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If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*<sup>1</sup> has adopted and  
the President has proclaimed the following law:

## **Law on the Financial and Capital Market Commission**

*[12 February 2009]*

### **Chapter I General Provisions**

**Section 1.** This Law prescribes the procedures for the establishment and operation of the Financial and Capital Market Commission (hereinafter – the Commission).

**Section 2.** (1) The Commission is a lawful, autonomous public institution, which, according to the objectives and tasks of its operation, governs and supervises the financial and capital market and the activities of its participants.

(2) The Commission shall take decisions independently within the scope of its competence, shall perform the statutory tasks assigned thereto and shall be responsible for their execution. No one is entitled to interfere in the operation of the Commission, except such institutions and officials to whom such rights are provided the law.

**Section 3.** (1) The legal capacity and capacity to act of the Commission shall conform to the objectives laid down in this Law and in other laws. The Commission shall have apportioned State property and independent balance.

(2) The Commission shall have a seal bearing the full name of the Commission, as well as other attributes and an account in the *Latvijas Banka*.

**Section 4.** Participants of the financial and capital market are issuers, investors, credit institutions, insurers, insurance brokers, reinsurers, reinsurance brokers, private pension funds, regulated market makers, depositories, reinsurance brokerage companies, investment management companies, savings and loan associations, external credit assessment institutions (rating agencies), alternative investment fund managers, payment institutions and electronic money institutions.

*[13 October 2011; 5 September 2013]*

<sup>1</sup> The Parliament of the Republic of Latvia

## Chapter II

### Objective of the Operation, Functions, Rights and Responsibility of the Commission

**Section 5.** The objective of the operation of the Commission is to promote the protection of the interests of investors, depositors and insured persons and the development and stability of the financial and capital market, as well as the prevention of money laundering and terrorism and proliferation financing.

*[13 June 2019]*

**Section 6.** The Commission shall have the following functions:

1) to issue regulatory provisions and take decisions on the requirements governing the activities of participants of the financial and capital market and the procedures for the calculation of the indicators characterising such activities and the submission of reports;

2) to govern the financial and capital market and the activities of its participants by controlling the implementation of laws and regulations and the regulatory provisions and decisions of the Commission;

3) to determine the qualification and eligibility requirements for participants of the financial and capital market and their officials;

4) to determine the procedures for the licensing and registration of participants of the financial and capital market;

5) to collect and analyse the information related to the financial and capital market and to publish it;

6) to ensure the accumulation and management of the assets of the Deposit Guarantee Fund and the Insured Protection Fund and the disbursement of remunerations from such funds in accordance with the Deposit Guarantee Law and the Law On Insurance Companies and Supervision Thereof;

7) to provide disbursement of compensations to investors in accordance with the Investor Protection Law;

8) to analyse the laws and regulations governing the financial and capital market, to prepare proposals for the improvement and harmonisation of the laws and regulations with the laws and regulations of the European Community;

9) to systematically study, analyse and forecast the development of the financial and capital market;

10) to co-operate with foreign financial and capital market supervision authorities and participate in the work of international organisations of financial and capital market supervision authorities;

11) to administer the financial stability fee in accordance with the laws and regulations governing the field of taxes and duties;

12) to control that the laws and regulations governing activities regulated by the financial and capital market are carried out only by the persons referred to in these laws and regulations;

13) to supervise and control that participants of the financial and capital market comply with the requirements of the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing;

14) to supervise and control that participants of the financial and capital market comply with the requirements of the Law on International Sanctions and National Sanctions of the Republic of Latvia with regard to financial restrictions.

*[8 November 2001; 12 February 2010; 20 December 2010; 8 November 2012; 13 June 2019]*

