLN 2,000,000 or imprisonment for up to three years or both these penalties jointly.

2. Whosoever in violation of the ban referred to in Art. 161c uses inside information shall be subject to a pecuniary penalty of up to PLN 5,000,000 or imprisonment for from three months to five years or both these penalties jointly.

3. If the act referred to in section 2 is perpetrated by a person specified in Art. 161c section 1 item 1 point a, the perpetrator shall be subject to a pecuniary penalty of up to PLN 5,000,000 or imprisonment from six months to eight years or both these penalties jointly.

4. A person specified in Art. 161c section 1 item 1 point a shall not be deemed to have perpetrated the offence referred to in section 2, if such person did not derive financial benefits of material value as a result of taking advantage of the inside information. Such cases shall be governed by the provisions of Art. 161h.

Art. 177. 1. Whosoever perpetrates the manipulation in the manner referred to in Art. 97 section 2 shall be subject to a pecuniary penalty of up to PLN 5,000,000 or imprisonment from three months to five years or both these penalties jointly.

2. If the perpetrator of the act referred to in section 1 has been acting in collusion with other persons, the perpetrator shall be subject to a pecuniary penalty of up to PLN 5,000,000 or imprisonment from six months to eight years or both these penalties jointly.

3. Whosoever engages in collusion with other persons aimed at manipulation shall be subject to a pecuniary penalty of up to PLN 5,000,000.
- Art. 178. 1. Whosoever prevents or obstructs the conduct of the actions in inspection or administrative proceedings, or the actions referred to in Art. 44, Art. 47 sections 2 and 3, Art. 81a, Art. 107 section 1 item 1 and section 2, and Art. 115 section 3 and Art. 142 with regard to Art. 107 section 1 item 1 and section 2, or fails to abide by the instructions referred to in Art. 19c, or fails to abide by such instructions within the time specified, shall be subject to arrest or confinement or a pecuniary penalty.
2. The same penalty shall be imposed on anyone who acting on behalf of or in the interest of a legal person:
- 1) acting against the order specified in Art. 46 section 4, fails to transfer securities accounts and monetary accounts or documents connected with the maintenance thereof,
 - 2) against the obligation referred to in Art. 47 section 1 fails to archive or store the documents or other information carriers connected with conducting brokerage activities,
 - 3) performs acts specified in item 1 or 2 acting on behalf of, or in the interest of a legal person or unincorporated organisation.
3. Decisions in the cases specified in sections 1 and 2 shall be made by way of the procedures provided for in the Misdemeanour Code.”;
- 105) In Art. 122a section 1, in the first sentence and in item 3, as well as in section 2, section 4 and section 5; in Art. 122b section 1, section 2 items 1 and 2, section 3 and section 5; in Art. 123 sections 1–5, after the word “receiver” in various grammatical cases, the words “or trustee” in appropriate grammatical case shall be added.

Art. 2.

In the Act on Treasury Control, dated September 28th 1991 (Journal of Laws of 2004, No. 8, Item 65), in Art. 34a section 5, item 8 shall be added to read as follows:

“8) the Chairman of the Polish Securities and Exchange Commission, to the extent necessary for the carrying out of the explanatory proceedings on the basis of the Law on the Public Trading of Securities, dated August 21st 1997 (Journal of Laws of 2002, No. 49, Item 447, as amended⁸⁾,”.

⁸ The amendments to the consolidated text of the Act on Tax Supervision were published in Journals of Laws of 2002: No. 240, Item 2055, and of 2003: No. 50, Item 424; No. 84, Item 774; No. 124, Item 1151; No. 170, Item 1651 and No. 223, Item 2216, and of 2004: No. ..., Item. ...

Art. 3.

In the Act on Banking Law, dated August 29th 1997 (Journal of Laws of 2002, No. 72, Item 665, as amended⁹⁾), in Art. 105 section 1 item 2 point g) shall read as follows:

“g) the Chairman of the Polish Securities and Exchange Commission, to the extent necessary to exercise the supervision, including the carrying out of the explanatory proceedings on the basis of the Law on the Public Trading of Securities, dated August 21st 1997 (Journal of Laws of 2002, No. 49, Item 447, as amended¹⁰⁾,”.

Art. 4.

