

## **Ordinance No. 26 dated 22 March 2006 on the Requirements to the Activities of Management Companies**

*Adopted by Decision No. 54-H dated 22.03.2006 of the Financial Supervision Commission, promulgated, SG No. 36/2.05.2006, amended and supplemented, SG No. 106/27.12.2006, SG No. 27/30.03.2007, SG No. 87/30.10.2007 (effective 1.11.2007)*

### **Chapter One GENERAL PROVISIONS**

**Article 1.** This Ordinance regulates the requirements for management companies under Article 202 of the Law on Public Offering of Securities with a view to protecting the interests of shareholders and holders of units in collective investment schemes and of persons for whom management companies conduct management activities or portfolio management activities, including the requirements related to the conclusion and performance of the management agreements, to capital adequacy and liquidity, to record-keeping and information storage, to the internal organisation, to the terms and procedure for the provision of information, as well as the requirements to natural persons working under a contract for management companies.

**Article 2.** (1) A management company may manage the activity of collective investment schemes and of investment companies of closed-end type, including:

1. investment management;
2. administration of the units or shares, including legal services and accounting services in connection with asset management, investor inquiries, valuation of assets and pricing of units or shares, regulatory compliance monitoring, maintenance of the unit-holder register or the register of shareholders, distribution of dividends and other payments, issuing, sale and repurchase or redemption of units or shares, contract settlements, record-keeping;
3. marketing services.

(2) A management company may furthermore provide the following ancillary services:

1. (*Am., SG No. 87/2007*) individual portfolio management in accordance with a contract concluded with a client, including such of an institutional investor within the meaning of Item 1 (c) of § 1 of the [Additional Provisions] of the Law on Public Offering of Securities, on a discretionary basis without specific instructions from the client, where such portfolios include financial instruments;

2. provision of investment advice concerning securities.

### **Chapter Two RELATIONS OF MANAGEMENT COMPANY WITH PERSONS FOR WHOM IT CONDUCTS MANAGEMENT ACTIVITIES OR PORTFOLIO MANAGEMENT ACTIVITIES. REQUIREMENTS FOR MANAGEMENT COMPANY UPON MANAGEMENT OF COLLECTIVE INVESTMENT SCHEMES**

#### **Section I (New, SG No. 87/2007) General Provisions**

**Article 3.** (1) A management company shall be obligated to ensure a level playing field and to treat fairly the collective investment schemes and the persons for whom it conducts management activities or portfolio management activities, as well as to exercise the care of a prudent merchant for the protection of their interests.

(2) (*Am., SG No. 87/2007*) A management company shall be obligated to comply with all requirements applicable to its business, to act honestly and professionally for protection of investors, and to ensure the stability of the market in financial instruments.

(3) A management company may not provide particular investors or investment intermediaries with real-time information regarding the structure and composition of the assets of a collective investment scheme, unless the said information is provided simultaneously to all investors or has been made public. This restriction shall not apply to the investment intermediaries with which the investment company or the management company, as the case may be, has concluded an investment order-execution agreement, if the information is provided for the purposes of performance of the agreement.

(4) (*Repealed, SG No. 87/2007*).

**Article 4.** (1) (*Am., SG No. 87/2007*) The members of the management body and of the supervisory body of a management company, the employees of any such company and any other persons working for a management company under a contract, may not disclose, unless empowered to do so, and may not use to their own advantage or to the advantage of other persons, including the management company itself, any facts and circumstances concerning the balances or operations on the accounts of the collective investment schemes and the persons for whom the company conducts management activities or portfolio management activities, as well as any other factors and circumstances constituting a trade secret, which have come to their knowledge in the course of the performance of their official and professional duties.

(2) Upon assumption of position or, in the case of a management company, upon commencement of business, the members of the management body and of the supervisory body of a management company, the employees of any such company and any other persons working for a management company under a contract shall sign a declaration on compliance with the requirements under Paragraph (1).

(3) Paragraph (1) shall furthermore apply to the cases where the persons referred to in Paragraph (2) no longer hold such a position or the management company has discontinued its business.

(4) (*Am., SG No. 87/2007*) Apart from the Financial Supervision Commission, hereinafter referred to as “the Commission”, and, respectively, the Deputy Chairperson in charge of the Investment Activity Supervision Division, hereinafter referred to as “the Deputy Chairperson”, for the purposes of the control activity thereof, the persons referred to in Paragraph (2) may provide information on the facts and circumstances specified in Paragraph (1) solely with the written consent of the person for whom the management company conducts management activities or portfolio management activities, or under a judgment of the court rendered under the terms and according to the procedure established by Article 35 (6) and (7) of the Markets in Financial Instruments Act.

**Article 5.** (1) (*Am., SG No. 87/2007*) Any promotional materials related to the activities of a management company, as well as any public statements by the members of the management body and of the supervisory body and by any other persons working for a management company under a contract, must:

1. (*Am., SG No. 87/2007*) comply with the requirements under Article 27 (4) of the Markets in Financial Instruments Act and Article 7 of Ordinance No. 38 of 2007 on the

Requirements for the Business of Investment Intermediaries (Ordinance No. 38);

2. (*Am., SG No. 87/2007*) not include or cite any statements by a person for whom the company conducts management activities or portfolio management activities;

3. (*Am., SG No. 87/2007*) not have a graphic design creating the impression that unequal importance is attached to certain elements of their content.

(2) Any promotional materials and any prepared public statements under Paragraph (1) by any persons working for a management company under a contract must be approved in advance by the internal control department.

(3) (*Am., SG No. 87/2007*) The promotional materials and public statements under Paragraph (1) may contain forecasts related to prices of or return on financial instruments only if these are expressly labelled as forecasts.

(4) The company shall be obligated to keep all documents and data supporting the information in the promotional materials and in the public statements under Paragraph (1).

(5) The Commission may endorse rules for advertising and for presentation of the operating results of management companies.

**Article 6.** A management company shall be obligated:

1. (*Am., SG No. 87/2007*) to provide, in an appropriate way, any person referred to in Article 2 (1) herein, wishing to conclude a management agreement, with information regarding the organisation of the activities thereof, including information under Article 33 herein, its latest financial statement presented at the Commission, as well as information on the expenses disaggregated by type, which will be borne by that person and, respectively, by the management company;

2. (*Suppl., SG No. 106/2006*) to comply with the investment restrictions according to the law, the articles of association, the prospectus and the management agreement with the person for whom the management company conducts management activities or portfolio management activities, as well as with the methods for valuation of the portfolio and calculation of the net asset value and the risk management rules of collective investment schemes and investment companies of closed-end type, for which the management company conducts management activities, as approved by the Deputy Chairperson;

3. at the request of the supervisory or management body of the person for whom the management company conducts management activities or portfolio management activities, to justify in writing a specific investment order placed with an investment intermediary, as well as provide in writing all information available at the management company in connection with the investment order placed;

4. to inform immediately in writing the person for whom the management company conducts management activities or portfolio management activities whenever the management company detects a breach of investment restrictions;

5. to provide the investors and the shareholders of the persons referred to in Article 2 herein and the holders of units in contractual funds managed by the management company with the information they need promptly, accurately and in a manner which is accessible to them;

6. to deliver to the person for whom the management company conducts management activities or portfolio management activities all documentation and information available at the management company in connection with the performance of the management agreement not later than five business days after the termination of the said agreement.