**Section 7.** (1) In performing the functions laid down in Section 6 of this Law, the Commission has the right to:

- 1) issue regulatory provisions governing the activities of participants of the financial and capital market and take decisions;
- 2) request and receive the information necessary for the performance of the relevant functions from participants of the financial and capital market. The Commission may also exercise such rights against other persons if there is a reason to believe that they are related to a possible violation of the requirements of laws and regulations or they may have access to information at their disposal necessary for clarification of the circumstances of the violation;
- 3) in the cases laid down in laws and regulations, determine restrictions on activities of participants of the financial and capital market;
- 4) verify the conformity of activities of participants of the financial and capital market with laws and regulations and the regulatory provisions and decisions of the Commission;
- 4<sup>1</sup>) request an opinion of a verifier which is independent from the participant of the financial and capital market on the conformity of the activities of the participant of the financial and capital market to the requirements of laws and regulations governing the financial and capital market and to the decisions of the Commission;
- 5) apply the penalties laid down in laws and regulations to participants of the financial and capital market and their officials, if such laws and regulations are violated. The Commission may also exercise such rights against other persons if they have violated the requirements of the laws and regulations governing the field of the financial and capital market;
- 6) participate in general meetings of participants of the financial and capital market, initiate the convocation of meetings of the participants of governance institutions of the financial and capital market and determine the issues to be addressed in such meetings, as well as to participate in such meetings;
- 6<sup>1</sup>) fulfil the functions specified in the Law on Recovery of Activities and Resolution of Credit Institutions and Investment Brokerage Companies;
- 7) request and receive the information necessary for the performance of its functions free of charge from the Commercial Register Office and other State institutions;
- 8) co-operate with foreign supervisory authorities of the financial and capital market and, upon mutual agreement, exchange the information necessary for the performance of the functions laid down in the law;
- 9) request and receive the information necessary for administration of the financial stability fee from payers of the financial stability fee;
- 10) arrive at any participant of the financial and capital market (also without prior notice) to carry out an inspection;
- 11) on the basis of a decision of the judge, arrive at another person (also without prior notice) to carry out an inspection if there is a reason to believe that this person is related to a possible violation of the requirements of laws and regulations or the person may have information at his or her disposal necessary for the clarification of the circumstances of the violation within the scope of the administrative case initiated by the Commission;
- 12) request and receive printouts of telephone conversations and data transfer records of another kind from participants of the financial and capital market;
- 13) on the basis on a decision of the judge, request and receive load data at the disposal of the electronic communications merchant, which may have a role in the administrative case initiated by the Commission;
- 14) on the basis of a decision of the judge, in the presence of the person who is subject to search and inspection, and the police, enter, without a prior notice, non-residential premises, vehicles, apartments, buildings and other movable and immovable objects, owned, managed or used by participants of the financial and capital market, their officials and employees, by opening them and the repositories within them (hereinafter — searchable objects), to perform a forced search of a searchable objects and inspect the belongings and documents thereof, including inspection of the messages (data) saved in the electronic

information system — computers, floppy disks and other data carriers. If the person who is subject to search refuses to open the searchable objects, these objects shall be opened without inflicting significant damage to them. During the search and inspection, officials of the Commission are entitled to:

- a) prohibit the persons present at the search and inspection site to leave that place, move and communicate with each another without permission until the end of the search and inspection,
- b) get acquainted with the information contained in the documents and the electronic information system (including information containing a commercial secret),
- c) extract the discovered items and documents that may be relevant to the administrative case initiated by the Commission,
- d) request and receive document derivatives certified in accordance with the procedures laid down in laws and regulations,
- e) print or record messages (data), which are stored in the electronic information system, into electronic data carriers,
- f) request and receive written or oral explanations from the officials and employees of a participant of the financial and capital market,
- g) for a time period not exceeding 72 hours, seal the searchable objects and repositories within them in order to ensure the preservation of evidence;

15) on the basis on a decision of the judge, if there are reasonable suspicions that the documents or items, which could serve as evidence for the violation of the laws and regulations governing operation of the financial and capital market, are stored in the searchable objects owned, managed or used by another person, perform actions referred to in Clause 14 of this Paragraph against these persons in the presence of the police. If the search of objects of a natural person is performed in the premises of a legal person, the search and inspection shall take place in the presence of a representative of the legal person and the natural person.

(2) The Commission is entitled to carry out other activities permitted in laws and regulations in order to perform the functions laid down in the law.

*[12 February 2009; 20 December 2010; 8 November 2012; 28 November 2013; 11 June 2015; 19 May 2016]*

**Section 7.<sup>1</sup>** (1) During the search and inspection actions referred to in Section 7, Paragraph one, Clauses 14 and 15 of this Law upon a lawful request of officials and employees of the Commission, the participants of the financial and capital market, their officials and employees, as well as of other persons, if there are reasons to believe that the persons are related to a possible violation of laws and regulations or the persons may have information at their disposal necessary for the clarification of the circumstances of the violation in the administrative case initiated by the Commission, have a duty to:

- 1) provide access to any searchable objects owned, possessed or used by them, by opening these objects or the repositories in them;
- 2) provide access to documents prepared or stored in any manner and form, as well as to messages (data) saved in the electronic information system;
- 3) within the time period determined by the Commission, provide full and truthful requested information;
- 4) issue the requested documents, copies (true copies) or extracts of the documents and certify their accuracy in accordance with the procedures laid down in laws and regulations;
- 5) confirm the authenticity of the printouts of messages (data) saved in the electronic information system or records made in electronic data carriers;
- 6) carry out other lawful requirements of officials and authorised employees of the Commission.