In the Act on Commodity Exchanges, dated October 26th 2000 (Journal of Laws, No. 103, Item 1099, as amended¹¹⁾) in Art. 2 item 9 shall read as follows:

“9) brokerage house – this term shall be understood to mean:

- a) brokerage houses,
- b) banks conducting brokerage activity,
- c) foreign investment firms or foreign legal persons, referred to in the Law on the Public Trading of Securities, dated August 21st 1997 (Journal of Laws of 2002, No. 49, Item 447, as amended¹²⁾), conducting brokerage activities on the territory of the Republic of Poland,

- if they conduct activities in the scope of trading in commodities”.

Art. 5.

In the Act of December 8th 2000 Amending the Act on Administrative Enforcement Proceedings, Act on Local Taxes and Charges, Act on Subsidised Interest on Certain Bank Loans, Law on the Public Trading of Securities, Tax Legislation, Act on Public Finances, Act on Corporate Income Tax and the Act on the Commercialisation and Privatisation of State-Owned Enterprises – in connection with harmonisation of Polish laws with the European Union legislation (Journal of Laws, No. 122, Item 1315), the following amendments shall be introduced:

1) in Art. 4:

- a) in item 25 point b shall be repealed,

⁹ The amendments to the consolidated text of the Act on Banking Law were published in Journals of Laws of 2002: No. 126, Item 1070; No. 141, Item 1178; No. 144, Item 1208; No. 153, Item 1271; No. 169, Items 1385 and 1387; No. 241, Item 2074 and of 2003, No. 50, Item 424; No. 60, Item 535; No. 65, Item 594; No. 228, Item 2260 and No. 229, Item 2276.

¹⁰ The amendments to the consolidated text of the Law on the Public Trading of Securities were published in Journals of Laws of 2002: No. 240, Item 2055, of 2003: No. 50, Item 424; No. 84, Item 774; No. 124, Item 1151; No. 170, Item 1651 and No. 223, Item 2216, and of 2004, No., Item

¹¹ The amendments to the consolidated text of the Act on Commodity Exchanges were published in Journals of Laws of 2002, No. 200, Item 1686 and of 2003, No. 50, Item 424; No. 84, Item 774 and No. 223, Item 2216.

¹² The amendments to the consolidated text of the Law on the Public Trading of Securities were published in Journals of Laws of 2002: No. 240, Item 2055, of 2003: No. 50, Item 424; No. 84, Item 774; No. 124, Item 1151; No. 170, Item 1651 and No. 223, Item 2216, and of 2004, No., Item

- b) in item 26 points a, b and d shall be repealed,
- c) in item 27 point c shall be repealed,
- d) item 30 shall be repealed,
- e) item 31 shall be repealed,
- f) item 34 shall be repealed,
- g) item 41 shall read as follows:

“41) after Art. 59, Art. 59a shall be added, which shall read as follows:

“Art. 59a. 1. Brokerage houses, banks conducting brokerage activities and banks keeping securities accounts must have their head offices on the territory of the Republic of Poland.”

2. Head office of a brokerage house is the organisational unit of that brokerage house in which members of its executive board are permanently based.

3. Head office of a bank conducting brokerage activity is the organisational unit of that bank in which this activity is conducted and in which persons managing the bank’s brokerage activity are permanently based.

4. Head office of a bank keeping securities accounts is the organisational unit of that bank in which persons managing the bank’s activity consisting in keeping securities accounts are permanently based.”,”

- h) item 43 shall be repealed,
- i) item 50 shall be repealed,
- j) item 51 shall be repealed,
- k) item 91 shall be repealed;

2) in Art. 12 section 4 shall read as follows:

“4. The following, in the wording given by this Act, shall come into effect on the date of Poland’s entry to the European Union:

1) Art. 59a,

2) Art. 63a of the Act referred to in Art. 4 – in as far as it relates to the issuer whose securities were admitted to trading in a Member State,

3) in Art. 43, Art. 59 and Art. 112 section 2 of the Act referred to in Art. 6.”.

Art. 6.

In the Act on the Final Nature of Settlements in Payment Systems and Securities Settlement Systems, and Rules of Supervision over These Systems, dated August 24th 2001 (Journal of Laws, No. 123, Item 1351, as amended¹³) the following changes shall be introduced:

- 1) in Art. 1, item 5:

¹³ The amendments to the Act on the Final Nature of Settlements in Payment Systems and Securities Settlement Systems, and Rules of Supervision over These Systems were published in Journals of Laws of 2003, No. 60, Item 535 and No. 223, Item 2216.

a) points d–f shall read as follows:

- “d) brokerage house within the meaning of the Law on the Public Trading of Securities, dated August 21st 1997 (Journal of Laws of 2002, No. 49, Item 447, as amended¹⁴),
- e) foreign legal person referred to in Art. 52 section 2 of the Law referred to in point d) above, conducting brokerage activity on the territory of the Republic of Poland,
- f) foreign investment firm referred to in Art. 4 item 25 of the Law referred to in point d) above, conducting brokerage activity on the territory of the Republic of Poland,”

b) point j shall read as follows:

- “j) entity whose registered offices are situated outside of the territory of other Member States, conducting activities analogous to the activities of the credit institution referred to in point c) above, or to those of a foreign investment firm referred to in Art. 4 item 25 of the Law referred to in point d) above,”;

2) Art. 2 shall read as follows:

“Art. 2. The provisions of the Act which apply to securities shall also apply to property rights referred to in Art. 2 section 2 items d) and e) of the Act on Commodity Exchanges, dated October 26th 2000 (Journal of Laws, No. 103, Item 1099, as amended¹⁵).”.

Art. 7.

1. Permits to conduct brokerage activities issued by the Commission before the Act comes into force authorise to perform the activities referred to in Art. 30 sections 2–2b of the Act referred to in Art. 1 in the wording given by this Act, subject to Art. 43a of the Act referred to in Art. 1.
2. Entities conducting brokerage activities pursuant to permits granted by the Commission before the Act comes into force shall be obliged to adjust the conducted activities to the conditions required by the Act referred to in Art. 1, within three months following the date when the Act becomes effective.
3. Entities conducting brokerage activities or keeping securities accounts pursuant to permits issued before the Act comes into force shall be obliged to provide the Commission with:
 - 1) the information referred to in Art. 40 section 1 items 2, 5 and 5a of the Act referred to in Art. 1, in the wording given by this Act, within six months following the date of entry into force of the Act,
 - 2) documents referred to in Art. 40 section 2 items 4a and 4b, Art. 54 section 2 items 4a and 4b or Art. 57 section 5 item 5, respectively, of the Act referred to

¹⁴ The amendments to the consolidated text of the Law on the Public Trading of Securities were published in Journals of Laws of 2002: No. 240, Item 2055; of 2003: No. 50, Item 424; No. 84, Item 774; No. 124, Item 1151; No. 170, Item 1651 and No. 223, Item 2216, and of 2004: No. ..., Item. ...

¹⁵ The amendments to the Act were published in Journals of Laws of 2002: No. 200, Item 1686 and of 2003: No. 50, Item 424; No. 84, Item 774 and No. 223, Item 2216.

in Art. 1 in the wording given by this Act within three months following the date of entry into force of the Act.

Art. 8.

Persons deleted from the list of securities brokers or investment advisers before date of entry into force of Art. 1 item 17 due to not practising their profession may again be placed on the list of securities brokers or investment advisers based on an application submitted 12 months from that date, provided that they meet the conditions specified in Art. 22 section 1 items 1–3 of the Act referred to in Art. 1.

Art. 9.

1. As of the date of entry into force of this Act – to the extent related to the cases concerning the deed specified in Art. 161h which are subject to consideration by the Commission – no criminal proceedings with respect to cases concerning the offence specified in Art. 176 section 2 of the Act referred to in Art. 1 shall be initiated, and any pending criminal proceedings in such cases shall be discontinued.
2. The court or the prosecutor shall immediately deliver to the Chairman of the Commission a transcript of the discontinuation decision or the decision on the refusal to initiate criminal proceedings with respect to cases concerning the offence referred to in section 1. At the request of the Chairman of the Commission the court or the prosecutor shall make available copies of the case files or other case documents, such copies to be made at the court's or the prosecutor's cost, as applicable.
3. After the receipt of the decision referred to in section 2, the Commission may initiate administrative proceedings with respect to cases concerning deeds specified in Art. 161h, unless a limitation period for the punishability of the deed, as determined in separate regulations for the corresponding offence specified in Art. 176 section 2 of the Act referred to in Art. 1, has lapsed.
4. The provisions of section 2 and 3 shall not apply to cases concerning offences with respect to which the decision on the refusal to initiate criminal proceedings or on the discontinuation of criminal proceedings became legally binding before the entry into force of this Act.

Art. 10.

Until secondary legislation is enacted pursuant to the provisions in the wording of this Act, but not longer than for 12 months as of its entry into force, the secondary legislation issued on the basis of the hitherto binding laws shall remain in force, unless such legislation is in conflict with this Act.

Art. 11.

This Act comes into force on May 1st 2004, with the exception of Art. 1 items 17, 85, 86 and 87, to the extent concerning establishment of own administration, item 105, and Art. 8, which come into force 14 days as of the publication thereof.