**Article 7.** A management company may not:

1. act outside the scope of the investment objectives and strategies of the collective investment scheme or of the person for whom the management company conducts

management activities or portfolio management activities as set forth in the articles of association or, respectively, in the contractual fund rules, in the prospectus of that collective investment scheme or person, and in the management agreement;

2. make any investment decisions and place any orders, even within the scope of the investment objectives and strategy of the person for whom the management company conducts management activities or portfolio management activities, unless the management company has informed, in an appropriate way, that person of a potential conflict of interest; in such case, the management company shall be obligated to obtain the prior approval of the person for the investment decision made;

3. receive any income in the form of discounts on commissions of the investment intermediaries through which the orders of the management company are executed, or receive other income or benefits in kind if this gives rise to a conflict of interest or breaches the obligations of the company under Article 3 herein;

4. incur any expenses, for the account of the collective investment scheme or the person for whom the management company conducts management activities or portfolio management activities, which are not expressly mentioned in the management agreement or, respectively, in the common fund rules;

5. provide any false or misleading information, including information about:

(a) the composition, value and structure of the assets in the portfolio of that person;

(b) (*Am., SG No. 87/2007*) the state of the market in financial instruments;

6. use the assets of the collective investment scheme or the person for whom the management company conducts management activities or portfolio management activities, for any purposes contrary to the law, to the instruments for the application of the law or to the management agreement as concluded;

7. invest the resources of the collective investment scheme or the person for whom the management company conducts management activities or portfolio management activities in any securities in breach of a statutorily established prohibition or investment restrictions;

8. (*Am., SG No. 87/2007*) invest its own funds in any financial instruments other than government securities, bonds and other debt instruments, including money market instruments;

9. effect any other commercial transactions, save as where this is necessary for implementation of the activities under Article 2 herein, as well as grant loans or act as a guarantor on behalf of third parties;

10. invest part or all the portfolio of a client in shares of investment companies or units of contractual funds for which the management company conducts management activities, unless the management company has obtained an advance written approval to do so from the client;

11. invest more than 25 per cent of its own funds in mortgage bonds issued by a single bank.

**Article 8.** (*Am., SG No. 87/2007*) (1) A management company shall establish, implement and maintain rules for conclusion of personal transactions in financial instruments and shall keep a register of any such transactions according to Articles 17 and 70 of Ordinance No. 38.

(2) The rules referred to in Paragraph (1):

1. shall not allow the members of the management body and of the supervisory body of the management company and any parties related thereto, as well as any other persons working for the management company under a contract, to be a party to transactions with an investment company for which the management company conducts management activities,

save in the capacity of shareholders of the said company or, respectively, a party to transactions with the management company when acting for the account of a contractual fund, save in their capacity of holders of units in the contractual fund;

2. impose a restriction on the frequency and/or the volume of personal transactions concluded by the persons referred to in Item 1 in shares or units in collective investment schemes managed by the management company, with a view to avoiding conflicts of interest, damage of the reputation of the management company, or discriminatory treatment of the rest of the shareholders or holders of units in the collective investment schemes.

**Article 9.** *(Repealed, SG No. 87/2007).*

**Article 10.** A managing company may assign a representative thereof to attend, in a non-voting capacity, the meetings of the management body of the person whose activity or portfolio the management company manages, where that person has informed the management company that matters concerning the management agreement are to be discussed.

## **Section II**

*(New, SG No. 87/2007)*

### **Requirements to Management Company upon Provision of Ancillary Services of Individual Portfolio Management and Provision of Investment Advice**

**Article 10a.** *(New, SG No. 87/2007)* (1) Where the management company conducts individual portfolio management activities, the said company must comply with the obligation to act in the best interest of the client when it places orders with an investment intermediary to carry out decisions made thereby on trade in financial instruments for the account of the client thereof.

(2) For performance of the obligations under Paragraph (1), the management company:

1. shall establish and implement a policy which determines, in respect of each class of financial instruments, the venues where the management company executes the orders, such venues possessing the requisite execution arrangements and mechanisms enabling the management company to perform its obligations under this paragraph;

2. provide appropriate information on the policy applied by the management company under Item 1 to clients;

3. monitor the effectiveness of the policy under Item 1, including the quality of execution on the part of the persons referred to in Item 1, and, where appropriate, take measures to correct any deficiencies identified;

4. assess the policy under Item 1 on an annual basis, as well as upon any material change which may affect the ability of the company to provide for the best possible result for its clients.

(3) Paragraph (2) shall not apply where the management company manages an individual portfolio and simultaneously executes decisions on conclusion of transactions upon management of the portfolio.

**Article 10b.** *(New, SG No. 87/2007)* Upon provision of information to clients and to potential clients thereof, including the information in the promotional materials and in the public statements by the members of the management and supervisory bodies, a management company shall comply with the requirements under Article 27 (4) of the Markets in Financial Instruments Act and Article 7 of Ordinance No. 38 dated 25 July 2007 on the Requirements for the Business of Investment Intermediaries (Ordinance No. 38);

**Article 10c.** *(New, SG No. 87/2007)* (1) A management company shall be obligated to

provide the following information to its clients:

1. the relevant particulars of the management company and the services provided thereby under Articles 8 and 9 of Ordinance No. 38;

2. the financial instruments subject to the ancillary services provided by the management company and the investment strategies proposed, as well as the risks associated with the said instruments and strategies, according to Articles 10 and 11 of Ordinance No. 38;

3. the types of expenses charged to the client and the amount of the said expenses, with Article 18 of Ordinance No. 38 applying in respect of any retail clients and any potential retail clients;

4. the manner of holding the money and/or financial instruments of clients upon provision of the individual portfolio management service according to Article 32 of Ordinance No. 38.

(2) A management company shall provide the information covered under Paragraph (1) complying with the requirements of Article 27 (6) of the Markets in Financial Instruments Act and Article 12 (1), (2) and Item 2 of Article 12 (3) of Ordinance No. 38.

**Article 10d.** (*New, SG No. 87/2007*) A management company shall require information from the client or, respectively, the potential client regarding the client's or potential client's financial situation, investment objectives, knowledge, experience and readiness to risk and, upon provision of the service, shall be guided by the information received in compliance with the requirements under Articles 19 and 21 of Ordinance No. 38.

**Article 10e.** (*New, SG No. 87/2007*) Regarding the provision and receipt of remunerations, commissions, benefits in kind and fees in connection with the ancillary services of individual portfolio management and provision of investment advice, the management company shall comply with the requirements under Article 14 of Ordinance No. 38.

**Article 10f.** (*New, SG No. 87/2007*) Upon provision of the ancillary services covered under Article 2 (2) herein, a management company may outsource the performance of important operational functions to a third party according to the procedure and under the terms established by Chapter Five of Ordinance No. 38.

**Article 10g.** (*New, SG No. 87/2007*) A management company shall provide the ancillary services covered under Article 2 (2) herein on the basis of a written agreement with the client in compliance with the requirements under Articles 24 to 27 of Ordinance No. 38.

### **Chapter Three**

#### **CONCLUSION AND PERFORMANCE OF MANAGEMENT AGREEMENT**

##### **Section I**

##### **Conclusion of Management Agreement**

*(Heading am., SG No. 87/2007)*

**Article 11.** (1) (*Am., SG No. 87/2007*) A management company may conclude its management agreements under general terms and conditions.

(2) A management company shall be obligated to enable, in an appropriate way, any person under Article 2 herein wishing to conclude a management agreement to familiarise himself with the content of the general terms and conditions and to conclude the agreement thereof with the management company on the basis of the said general terms and conditions.