(2) The Commission shall initiate an administrative case for non-fulfilment of the duties referred to in Paragraph one of this Section, in accordance with the procedures laid down in the Administrative Procedure Law.

(3) The Commission shall impose a fine for non-fulfilment of the duties referred to in Paragraph one of this Section up to 700 EUR for a natural person and from 1400 to 14 200 EUR for a legal person.

(4) Officials and employees of the Commission shall present a power of attorney when performing official duties outside the premises of the Commission.

(5) The State Police shall assist officials of the Commission in the performance of the search and inspection actions referred to in Section 7, Paragraph one, Clauses 14 and 15 of this Law.

*[8 November 2012; 28 November 2013]*

**Section 7.<sup>2</sup>** (1) A decision to permit the carrying out of the actions referred to in Section 7, Paragraph one, Clauses 11, 13, 14 and 15 of this Law shall be taken by the district (city) court judge according to the legal address of the Commission. The judge shall, within 72 hours, examine the application of the Commission and other documents justifying the need to carry out such actions, hear the officials and employees of the Commission and take a decision to permit such actions or to refuse to carry out such actions. The person who will be subject to search and inspection, the location where the search and inspection will be performed and the administrative case within the scope of which this search and inspection will be carried out shall be indicated in the decision on the search and inspection.

(2) A decision of the judge shall be sent to the Commission within 24 hours from the moment when the decision was taken.

(3) A complaint may be submitted to the Chief Justice of the Court within 10 days from the date of receipt of the decision of the judge.

(4) The Chief Justice of the Court shall examine the complaint within 10 days. A complaint of the Commission against a decision of the judge shall be examined in the presence of a representative of the Commission. A complaint of a person against a decision of the judge shall be examined in the presence of a representative of the Commission and the concerned person or his or her representative. A decision of the Chief Justice of the Court is final and not subject to appeal.

(5) The Chief Justice of the Court may satisfy or reject the complaint. By satisfying the complaint, the Chief Justice of the Court may completely or partially revoke or amend the contested decision.

(6) The evidence obtained on the basis of the contested decision, which is fully or partly revoked or amended, may not be used to the extent in which the unlawfulness of the decision is recognised.

*[8 November 2012]*

**Section 7.<sup>3</sup>** (1) The search and inspection actions referred to in Section 7, Paragraph one, Clauses 11, 14 and 15 of this Law shall be registered in the procedural action minutes by officials of the Commission.

(2) The procedural action minutes shall indicate:

- 1) the location and date of the procedural action;
- 2) the legal basis for the performance of the action;
- 3) the time when the action was started and finished;
- 4) the position, given name and surname of the performer of the action;
- 5) the position, given name and surname of the rapporteur;
- 6) the position, given name and surname of the persons – participants in the action;
- 7) the course of the action and the established facts;
- 8) the items and documents acquired during procedural action.

- (3) The items and documents acquired during the procedural action shall be appended to the minutes.
- (4) The performer of the procedural action shall introduce the persons, who participated in the relevant action, with the content and annexes of the procedural action minutes. Corrections and additions expressed by persons shall be recorded in the minutes.
- (5) The minutes as a whole and each page individually shall be signed by the performer of the procedural action and all persons who participated in the relevant action. If the person refuses to sign, it shall be recorded in minutes, stating the reasons and motive for refusal.

*[8 November 2012]*

**Section 7.4** (1) Upon commencing the actions referred to in Section 7, Paragraph one, Clauses 11, 13, 14 and 15 of this Law, the Commission shall issue a copy of a decision of the judge to the person who is subject to such actions. The person shall sign on this in the decision.

(2) Upon commencing the search and inspection actions referred to in Section 7, Paragraph one, Clauses 14 and 15 of this Law, an official of the Commission shall inform a participant of the financial and capital market or any other person who is subject to such actions, of its rights.

(3) A participant of the financial and capital market or any other person who is subject to the search and inspection actions referred to in Section 7, Paragraph one, Clauses 14 and 15 of this Law, has the right to:

- 1) be present during the entire time of search and inspection actions, express remarks and requests;

- 2) use a lawyer or legal assistance of other forms when providing explanations. Provision of explanations shall be postponed for a time period not exceeding one hour, if there is a need to wait for a lawyer or other legal aid provider;

- 3) suggest that the information to be provided or any part thereof is determined a status of restricted access information;

- 4) become acquainted with the procedural action minutes and the documents appended thereto, to submit corrections and supplementations;

- 5) submit a complaint to the chairperson of the Commission on an action of an official or employee of the Commission.

*[8 November 2012]*

**Section 8.** The regulatory provisions of the Commission shall be binding to participants of the financial and capital market. The regulatory provisions shall enter into effect on the day following the publication thereof in the official gazette *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia] if not specify otherwise in the regulatory provisions.

*[12 February 2009; 5 September 2013]*

**Section 9.** The Commission shall be responsible for:

- 1) the stability and development of the financial market;
- 2) the promotion of freedom of competition in the financial and capital market;
- 3) the ensuring of supervision and control of compliance with the requirements of laws and regulations regarding participants of the financial and capital market in accordance with the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing;

- 4) the ensuring of supervision and control of compliance with the requirements of laws and regulations regarding financial restrictions imposed on participants of the financial and capital market in accordance with the Law on International Sanctions and National Sanctions of the Republic of Latvia.

*[13 June 2019]*

### **Chapter III**

#### **Relationship of the Commission with the *Latvijas Banka* and Ministry of Finance**

**Section 10.** (1) The Commission shall submit information collected on the situation in the financial and capital market to *Latvijas Banka* and the Ministry of Finance not less than once a quarter.

(2) The Commission shall immediately inform the president of *Latvijas Banka* and the Minister for Finance in writing regarding short-term liquidity problems, the probability of insolvency or actual insolvency of an individual participant of the financial and capital market. The Commission is entitled to request *Latvijas Banka* to issue to credit institutions a credit loan against collateral.

(3) The Commission and *Latvijas Banka* shall exchange the statistical information necessary for the performance of their tasks.

**Section 11.** Upon a written request of the President of *Latvijas Banka*, the Commission shall provide information regarding the financial situation of individual credit institutions.

**Section 12.** The information referred to in this Chapter is restricted access information if not laid down otherwise in laws and regulations.

### **Chapter IV**

#### **Establishment and Administration of the Commission**

**Section 13** (1) The Commission shall be administered by a Board.

(2) The Board shall consist of three Board members: the Chairperson of the Commission (hereinafter also – the Chairperson) and two Board members.

(3) The Chairperson shall be approved by the *Saeima* upon a proposal of the Cabinet. Board members shall be approved in the office by the *Saeima* upon a proposal of the Chairperson agreed upon with the Minister for Finance and the Council of the *Latvijas Banka*.

(4) The Cabinet shall select candidates for the position of Chairperson in an open competition. The Commission for Selection of Candidates and Assessment of their Conformity which is chaired by the Director of the State Chancellery shall perform selection of candidates. The Commission for Selection of Candidates and Assessment of their Conformity shall be composed of the Director of the State Chancellery, Minister for Finance or a representative delegated by him or her, a member of Council of the *Latvijas Banka*, the Director of the State Security Service and Head of the Financial Intelligence Unit. Not more than three representatives of associations within the Financial Sector Development Board delegated by this Board shall participate in meetings of the Commission for Selection of Candidates and Assessment of their Conformity with the advisory rights. The State Chancellery shall fulfil the functions of the Secretariat of the Commission for Selection of Candidates and Assessment of their Conformity.

(4<sup>1</sup>) The Cabinet shall determine:

- 1) the conditions and procedures for the application process of candidates;
- 2) the criterion for the selection of candidates and the procedures for assessing them;
- 3) the procedures for establishing the Commission for Selection of Candidates and Assessment of their Conformity, and for operation and decision-taking thereof.

(4<sup>2</sup>) Prior to agreeing upon a candidate for the position of a Board member with the Minister for Finance and the Council of *Latvijas Banka*, the Chairperson shall ascertain that the candidate for the office of a Board member corresponds to the conditions of Paragraph five of this Section.

(5) The Chairperson and Board member may be a person who:

- 1) is a citizen of the Republic of Latvia;
- 2) has acquired higher education (at least master's degree or a degree equivalent thereto);
- 3) has knowledge of the Latvian and English languages;
- 4) has at least five-year experience in the area of the financial and capital market or supervision thereof, or in the area of prevention of money laundering and terrorism and proliferation financing;
- 5) is competent in financial management issues and has at least five-year experience in the position of a head of organisation or an employee directly subordinated to the head of the organisation;
- 6) who has an impeccable reputation;
- 7) meets the requirements laid down in the laws and regulations for the receipt of a second category special permit for access to the official secret;
- 8) has not been punished for committing an intentional criminal offence (regardless of whether or not the conviction is extinguished or set aside).