**Article 12.** (1) The general terms and conditions must contain:

1. particulars of the management company, including:

(a) the business name, seat, registered office, telephone (telefax) and electronic

address (e-mail);

(b) number and date of the licence issued by the Commission, as well as number, lot, volume and page of entry of the company in the Commercial Register, BULSTAT Code and tax registration number;

(c) the subject of activity;

(d) restrictions on and requirements for the business of the company according to the Law on Public Offering of Securities and the statutory instruments for the application thereof;

2. regulation of the rights and obligations of the management company, including:

(a) due skill, care and diligence upon performance of the agreement;

(b) an indication that the scope of the representative authority of the management company is determined by the specific agreement, as well as the terms and procedure for reauthorisation;

(c) (*Suppl., SG No. 106/2006*) an indication that substitution is inadmissible, with the exception of delegation of functions and actions for the sale and repurchase or redemption of units of collective investment schemes in connection with the agreements with the persons under Article 16 (3) herein;

(d) conditions and time limits for periodic reporting to the person for whom the management company conducts management activities or portfolio management activities;

(d) amount, terms and procedure for the formation and payment of the remuneration;

(e) any other obligations imposed on the management company by the Law on Public Offering of Securities and by the instruments for the application thereof, by the Measures against Money Laundering Act and the Measures against the Financing of Terrorism Act;

3. regulation of the rights and obligations of the person for whom the management company conducts management activities or portfolio management activities, including:

(a) the right to verify the performance of the contractual obligations on the part of the management company without impairing its operational independence;

(b) the obligation to provide the management company with a copy of its articles of association and prospectus, as well as other documents stating the investment strategy and objectives of the person;

(c) the obligation to provide the management company with data on its assets and on the depositary institution or investment intermediary where the said assets are held, which the management company needs to exercise its rights and obligations under the agreement, as well as on the investment intermediary (or intermediaries) through which the management company is to execute its investment decisions;

(d) the obligation to inform the management company immediately of any alteration in the articles of association and/or the prospectus, of a replacement of the depositary institution or of an investment intermediary and of any changes in the person's agreements therewith, as well as of any other decision which may affect the investment decisions and orders of the management company;

4. determination of the expenses, disaggregated by type, which will be borne by each of the parties;

5. the procedure and time limit for acceptance of the reports and for notifying any objections thereto;

6. the liability for non-performance of contractual obligations or, respectively, an indication that this liability is specified by the agreement;

7. the terms and procedure for modification, rescission and termination of the agreement;

8. the terms and procedure for amendment and supplement to the general terms and

conditions, including an indication that any amendments or supplements to the general terms and conditions have effect in respect of the other party solely if communicated to it and, if within a reasonable time limit given to it, that other party has stated in writing that it accepts them;

9. applicable law and a method of reasonable and fair settlement of disputes;

10. (*Am., SG No. 87/2007*) in the case of individual portfolio management on a discretionary basis, in the absence of specific instructions from the client, the general terms and conditions must furthermore contain:

(a) (*Am., SG No. 87/2007*) an indication that the specific parameters of the portfolio and the types of financial instruments included therein and the quantitative proportions of the said instruments are determined by the agreement;

(b) an indication that, by signing the agreement, the client confirms in advance each operation or transaction which is ordered by the management company;

(c) (*Am., SG No. 87/2007*) an express indication that the financial instruments of the client are managed entirely for the account and at the risk of the client;

(d) (*Am., SG No. 87/2007*) the methods for valuation of the financial instruments in the portfolio of the client;

11. (*Am., SG No. 87/2007*) an indication that the client has received the information which the management company is obligated to provide thereto according to the Law on Public Offering of Securities and the instruments for the application thereof and that the client is aware of the risks associated with investment in financial instruments.

(2) (*Repealed, SG No. 87/2007*).

**Article 13.** (*Repealed, SG No. 87/2007*).

## **Section II**

### **Fulfillment of Management Agreement**

**Article 14.** A management company shall make investment decisions and shall give orders for management activities or portfolio management activities for a person under Article 2 herein on the basis of a written agreement with the said person.

**Article 15.** (1) (*Am., SG No. 87/2007*) A management company shall be obligated to give its orders under Article 202 (5) of the Law on Public Offering of Securities to the investment intermediary (or intermediaries) wherewith the person for whom the management company conducts management activities has concluded an agreement.

(2) (*Am., SG No. 27/2007, SG No. 87/2007; iss. 87 in 2007*) Under the terms established by Paragraph (1), the management company may give investment orders for transactions in foreign financial instruments for the account of the collective investment scheme or the person for whom the management company conducts management activities or portfolio management activities, to a foreign investment intermediary (or intermediaries) registered in a Member State of the European Union and authorised to carry on business as an investment intermediary according to the legislation of the State of registration and/or a member of a regulated market in a third country included in a list approved by the Deputy Chairperson according to Items 3 and 4 of Article 195 (1) of the Law on Public Offering of Securities.

(3) (*Amended, SG No. 87/2007*) If so provided for in the agreement referred to in Article 14 herein, the management company, acting on behalf and for the account of the person for whom the management company conducts portfolio management activities, may conclude an agreement with an investment intermediary for execution of transactions in

financial instruments while applying the rules for conclusion of such agreement through a proxy. In such case, the management company shall address the orders thereof under Article 202 (5) of the Law on Public Offering of Securities to the said investment intermediary (or intermediaries).

**Article 16.** (1) Acting on behalf of an investment company of open-end type or, respectively, on its own behalf and for the account of the common fund, a management company shall issue (sell) and repurchase or redeem the shares of the investment company or, respectively, the units of the common fund, according to the terms and conditions of the agreement concluded between them or, respectively, according to the contractual fund rules.

(2) In the case under Paragraph (1), the management company shall open sub-accounts to its account at the Central Depository for the shareholders of the investment company or, respectively, for the holders of units in the contractual fund.

(3) (*Am., SG No. 27/2007*) For performance of the activity under Paragraph (1), the management company shall be obligated to ensure, *inter alia* through conclusion of an agreement with a bank or a financial institution:

1. the use of a network of offices (“counters”), where orders for purchase and repurchase or redemption of shares and units are taken and executed and where contacts with investors, shareholders of the investment company and holders of units in the contractual fund are established;

2. the taking of orders for the purchase and sale of shares in the investment company and units of the contractual fund on each business day;

3. (*Am., SG No. 27/2007, SG No. 87/2007*) the taking of orders for the purchase and sale of shares of an investment company and units of a contractual fund by natural persons working under a contract for the management company, the bank or the financial institution, meeting the requirements under Items 1 to 6 of Article 3 of Ordinance No. 7 of 2003 on the Requirements for Natural Persons who, Acting under a Contract, Are Directly Engaged in Transactions in Financial Instruments and in Provision of Investment Advice Concerning Financial Instruments, as well as the Procedure for Acquisition and Forfeiture of the Right to Practise Such Activity (SG No. 101 of 2003) and entered in the register referred to in Item 2 of Article 30 (1) of the Financial Supervision Commission Act.