(6) [13 June 2019]

(6<sup>1</sup>) The term of office of the Chairperson and Board member shall be five years. If the Chairperson or any Board member leaves the office early, the *Saeima* shall approve a new Chairperson or Board member respectively for a five-year term of office. The same person may be the Chairperson or Board member for not more than two successive terms.

(6<sup>2</sup>) If the *Saeima* releases the Chairperson or at least one Board member from the office prior to the term specified in Paragraph 6.<sup>1</sup> of this Section, the *Saeima* may, for the purpose of ensuring continuity of operation of the Board, upon a joint proposal of the Minister for Finance and Council of *Latvijas Banka*, appoint a temporary Chairperson or Board member from other Board members or employees of the Commission until the *Saeima* approves such Chairperson or Board member who, in accordance with this Section, has been selected by the Commission for the Selection of Candidates and Assessment of their Compliance and proposed by the Cabinet. The term of office of the Chairperson or Board member appointed temporarily may not exceed six months.

(7) Remuneration of the chairperson of the Commission, members of the Board and other employees shall be determined in accordance with the Law On Remuneration of Officials and Employees of State and Local Government Authorities.

[20 December 2010; 13 June 2019 / See Paragraph 21 of Transitional Provisions]

**Section 14.** (1) Prior to the term specified in Section 13, Paragraph 6.<sup>1</sup> of this Law, the *Saeima* shall only remove the Chairperson or Board member from the office if:

- 1) a submission regarding resignation from the office has been received from the relevant person;
- 2) the convicting court judgement or punishment prescription of a prosecutor has entered into effect by which a punishment is imposed upon the Chairperson or Board member for committing an intentional criminal offence;
- 3) the Chairperson or Board member has been unable to fulfil his or her duties of office due to illness or other reasons for more than six successive months;
- 4) the final ruling to cancel the special permit for access to the official secret or lower the category has entered into effect;
- 5) an application has been received from the Chairperson for early release of a Board member if the Board member no longer meets the criterion referred to in Section 13, Paragraph five, Clause 6 of this Law;
- 6) an application of at least 34 members of the *Saeima* has been received for an early release of the Chairperson if the Chairperson no longer meets the criterion referred to in Section 13, Paragraph five, Clause 6 of this Law;

7) a joint substantiated application has been received from the Minister for Finance and the Council of *Latvijas Banka* for an early release of the Chairperson or Board member.

(2) The Commission for Selection of Candidates and Assessment of their Conformity referred to in Section 13, Paragraph four of this Law shall assess the reasons for the release of the Chairperson or Board member from the office referred to in Paragraph one, Clauses 5 and 6 of this Section.

(3) If the Commission for Selection of Candidates and Assessment of their Conformity referred to in Section 13, Paragraph four of this Law does not establish the reasons for the release of the Chairperson or Board member from the office referred to in Paragraph one, Clauses 5 and 6 of this Section, it shall terminate the release procedure. If the Commission for Selection of Candidates and Assessment of their Conformity establishes the reasons for the release of the Chairperson or Board member, it shall draw up the respective decision. The Chairperson or Board member may appeal the relevant decision to the Administrative Regional Court within 10 days from the day of its notification.

(4) The Administrative Regional Court shall adjudicate the matter as the court of first instance. The case shall be reviewed in the composition of three judges. The court shall examine the matter and take the ruling within 30 days after receipt of the application. If the law determines the term for the execution of any procedural action, but by executing the relevant procedural action within this time period, the time period laid down in this Paragraph for the examination of the matter and taking the ruling would not be complied with, the court (judge) itself shall determine an appropriate time period for the enforcement of the relevant procedural action. The ruling of the Administrative Regional Court shall not be subject to appeal.

(5) If a decision of the Commission for Selection of Candidates and Assessment of their Conformity referred to in Section 13, Paragraph four of this Law has not been appealed or has been appealed and the court has recognised it as lawful, a candidate shall send the decision of the Commission for Selection of Candidates and Assessment of their Conformity to the *Saeima*. The decision of the *Saeima* to remove the Chairperson or Board member from the office shall not be subject to appeal.

*[13 June 2019 / See Paragraph 21 of Transitional Provisions]*

**Section 14.<sup>1</sup>** (1) If the *Saeima* releases the Chairperson or Board member from the office in accordance with Section 14, Paragraph one, Clause 1 of this Law or a five-year term of office of the Chairperson or Board member expires, a one-off compensation in the amount of 50 per cent of his or her annual monthly salary shall be paid to the Chairperson or Board member upon leaving of the office, by taking into consideration the restrictions on commercial activity specified in the Law on Prevention of Conflict of Interest in Activities of Public Officials.