(4) (*New, SG No. 106/2006*) The following requirements shall be complied with upon delegation of functions and steps for the sale and repurchase or redemption of units of collective schemes in connection with the agreements with the parties under Paragraph (3):

(a) the management company shall notify the Commission at the latest until the end of the business day next succeeding the conclusion of an agreement with a person under Paragraph (3), regarding the conclusion and the material terms and conditions of the agreement;

(b) (*Suppl., SG No. 87/2007*) the conclusion of an agreement with a person under Paragraph (3) must not impede the effective management of the collective investment scheme on the part of the management company and must not pose obstacles to the effective exercise of the supervisory functions of the Commission or the Deputy Chairperson;

(c) the management may not conclude an agreement with any person under Paragraph (3) whose interests may conflict with the interests of the management company or of the collective investment scheme for which the management company conducts management activities;

(d) the agreement with a person under Paragraph (3) must contain provisions enabling the management company to monitor effectively the activity of the person under Paragraph (3) in connection with the performance of the agreement as concluded, including the receipt

of information from that person periodically and/or on request;

(e) according to the agreement under Paragraph (3), the management company must be able to give at any time mandatory instructions to the other party to the agreement and to withdraw the mandate without notice when this is in the interest of investors;

(f) the persons party to the agreement under Paragraph (3) must be qualified and technically and organisationally capable of undertaking the functions and steps delegated thereto;

(g) the delegation of functions and steps under the agreement with the persons under Paragraph (3) shall not exempt the management company or, respectively, the depositary bank, from the responsibilities under the management agreement or, respectively, under the contract for depositary services;

(h) upon conclusion of an agreement with a person under Paragraph (3), the management company shall take immediate actions to reflect the functions and actions which it has delegated in the prospectus of the collective investment scheme (or schemes) for which the management company conducts management activities.

(5) (*New, SG No. 106/2006*) The management company shall be obligated:

(a) to immediately order all persons under Paragraph (3) to stop the taking of orders for the sale and repurchase or redemption of units of a collective investment scheme for the period of the suspension of the issue and repurchase or redemption of units;

(b) in case the period under Letter (a) has to be extended, to notify all persons under Paragraph (3) of this not later than seven days before expiry of the initially set period;

(c) to notify the persons under Paragraph (3) of the circumstances under Article 39 (2) to (4) of the Ordinance on the Requirements for the Business of Investment Companies and Contractual Funds.

(6) (*Previous Paragraph (4) - SG No. 106/2006, amended, SG No. 87/2007*) An order for the purchase or repurchase or redemption of shares of an investment company or, respectively, of units of a contractual fund, shall be given in writing.

(7) (*Previous Paragraph (5) - SG No. 106/2006, amended, SG No. 87/2007*) The taking of orders for the purchase or repurchase or redemption of shares of an investment company or, respectively, of units of a contractual fund, placed by telephone or by another remote means of communication by shareholders of the investment company or, respectively, by holders of units in the contractual fund and/or investors, including where the order is placed by means of an electronic message signed by an advanced or a universal electronic signature, shall be admissible if the requirements of Article 34 (3) to (10) of Ordinance No. 38 are accordingly complied with, with a document containing the data under Annexes 1 or 2 to Article 32 (1) of Ordinance No. 25 on the Requirements for the Business of Investment Companies and Contractual Funds (promulgated in the *State Gazette* No. 36 of 2006; amended and supplemented in No. 106 of 2006, No. 27 of 2007) and the data subject to the declarations under Article 35 (1) of Ordinance No. 38, certifying the content of the remotely placed order, being drawn up before the end of the business day.

(8) (*Previous Paragraph (6) - SG No. 106/2006, amended, SG No. 87/2007*) Upon the sale (issuing) and repurchase or redemption of shares of an investment company of open-end type and units of a contractual fund, the management company shall take orders of a minimum content according to Annexes 1 or 2 to Article 32 (1) of Ordinance No. 25 (*State Gazette* No. 36 of 2006), with the requirements under Articles 35 and 38 of Ordinance No. 38 being complied with, *mutatis mutandis*.

(9) (*Previous Paragraph (7), SG No. 106/2006*) The cash received by the management company and provided by investors for acquisition of shares of an investment company of

open-ended type or, respectively, of units of a contractual fund, shall be held with the depositary bank on an account of the investment company or, respectively, the contractual fund, expressly opened for this purpose and managed by the management company, until the issuing of the shares or, respectively, units paid with the said cash. Any cash received by hand shall mandatorily be deposited on the bank account referred to in the foregoing sentence at the latest by the end of the next succeeding business day.

### **Section III**

#### **Ongoing and Periodic Information Requirements**

**Article 17.** A management company shall be obligated to inform in writing the person for whom the management company conducts management activities or portfolio management activities of:

1. any change in the composition of the management and/or supervisory body of the management company and in the manner of representation, including changes in the persons empowered to manage and to represent the company without being board members;
2. any effective decision on application of a coercive administrative measure under the Law on Public Offering of Securities;
3. adoption of a resolution on transformation;
4. any court or arbitration proceedings instituted, to which the company is a party, if such had or can have a material impact on the business of the management company;
5. any statements of action submitted for institution of bankruptcy proceedings, as well as any resolutions or motions for dissolution and for putting the company into liquidation;
6. any other change which may affect the performance of the agreement as concluded.

**Article 18.** (1) (*Am., SG No. 87/2007*) A management company shall be obligated to dispatch to the indicated address or to make available in another manner at least once a month to the investment company for which the management company conducts management activities a written report of the following minimum content:

1. the changes made in the structure of the portfolio and their justification;
2. the value of the portfolio at the beginning and at the end of the reporting period;
3. the expenses incurred on management activities or on portfolio management activities during the reporting period;
4. volume and structure of the investments in the portfolio, including by issuers, at the beginning and at the end of the reporting period;
5. financial situation of the other assets at the beginning and at the end of the reporting period;
6. the net asset value of the company at the beginning and at the end of the reporting period; the average monthly net asset value;
7. information on the issue price and repurchase or redemption price as published and the dates of their publication;
8. number and prices of the shares issued (sold);
9. number and prices of the shares repurchased or redeemed;
10. the transactions concluded in assets of the portfolio of the investment company during the reporting period.

(2) (*Repealed, SG No. 87/2007*).

(3) (*Suppl., SG No. 87/2007*) The report referred to in Paragraph (1) must contain summarised information of the data on the past period, as well as of the relevant data on the

two preceding reporting periods, presented in a comparative table.

(4) *(Repealed, SG No. 87/2007)*.

(5) *(New, SG No. 87/2007)* A management company shall provide each client under Item 1 of Article 2 (2) herein with a report under the terms and according to the procedure established by Articles 46 to 49 of Ordinance No. 38.

**Article 19.** *(Repealed, SG No. 87/2007)*.

**Article 19a.** *(New, SG No. 106/2006)* At the request of an investor, a management company shall be obligated to provide additional information regarding the quantitative restrictions and limits which are applied in the management of the risk associated with the investment activity of the collective investment schemes which the management company manages, regarding the methods used for this purpose, and the current parameters of the risks and the return associated with the principal categories of instruments in which the collective investment scheme invests.

## **Section IV**

### **Transactions in Derivatives for the Account of Collective Investment Schemes**

**Article 20.** (1) *(Am., SG No. 27/2007)* A management company may invest the assets of collective investment schemes for which the management company conducts management activities in derivative financial instruments traded on regulated markets under Items 1 to 3 of Article 195 (1) of the Law on Public Offering of Securities or over-the-counter, complying with the restrictions of Item 7 of Article 195 (1) and Article 196 (3), (5) and (7) of the Law on Public Offering of Securities.

(2) *(Am., SG No. 27/2007)* A management company shall adopt risk management rules for transactions in derivative financial instruments for the account of collective investment schemes, which enable the management company to monitor and measure at any time the risk by positions and their proportion of the overall risk profile of the portfolio of the collective investment scheme.

(3) *(Am., SG No. 27/2007)* A management company shall be obligated to notify the Commission, on a monthly basis, regarding the types of derivative financial instruments, the underlying risk, the quantitative limits and the methods which are chosen in order to estimate the risks associated with transactions in derivative financial instruments regarding the portfolio of each collective investment scheme managed by the management company.

## **Chapter Four**

### **CAPITAL ADEQUACY AND LIQUIDITY OF MANAGEMENT COMPANY**

**Article 21.** A management company must have a paid-in capital amounting to not less than the amount established in Article 203 (1) of the Law on Public Offering of Securities at the time of the issuing of the licence under Article 204 of the Law on Public Offering of Securities.

**Article 21a.** *(New, SG No. 106/2006)* (1) *(Supplemented, SG No. 27/2007)* A management company shall be obligated to maintain at any time own funds amounting to not less than one quarter of the fixed overheads for the preceding financial year.

(2) In the event of a material change in the business of the management company during the current year since the preceding year, the Deputy Chairperson may adjust the value required under Paragraph (1).

(3) In respect of a management company which has not completed a year's business,

starting from the day of receipt of a licence, the amount of own funds shall be determined on the basis of the fixed overheads as projected in the business plan, unless the Deputy Chairperson has required an adjustment of the expenses in the business plan.

(4) The management company shall determine the own funds under Paragraph (1) on the basis of the annual financial statement certified by a registered auditor.

**Article 22.** (*Am., SG No. 27/2007, SG No. 87/2007*) (1) The balance-sheet value of the own funds of a management company must at any time equal or exceed the greater of:

1. the value referred to in Article 21a herein;

2. a value representing:

(a) 0.5 per cent of the total value of the assets of the collective investment schemes managed by the company and of the persons for whom the company conducts management activities or portfolio management activities: if the balance-sheet value of the own funds is less than the lev equivalent of EUR 125,000;

(b) 0.4 per cent of the total value of the assets of the collective investment schemes managed by the company and of the persons for whom the company conducts management activities or portfolio management activities: if the balance-sheet value of the own funds exceeds the lev equivalent of EUR 125,000 but is less than the lev equivalent of EUR 180,000;

(c) 0.3 per cent of the total value of the assets of the collective investment schemes managed by the company and of the persons for whom the company conducts management activities or portfolio management activities: if the balance-sheet value of the own funds exceeds the lev equivalent of EUR 180,000 but is less than the lev equivalent of EUR 230,000;

(d) 0.2 per cent of the total value of the assets of the collective investment schemes managed by the company and of the persons for whom the company conducts management activities or portfolio management activities: if the balance-sheet value of the own funds exceeds the lev equivalent of EUR 230,000 but is less than the lev equivalent of EUR 280,000;

(e) 0.1 per cent of the total value of the assets of the collective investment schemes managed by the company and of the persons for whom the company conducts management activities or portfolio management activities: if the balance-sheet value of the own funds exceeds the lev equivalent of EUR 280,000.

(2) Notwithstanding the requirement under Paragraph (1), the value of the own funds of a management company may not be less than 25 per cent of the capital under Article 203 (1) of the Public Offering of Securities Act.

**Article 23.** (*Am., SG No. 106/2006, SG No. 27/2007, repealed, SG No. 87/2007*).

**Article 23a.** (New, SG No. 106/2006) If the municipal and mortgage bonds cannot be valued at market price, the subsequent valuation shall be conducted according to the discounted net cash flows method.

**Article 24.** (1) (*Am. and suppl., SG No. 106/2006, supplemented, SG No. 87/2007*) A management company shall be obligated to maintain at any time minimum liquid assets, including cash at hand, cash on sight and time deposits with a bank against which no bankruptcy proceedings are pending, government securities and mortgage and municipal bonds which have a market price, amounting to not less than 50 per cent of the current liabilities of the management company.

(2) At least 90 per cent of the cash referred to in Paragraph (1) must be on sight and time deposits with a bank.

**Article 25.** (*Am., SG No. 87/2007*) A management company shall be obligated to

notify the Deputy Chairperson within seven days in case the requirements of Articles 21a, 22 or 24 herein are breached, specifying the reasons for the breach and proposing specific measures for elimination of the breach. The company shall be obligated to eliminate the breach committed within one month.

**Article 26.** A management company shall be obligated to prepare a quarterly report on its capital adequacy and liquidity according to the Annex hereto.

**Chapter Five**  
**RECORD-KEEPING AND INTERNAL ORGANIZATION**  
**Section I**  
**Record-Keeping and Information Storage**

**Article 27.** (1) A management company shall be obligated to keep the records under this Section on a daily basis and in a manner precluding the deletion or substitution of data.

(2) A management company shall be obligated to maintain separate records on each collective investment scheme and person for whom the management company conducts management activities or portfolio management activities.

**Article 28.** (1) In relation to the activity of issuing (sale) and repurchase or redemption of shares of an investment company of open-end type or, respectively, of units of a contractual fund, a management company shall be obligated to keep a separate register for each investment company or, respectively, for each contractual fund.

(2) The register referred to in Paragraph (1) shall include, as a minimum, the following particulars:

1. the full name and Personal Identity Number or, respectively, business name, registered office and BULSTAT Code of the person who or which placed the order;
2. type, number of the order, and date and hour of its taking;
3. number of shares or units or value of the order in the case of purchase or, respectively, in the case of repurchase or redemption of shares or units;
4. name and signature of the person who entered the order into the register;
5. number of the shares or units purchased and issue price or, respectively, number of shares or units repurchased or redeemed and repurchase or redemption price at which the order was executed;
6. total value of the order executed;
7. settlement date;
8. name and signature of the person who entered the transaction into the register.

**Article 29.** (*Am., SG No. 87/2007*) (1) In relation to its portfolio management activity, a management company shall be obligated to keep a separate register for each person, which shall contain, as a minimum, the relevant information under Articles 7 and 8 of [Commission] Regulation (EC) No 1287/2006.

(2) In relation to the activity referred to in Article 2 (2) herein, a management company shall keep a register of clients' complaints, entering therein:

1. the date of receipt and the unique number of the complaint at the management company;
2. the unique number of the complainant;
3. the corresponding number of the source documents stored at the archives of the management company, as well as other additional information;
4. the name and signature of the person who effected the entry under Items 1 to 3;
5. the date of consideration of the complaint by the management company;

6. the measures taken in connection with the complaint;
7. the name of the person who effected the entry under Items 5 and 6.

**Article 30.** (1) In case the registers under Article 28 (1) and Article 29 herein are kept on a magnetic (electronic) data storage medium, the signatures referred to in Items 4 and 8 of Article 28 (2) and Items 9 and 16 of Article 29 herein may be replaced by the identification codenames of the persons entering the data into the respective registers. The terms and procedure for keeping the registers on a magnetic (electronic) data storage medium shall be regulated in the instruments of organisation of the management company and must preclude the possibility of deletion or substitution of data.

(2) The registers referred to in Article 28 (1) and Article 29 herein must be kept in a manner allowing the retrieval of each transaction by type and grounds, the parties thereto and the date and venue of effecting.