(2) The right to the compensation referred to in Paragraph one of this Section is only present, if two years have elapsed since the approval of the official referred to in Paragraph one of this Section in the office.

(3) The compensation shall be disbursed from the budget of the Commission.

*[13 June 2019 / See Paragraph 21 of Transitional Provisions]*

**Section 15.** (1) Meetings of the Board shall be convened and chaired by the Chairperson, but during his or her absence – by a Board member appointed by him or her.

(2) The Board shall have a quorum if its meeting is attended by at least two Board members, one of whom is the Chairperson or during his or her absence – a Board member appointed by him or her.

(3) Each Board member is entitled to request with a motivated written application that a Board meeting is convened.

(4) Board meetings shall be convened as necessary but not less than once a month.

(5) A Board meeting shall take place by Board members participating therein in person. If a Board member is not able to attend the Board meeting, he or she shall participate in the meeting remotely. The Board member shall be provided with a possibility to become acquainted with the documents to be examined in the meeting. The Board shall lay down the procedures for participation in the Board meeting, discussing draft decisions and remote decision taking.

[19 May 2016; 13 June 2019 / See Paragraph 21 of Transitional Provisions]

**Section 16.** (1) The Board shall take decisions with a simple majority vote of the Board members present. In the event of a tied vote, the vote of the head of the meeting shall be decisive.

(2) The president of *Latvijas Banka* and his or her deputy or the Minister for Finance may participate in Board meetings in an advisory capacity. The heads of public organisations (professional associations) of participants of the financial and capital market may participate in the Board meetings in an advisory capacity if such meetings have not been announced as closed by a Board decision.

(3) The minutes of a Board meeting shall be signed by all Board members who participated in the meeting.

(4) If any of the Board members disagrees with the decision of the Board and votes against it, his or her position shall be recorded in the minutes of the meeting and he or she shall not be responsible for the decision of the Board.

**Section 17.** (1) Only the Board is entitled to:

1) approve the regulatory and supervisory strategy of the financial and capital market;  
2) issue regulatory provisions governing the activities of participants of the financial and capital market and take decisions;

3) grant a special permit (licence) and a certificate for the operation in the financial and capital market;

4) stop and resume the operation of the issued special permit (licence) and certificate;

5) cancel the issued special permit (licence) and certificate;

6) take a decision to impose sanctions against persons who have violated the laws and regulations governing the financial and capital market;

6<sup>1</sup>) take decisions on the rights, fulfilment of obligations and restrictions on activities of a participant of the financial and capital market;

6<sup>2</sup>) take a decision on the obligation of a participant of the financial and capital market to submit the opinion referred to in Section 7, Paragraph one, Clause 4.<sup>1</sup> of this Law;

7) determine payments of participants of the financial and capital market for the funding of activities of the Commission;

8) approve the structure of the Commission, by-law of the Commission and by-laws of its units;

9) approve the annual budget of the Commission;

10) set the remuneration for employees of the Commission;

11) approve the operational and annual reports of the Commission;

12) approve the procedures for the registration, processing, storage, distribution and disposal of information of the Commission;

13) take decisions on entering into co-operation agreements with *Latvijas Banka* and foreign supervisory authorities of the financial and capital market on the exchange of information necessary for the supervision and regulation of the financial and capital market.

(2) The Board shall take the decision referred to in Paragraph one, Clause 6.<sup>2</sup> of this Section if the Commission has reasonable suspicions that the activities of a participant of the financial and capital market do not conform to the requirements of laws and regulations governing the financial and capital market and decisions of the Commission.

(3) The Board shall substantiate in the decision referred to in Paragraph one, Clause 6.<sup>2</sup> of this Section the need for verification of the activities of a participant of the financial and capital market to be performed for the purpose of drawing up of the opinion, determine the scope, procedures, objectives and time periods for verification of the activities, as well as requirements for the selection of an independent verifier. The participant of the financial and capital market shall, in line with the requirements specified in the decision of the Board, select an independent verifier and cover costs of the verification to be performed for the purpose of drawing up of the opinion upon an agreement with the independent verifier on costs of the verification of activity and procedures for payment thereof. The participant of the financial and capital market shall agree with the Commission on a draft project with regard to the issues specified in the decision of the Board.

*[12 February 2009; 20 December 2010; 19 May 2016]*

**Section 17.<sup>1</sup>** (1) Upon deciding to apply sanctions against persons who have violated the laws and regulations governing the financial and capital market, the Commission shall take into account the following:

- 1) gravity of the violation;
- 2) duration of the violation;
- 3) the level of responsibility of the person;
- 4) income gained by the person as the result of infringement;
- 5) compensation of losses caused as the result of infringement;
- 6) collaboration of the person in inspection of the violation;
- 7) experience of the person in the financial and capital market;
- 8) the financial status of the person;
- 9) the previous violations of the person in the financial and capital market.