**Article 31.** *(Repealed, SG No. 87/2007).*

**Article 32.** (1) A management company shall be obligated to store, in the course of five years, the entire documentation and information related to the activities thereof, including such related to:

1. the registers and other records provided for in the Ordinance;
2. the agreements concluded under Article 14 herein, the required consents and powers of attorney or copies of powers of attorney, current particulars of the persons wherewith the management company has concluded a management agreement, the information on conflicts of interest, the orders placed in connection with portfolio management and the orders taken for issuing (sale) and repurchase or redemption of shares of an investment company of open-end type or, respectively, units of a contractual fund, the confirmations sent, other notifications and reports in connection with the performance of the agreements under Article 14 herein;
3. the promotional materials and publications under Article 5 herein and the documents related thereto;
4. the instruments regarding the internal organisation of the management company, the objections by the parties with which the management company has concluded a management agreement, a list of the persons under Article 35 herein and the documents certifying that the said persons comply with the requirements of statutory instruments;
5. the internal and external outgoing and incoming correspondence;
6. *(New, SG No. 87/2007)* the general terms and conditions and the rates applied by the management company, including the period of validity of the said rates and any alteration thereof and addition thereto;
7. *(New, SG No. 87/2007)* the staffing schedule of the employees and the list of the other persons who work for the management company, as well as any alteration thereof and addition thereto, and the documents certifying that the persons comply with the requirements of statutory instruments.

(2) *(Am., SG No. 87/2007)* A management company shall be obligated to store the documentation and information covered under Paragraph (1), including such on a magnetic data storage medium, in a manner ensuring the preservation thereof on a back-up data storage medium or its recovery in the event of loss for technical reasons and allowing:

1. the Commission or, respectively, the Deputy Chairperson, to search the information, to have quick access thereto and to be able to obtain information on each stage of the execution of any transaction;
2. the effecting of alterations or additions, but the content of the documentation and information before the alterations or additions must be easily identifiable;

3. protection against any tampering or falsification.

(3) (*New, SG No. 87/2007*) In exceptional circumstances, the Deputy Chairperson may obligate the management company to preserve any documents and information covered under Paragraph (1) for a longer period, considering the essence of the instruments or transactions, were so required for the exercise of the supervisory powers thereof.

(4) (*New, SG No. 87/2007*) A management company shall store and update information on the investment services and activities implemented thereby where, in the course of implementation of the service or activity, a conflict of interest arises or may arise that leads to a material injury of the interest of a client or clients.

## **Section II Internal Organisation**

**Article 33.** (1) A management company must have an internal organisation, including managerial and accounting organisation, and technical equipment ensuring the accurate fulfilment of its obligations to the collective investment schemes and to the persons for whom the management company conducts management activities or portfolio management activities, depending on the amount of the assets managed thereby, as well as:

1. ensure autonomous portfolio management for the collective investment schemes and for the persons for whom the management company conducts management activities or portfolio management activities;

2. (*Suppl., SG No. 87/2007*) create conditions for the avoidance of conflicts of interest between the company and the persons for whom the company conducts management activities or portfolio management activities, including the contractual funds for which the company conducts management activities, as well as between themselves, and where such conflicts cannot be avoided, ensure their fair treatment and disclosure of information and prevention of the damage to the interests of clients, with Article 41, Article 43 and Item 4 of Article 75 (1) and Article 75 (3) of Ordinance No. 38 applying, *mutatis mutandis*.

3. ensure the exercise of control over compliance, on the part of the members of the management body and of the supervisory body and of the other persons working for the management company under a contract, with the requirements for:

(a) conduct of activities established in the law and in the statutory instruments for the application thereof;

(b) honouring the commitments assumed to the persons for whom the company conducts management activities or portfolio management activities on the basis of the agreement concluded therewith;

(c) prohibition of conclusion of transactions on the basis of inside information;

4. (*Am., SG No. 87/2007*) make arrangements for proper consideration of requests, complaints and objections from the persons for whom the company conducts management activities, and in connection with the activity under Article 2 (2) herein, ensure effective and transparent procedures for the reasonable and prompt handling of complaints received from retail clients or potential retail clients;

5. (*Amended, SG No. 87/2007*) exhaustive description of the organisational structure of the management company and of the positions in the separate structural units, including a clear allocation of functions and responsibilities in connection with the conduct of the activity under Article 202 (1) and (2) of the Law on Public Offering of Securities to the said units and positions, guaranteeing professional performance of each one of them; prevention of the concurrent performance of the separate functions if this jeopardises or impairs their normal,

objective and professional discharge; the relations of co-ordination and subordination among the units, as well as the decision-making procedures in connection with the activity implemented;

6. (*Am., SG No. 87/2007*) ensure the effective interaction between the departments and clear requirements regarding the type, time limit and manner of provision of the information which must be exchanged between them for the purpose of ensuring the discharge of their functions and of the management company as a whole;

7. ensure the prevention and timely disclosure of trading on the basis of inside information;

8. ensure the application of the requirements of the Measures against Money Laundering Act and of the Measures against the Financing of Terrorism Act;

9. ensure the implementation of relations with the mass communication media, with investors, with the shareholders of the persons for whom the company conducts management activities or portfolio management activities, and with the holders of units in common funds;

10. (*Am., SG No. 87/2007*) ensure that the operations on each separate portfolio of financial instruments, managed by the management company on a discretionary basis, in the absence of specific instructions from the client, be audited by a person who exercises internal control, sufficiency frequently considering the frequency and value of the operations but not less frequently than once a month;

11. (*Suppl., SG No. 87/2007*) make possible the maintenance of an up-to-date staffing schedule listing the employees by name and establishment and observance of the requirements for occupation of each of the positions, guaranteeing the possession of skills, knowledge and experience required for the professional discharge of the respective functions;

12. (*New, SG No. 87/2007*) establish the conditions for record-keeping and information storage and the establishment, application and maintenance of systems and procedures guaranteeing the security, integrity and confidentiality of the information, adequate to the nature of the information stored;

13. (*New, SG No. 87/2007*) establish the conditions regarding the holding by the management company of financial instruments and cash provided by clients, ensuring a minimisation of the risk of loss or diminution of clients' assets or of the rights attaching to the said assets as a result of abuse, fraud, mismanagement, lack of proper accounts or negligence and which conditions are in conformity with the requirements of Articles 28 to 31 of Ordinance No. 38.

(2) (*Am., SG No. 87/2007*) The internal organisation shall be determined by rules adopted by the management body and approved by the supervisory body which:

1. ensure the implementation of services and activities by the management company in conformity with the requirements of the Law on Public Offering of Securities and the instruments for the application thereof and the timely detection of any risk associated with the lack of such conformity;

2. ensure continuity of the activity performed by the management company so that, in case of a suspension of the functioning of the systems and procedures established thereby, the critical information and the functions of the company and the provision of services and activities be preserved or, should this be impossible, the information and functions be promptly recovered and the implementation of services and activities be promptly resumed.

(3) (*New, SG No. 87/2007*) Upon assumption of position or upon commencement of business, the members of the management and supervisory bodies of the management company and all other persons who work for the management company under a contract shall be familiarised with the rules under Paragraph (1), which shall be certified in writing. The

requirements under the foregoing sentence shall furthermore apply upon any subsequent alteration of the rules under Paragraph (1).

(4) (*New, SG No. 87/2007*) Annually, not later than the 31<sup>st</sup> day of January, the management body of the management company shall review and assess the conformity of the rules under Paragraph (1) with the services and activities implemented by the management company, and should there be any deficiencies and/or a need of improvement of the internal organisation, shall adopt alterations of and additions to the rules. Notwithstanding the requirement under the foregoing sentence, the management body shall adopt alterations of and additions to the rules under Paragraph (1) whenever it finds this necessary.

**Article 34.** (1) (*Am., SG No. 87/2007*) A management company must have an internal control department to monitor compliance with the requirements of Article 5 (2) and Article 33 (1) herein and to perform other functions assigned thereto by the rules under Article 33 (2) herein.

(2) (*Supplemented, SG No. 87/2007*) The head of the internal control department shall be elected, shall report and shall be released under terms and according to a procedure established in the instruments of organisation of the management company. The said head must comply with the requirements of Items 2 to 4 of Article 35 (1) herein, must possess appropriate qualifications and experience, and may not be a person who participates in investment decision-making, who has been entrusted with the operational management of the management company or with particular steps in respect of which the said person exercises control. The foregoing sentence shall furthermore apply to all other members of the internal control department.

(3) (*Am., SG No. 87/2007*) In respect of the operation of the internal control department in connection with the implementation of the activity of the management company under Article 202 (2) of the Public Offering of Securities Act, Article 78 (2), (4) and (5), Article 79, Article 80 and Article 81 of Ordinance No. 38 shall apply, *mutatis mutandis*.

(4) (*Repealed, SG No. 87/2007*).

(5) (*Repealed, SG No. 87/2007*).

**Article 34a.** (*New, SG No. 87/2007*) A management company, which provides the ancillary services under Article 2 (2) herein, shall establish and apply risk management rules and shall have a risk management department according to Section III of Chapter Eight of Ordinance No. 38.

## **Chapter Six**

### **REQUIREMENTS TO NATURAL PERSONS WORKING FOR MANAGEMENT COMPANY UNDER CONTRACT**

**Article 35.** (1) In connection with the activity under Article 202 (1) of the Law on Public Offering of Securities, a management company shall be obligated to conclude an agreement with an investment adviser who:

1. has the right to act as an investment adviser, and
2. is not a member of the management body or of the supervisory body of the management company or of a party related, within the meaning given by Item 12 of § 1 of the Additional Provisions of the Law on Public Offering of Securities, to any member of the management body or of the supervisory body of the management company or to any person working for the company under a contract;
3. is not an investment adviser or broker in an investment company, an investment intermediary or another management company;

4. is not an investor relations director in a public company or an investment company with a view to complying with the prohibition under Article 160 of the Law on Public Offering of Securities.

(2) The investment adviser shall reason in writing the investment proposals thereof related to the portfolio management of the collective investment schemes, of the investment companies of closed-end type and of the clients of the management company, at the request of the management body or the supervisory body of the person for whom the management company conducts management activities or portfolio management activities, or of the person itself. Orders shall be signed by the persons empowered to represent the management company in accordance with its articles of association, or by persons authorised by the said persons.

(3) The other natural persons working for the management company under a contract must possess appropriate qualifications and experience for the activity they perform, and must not have been convicted of a premeditated crime of general nature, unless rehabilitated.

**Article 36.** At the request of the Deputy Chairperson, the management company shall make available thereto an up-to-date list of the persons referred to in Article 35 herein.

## **Chapter Seven PROVISION OF INFORMATION**

**Article 37. (1)** A management company shall be obligated to inform the Deputy Chairperson of:

1. entry of the company in the Commercial Register, attaching to the notification a copy of the judgment of the district court;

2. conclusion of an agreement with any institutional investor under Item 1 of Article 2 (2) herein which is not an investment company, the business name, seat and registered office of the institutional investor and the term of validity of the agreement, if a term of validity is provided for, as well as any change in these particulars;

3. any change in the business name, seat and registered office, BULSTAT Code or tax registration number;

4. opening or closure of any branch or office;

5. any change in the composition of the management body and/or of the supervisory body;

6. any change in the manner of representation;

7. any amendment and/or supplement to the articles of association and the internal rules;

8. any change in the circumstances shown in other documents which have served as grounds for the issuing of a licence to carry on activities as a management company;

9. occurrence or change of any circumstance as a result of which the statutory requirements to the members of the management body and/or the supervisory body, to other persons entrusted with the management of the company, to the head of the internal control department or to the persons under Article 35 herein are no longer complied with;

10. replacement of any person entrusted with the management of the company, or any person under Article 35 (1) herein and/or of any member of the internal control department;

11. application of any coercive administrative measures, administrative sanctions and other sanctions for serious violations by other state bodies or by the Central Depository on the management company and on any members of the management body and/or of the supervisory body and on any persons working for the management company under a contract;

12. any court or arbitration proceedings instituted, to which the company is a party, if such have had or can have a material impact on the business of the company;

13. institution of bankruptcy proceedings;

14. adoption of a resolution on dissolution;

15. initiation of a liquidation procedure;

16. (*New, SG No. 87/2007*) any change in the general terms and conditions applicable to the management agreements;

17. (*Previous, Item 16, SG No. 87/2007*) occurrence of any other circumstances subject to entry into the register of the Commission according to a separate ordinance and, respectively, any changes in the said circumstances.

(2) The obligation covered under Items 9 to 15 of Paragraph (1) must be carried out not later than the end of the next succeeding day, and in the rest of the cases within seven days after the adoption of the resolution or after the occurrence of the circumstances or the change or, respectively, after learning of the occurrence or of the change in the circumstances, including in the case of a change of the particulars under Item 2 of Paragraph (1), and where the circumstance is subject to entry in the Commercial Register, after learning of the said entry.

**Article 38.** (1) (*Suppl., SG No. 87/2007*) On or before the 10<sup>th</sup> day of the month next succeeding each quarter, a management company shall be obligated to present at the Commission a balance sheet and an income statement as of the last date of the relevant quarter, as well as the report referred to in Article 26 (1) herein and the information sheet referred to in Article 26 (2) herein.

(2) Within ninety days after the end of the financial year, a management company shall be obligated to present at the Commission an annual financial statement certified by a registered auditor or by a specialised auditing entity.

(3) (*New, SG No. 87/2007*) The registered auditor of a management company shall include in the report thereof, prepared upon the examination of the annual financial statement of the management company, information regarding the conformity of the organisation established and applied by the management company in connection with the holding of clients' assets with the requirements under Articles 28 to 31 of Ordinance No. 38.

**Article 39.** A management company shall be obligated to pay when due the annual fee for exercise of general financial supervision according to Item 7 of Article 27 (1) of the Financial Supervision Commission Act and fixed in the Tariff which represents an annex to Article 27 (2) of the Financial Supervision Commission Act.

## **Chapter Eight**

### **ADMINISTRATIVE PENALTY PROVISION**

**Article 40.** (1) Any persons, who commits or admists the committing of an offence under this Ordinance, shall be penalised according to Item 1 of Article 221 (1) of the Law on Public Offering of Securities.

(2) The protocols ascertaining any offences of the Ordinance shall be drawn up by officials authorised by the Deputy Chairperson, and the penalty warrants shall be issued by the Deputy Chairperson.

(3) The ascertainment of offences, the issuing, appeal against and execution of penalty warrants shall follow the procedure established by the Administrative Violations and Sanctions Act.

## **ADDITIONAL PROVISIONS**

*(Heading am., SG No. 87/2007)*

**§ 1.** Within the meaning given by this Ordinance:

1. *(Am., SG No. 87/2007)* “Portfolio management” shall be managing investment portfolios including one or more financial instruments with mandates given by clients on a discretionary client-by-client and portfolio-by-portfolio basis by a management company.

2. “Persons who work for the management company under a contract” shall be persons entrusted with the management of the company, such as managerial agents and business agents, as well as persons who perform work, under an employment contract or under a civil-law contract of services, directly related to the conduct of business of the company, including persons who take orders for transactions in shares of the investment company and/or in assets of the portfolio thereof or of the portfolio of another institutional investor wherewith the management company has concluded an agreement, are responsible for the notifications under the Ordinance, for the record-keeping and storage of documents, or exercise internal control.