(2) The Board shall issue recommendations (guidelines) for the imposition of the sanctions referred to in Paragraph one of this Section and publish these recommendations on the website of the Commission.

*[8 November 2012; 19 May 2016]*

**Section 17.<sup>2</sup>** If an administrative act issued by the Board regarding the obligation of a participant of the financial and capital market to submit an opinion of an independent verifier on the conformity of the activities of the participant of the financial and capital market to the requirements of laws and regulations governing the financial and capital market and decisions of the Commission is appealed, the appeal shall not suspend its operation.

*[19 May 2016]*

**Section 18.** (1) The Chairperson shall chair the Commission, be responsible for the organisation of its activities and lay down the procedures for his or her replacement during his or her absence.

(2) The chairperson shall hire and dismiss employees of the Commission.

(3) The chairperson shall represent the Commission in relations with State institutions, participants of the financial and capital market and international organisations.

*[13 June 2019]*

## **Chapter V**

### **Responsibility of Officials and Employees of the Commission**

**Section 19.** (1) Officials of the Commission are members of the Board, heads of the units of the Commission, as well as other employees. The chairperson shall approve the list of those employees who should be recognised as public officials.

(2) Restrictions on commercial activities, earning of income and combining offices, as well as other restrictions on and duties of official of the Commission are laid down in the Law On Prevention of Conflict of Interest in Activities of Public Officials.

*[12 February 2009]*

**Section 20.** (1) During the performance of the duties and after termination of employment relationship and other contractual relationship with the Commission, members of the Board, heads of units and employees of the Commission, are prohibited, publicly or otherwise, disclose information related to activities of participants of the financial and capital market, which has not previously been published in accordance with the procedures laid down in the law or disclosure of which is not determined by other laws, or which has not been approved by the Board.

(2) In accordance with the procedures laid down in laws and regulations, the persons referred to in Paragraph one of this Section shall be responsible for unlawful disclosure of restricted access information and for losses caused to the third parties due to unlawful action of employees of the Commission.

## **Chapter VI**

### **Consultative council of the Financial and Capital Market Commission**

**Section 21.** (1) In order to promote the efficiency of supervision of the financial and capital market and to enhance the safety, stability and development of such market, a consultative council of the Financial and Capital Market Commission (hereinafter – Consultative Council) shall be established. The Consultative Council is a collegial advisory body the tasks of which are as follows:

1) to examine the draft regulatory provisions governing activities of participants of the financial and capital market;

2) prior to consideration by the Board, to examine complaints of participants of the financial and capital market on statements of inspections of the Commission, upon request of participants of the financial and capital market;

3) to draw up recommendations to the Board for the performance of the functions of the Commission laid down in the law and for the strategy for the development and improvement of regulation and supervision of the financial and capital market;

4) to become acquainted with the draft annual budget of the Commission and to provide its own assessment thereof;

5) to submit proposals to the chairperson of the Commission on improvement of the work of the Commission;

6) to monitor accumulation of the assets of the Deposit Guarantee Fund and the Insured Protection Fund and disbursement of remunerations therefrom.

(2) If the Board, upon deciding an issue previously examined in the Consultative Council meeting, takes a decision, which does not coincide with the opinion of the Consultative Council, the minutes of the Board meeting shall include a justification why the opinion of the Consultative Council is not supported.

(3) The Consultative Council, on the basis of the parity principle, shall consist of representatives of the Commission and the heads of public organisations (professional associations) of participants of the financial and capital market.

(4) The Consultative Council shall have a quorum if at least half of the members of the Consultative Council are present at its meetings or responses are received from at least half of the members of the Consultative Council within the framework of the written procedure. The Consultative Council shall take decisions with a simple majority vote. In the event of a tied vote, the decision shall be considered to be rejected.

(4<sup>1</sup>) A meeting of the Consultative Council shall take place by its members participating therein in person. A member of the Consultative Council who is unable to participate in a meeting of the Consultative Council in person shall participate in the meeting remotely, if he or she has a possibility to become acquainted with the documents to be examined in the meeting.

(4<sup>2</sup>) The Consultative Council is entitled to take a decision by communicating electronically within the framework of the written procedure.

(4<sup>3</sup>) The Council shall lay down the procedures for participation in meetings of the Consultative Council, discussing draft decisions and remote decision taking, as well as the electronic written procedure.