3. “Public statement” shall be a statement contained in an article, as well as a statement made during an interview, discussion or in another similar manner for the mass communication media or at open meetings with investors.

4. “Current liabilities” shall be the sum total of all short-term liabilities and those long-term liabilities payable within one year after the date as of which the capital adequacy and liquidity report is prepared.

5. “Market price of government securities” shall be the arithmetic mean of the bid prices quoted by not fewer than two primary dealers of government securities.

6. *(Am., SG No. 87/2007)* “Client” shall be a person under Item 1 of Article 2 (2) herein whose individual portfolio, including financial instruments, is managed by the management company on a discretionary basis in the absence of specific instructions, as well as a person to whom the management company provides, for consideration, investment advice concerning financial instruments.

7. *(New, SG No. 106/2006, am., SG No. 27/2007, SG No. 87/2007)* “Market price of municipal and mortgage bonds” shall be the weighted average price of the transactions concluded in such bonds for the current day, as quoted in the exchange bulletin, if the volume of the transactions concluded therein for the day is not less than 1 per cent of the volume of the relevant issue. If a price cannot be determined under the foregoing sentence, a subsequent valuation of bonds shall be conducted according to the highest bid price of the tenders for securities of the relevant issue valid at the closing of the regulated market on the current trading day, provided that the bid price is not lower than BGN 30,000. In case the regulated market did not close until 3:00 p.m., the subsequent valuation shall be conducted according to the procedure established by Littera (b) of Article 59 (2) of Ordinance No. 25 on the Requirements for the Activities of Investment Companies and Contractual (common) Funds (Ordinance No. 25), and in case the regulated market is not open for business on the day of the valuation, under Littera (c) of Article 59 (2) of Ordinance No. 25, accordingly.

8. *(New, SG No. 87/2007)* “Fixed overheads” shall be the sum total of expenses charged for depreciation, rent, raw materials, wages and salaries, remunerations of the members of the management and supervisory bodies, external services and other expenses which do not depend on the volume of the activities performed.

**§ 1a.** *(New, SG No. 87/2007)* (1) Each document, which this Ordinance requires to be drawn up in writing, may be drawn up as an electronic document, provided that the said document is signed according to the Electronic Document and Electronic Signature Act and

compliance with the other requirements of the Ordinance is accordingly ensured.

(2) In the cases where the electronic document contains an electronic statement whereof the addressee is the Commission or the Deputy Chairperson, the said statement may be signed solely with a universal electronic signature.

(3) The Commission shall give mandatory instructions on the application of the transitional paragraphs.

**TRANSITIONAL AND FINAL PROVISIONS**

§ 2. This Ordinance is issued in pursuance of § 16 (1) in reference to Article 203 (5) and Article 211 of the Law on Public Offering of Securities and was adopted by Decision No. 54-H dated 22 March 2006 of the Financial Supervision Commission.

§ 3. The Financial Supervision Commission shall give instructions on the application of this Ordinance, and the Deputy Chairperson shall prepare standard forms of declarations and other standardised documents.

TRANSITIONAL AND FINAL PROVISIONS to the Ordinance on Amendment and Supplement to

**Ordinance No. 25 of 2006 on the Requirements for the Activities of Investment Companies and Contractual (common) Funds**  
*(SG No. 106/2006)*

§ 33. The investment companies and the contractual funds shall bring the activities thereof into conformity with the requirements of this Ordinance within three months after the entry into force of the said Ordinance.

§ 34. The investment companies shall bring the articles of association thereof into conformity with the requirements of this Ordinance at the first ordinary Shareholders' General Meeting held after the entry into force of the Ordinance.

.....

**Ordinance on Amendment and Supplement of Ordinance No. 25 of 2006 on the Requirements for the Activities Investment Companies and Contractual (commin) Funds**  
*(SG No. 27/2007)*

**TRANSITIONAL AND FINAL PROVISIONS**

§ 22. The investment companies and the common funds shall bring the activities thereof into conformity with the requirements of this Ordinance not later than the 30<sup>th</sup> day of June 2007.

.....

**Ordinance on Amendment and Supplement to Ordinance No. 26 of 2006 on the Requirements to the Activities of Management Companies**  
*(SG No. 87/2007, effective 1.11.2007)*

**TRANSITIONAL AND FINAL PROVISIONS**

.....

§ 34. The management companies shall bring the activities thereof into conformity with the requirements of this Ordinance within three months after the entry into force of the said Ordinance.

**Annex**  
to Article 26  
*(Am., SG No. 106/2006, am. and supp., SG No. 27/2007,  
am., SG No. 87/2007, effective 1.11.2007)*

**Capital Adequacy and Liquidity Report**

as of.....

.....

(date of report)

by .....

.....

(business name and registered office of management company)

This report is drawn up according to the Ordinance on the Requirements to the Activities of Management Companies. We are familiar with and we incur personal liability for the veracity of the data in the report.

Date: .....

(seal)

.....

Executive Director: .....

(name)

.....

(signature)

Chief Accountant: .....

(name)

.....

(signature)

Drawn up by: .....

(name, position)

.....

(signature)

**I. Assets, Expenses, Current Liabilities and Own Funds**

Code	Description	Book value	Market price
		(BGN)	
100	Own funds as shown on balance sheet (OF)		
200	Cash, of which:		
210	Cash at hand		
211	— in leva		
212	— in foreign currency		

0	220	Current accounts
		(Sight deposits):
0	221	— in leva
0	222	— in foreign currency
0	230	Time deposits
0	231	— in leva
0	232	— in foreign currency
0	300	Government securities with market price
0	400	Mortgage and municipal bonds with market price
0	500	Total assets (TA) under Art. 24 (1)
0	510	Cash under Art. 24 (2)
		(2200 + 2300), Art. 24 (1)
		(2000+3000+4000)
0	600	Current liabilities (CL)
0	700	Total value of assets managed (TVAM)
0	800	Minimum amount of capital under Art. 203 (1) (MC)*
0	900	Fixed overheads

\* State lev equivalent of EUR 125,000.

## II. Capital Adequacy and Liquidity Ratio

No.	Description	Value
1.	OF/MC ratio (OF:MC (%))	
1.1.	Statutory minimum (%)	25
1.2.	Excess (line 1: line 1.1 > 1) or Deficit (line 1:line 1.1 < 1) compared to statutory minimum	
2.	OF/TVAM ratio (OF:TVAM) (%)	
2.1.	Statutory minimum (%)	0.5/0.4/ 0.3/0.2/ 0.1
2.2.	Excess (line 2:2.1. > 1) or Deficit (line 2:line 2.1 < 1) compared to statutory minimum	
3.	TA/CL ratio (TA:CL) (%)	

3.1.	Statutory minimum (%)	50
3.2.	Excess (line 3:line 3.1 > 1) or Deficit (line 3:3.1 < 1) compared to statutory minimum	
4.	Cash under Art. 24 (2)/total cash ratio (%)	
4.1.	Statutory minimum (%)	90
4.2.	Excess (line 4:line 4.1 > 1) or Deficit (line 4:line 4.1 < 1) compared to statutory minimum	
5.	OF/fixed overheads ratio (%)	
5.1.	Statutory minimum (%)	25
5.2.	Excess (line 5:line 5.1 > 1) or Deficit (line 5:line 5.1 < 1) compared to statutory minimum	
as of: .....		
	(date)	
by: .....		
	(name)	