(5) Meetings of the Consultative Council shall be chaired by the chairperson of the Commission or his or her deputy.

(6) The record-keeping of the Consultative Council shall be ensured by the Commission.

[19 May 2016]

## **Chapter VII**

### **Funding of the Commission**

**Section 22** (1) The activities of the Commission shall be financed from payments of participants of the financial and capital market within the amount stipulated by the Board, not exceeding the amount laid down in this Law. Payments of participants of the financial and capital market shall be transferred to the account of the Commission with *Latvijas Banka* and used solely for funding of the activities of the Commission.

(2) Branches of foreign commercial companies, which perform commercial activities in the Republic of Latvia as one of the participants of the financial and capital market, as well as investment management companies authorised in the Member States, which in accordance with the Law On Investment Management Companies have registered investment funds in Latvia, shall make payments for funding the activities of the Commission within the amount and according to the procedures laid down in Section 23 of this Law.

[13 October 2011]

**Section 23.** (1) Revenue of the Commission for funding the activities of the Commission shall consist of:

1) payments of insurers in accordance with the amount and procedures laid down in the Law On Insurance Companies and Supervision Thereof;

2) payments of private pension funds in accordance with the amount and procedures laid down in the Law On Private Pension Funds;

3) payments of credit institutions in accordance with the amount and procedures laid down in the Credit Institution Law;

4) payments of investment brokerage companies in accordance with the amount and procedures laid down in the Financial Instrument Market Law;

5) payments of regulated market organisers in accordance with the amount and procedures laid down in the Financial Instrument Market Law;

6) depository payments in accordance with the amount and procedures laid down in the Financial Instrument Market Law;

7) payments of investment management companies in accordance with the amount and procedures laid down in the Law On Investment Management Companies;

8) payments of alternative investment fund managers in accordance with the amount and procedures laid down in the Law On Alternative Investment Funds and Managers Thereof;

9) payments of savings and loan associations in accordance with the amount and procedures laid down in the Law On Savings and Loan Associations;

10) payments of reinsurers in accordance with the amount and procedures laid down in the Reinsurance Law;

11) payments of payment institutions in accordance with the amount and procedures laid down in the Law On Payment Services and Electronic Money;

12) payments of electronic money institutions in accordance with the amount and procedures laid down in the Law On Payment Services and Electronic Money;

13) payments of insurance and re-insurance intermediaries and subsidiaries of insurance and re-insurance intermediaries of other Member States in accordance with the scope and procedures specified in the Activities of Insurance and Reinsurance Intermediaries Law;

14) revenue from the services provided by the Commission and laid down in laws.

(2) Payments for the funding of activities of the Commission shall be made by each participant of the financial and capital market laid down in Paragraph one of this Section and Paragraph two of Section 22.

*[8 November 2001; 13 October 2011; 5 September 2013; 11 June 2015 / Paragraph one, Clause 13 (with regard to the income of the Commission from payments of insurance and re-insurance intermediaries and subsidiaries of insurance and re-insurance intermediaries of other Member States) shall come into force on 16 July 2015. See Paragraphs 16 and 18 of Transitional Provisions]*

**Section 24** (1) Participants of the financial and capital market in accordance with the procedures and within the time periods stipulated by the Commission shall submit a report to the Commission, which is necessary for the calculation of the payments laid down in Section 23, and shall make payments for funding the activities of the Commission until the thirtieth date of the month following the quarter.

(2) The Commission shall issue regulatory provisions on the procedures for the submission of the reports referred to in Paragraph one of this Section and the calculation of payments.

(3) Payments of participants of the financial and capital market for the funding of activities of the Commission shall be included in the expenses of participants of the financial and capital market.

**Section 25** (1) A delayed or incomplete transfer of funds to the account of the Commission with *Latvijas Banka* shall incur a penalty for each day of delay in the amount of 0.05 percent of the outstanding sum.

(2) A participant of the financial and capital market shall transfer the calculated overdue money to the account of the Commission with *Latvijas Banka*.

**Section 26** At the end of the year the balance in the accounts of the Commission with *Latvijas Banka* shall remain at the disposal of the Commission and shall be used in the next year for funding the expenses of the budget approved by the Board.

## **Chapter VIII** **Control of Activities of the Commission**

**Section 27.** The Commission shall once a year – not later than on 1 July – submit a written report to the *Saeima* and the Ministry of Finance on its work in the previous year and a full annual report checked by a sworn auditor. The aforementioned reports shall be published on the website of the Commission.

*[8 November 2001; 13 June 2019]*

**Section 28.** The Commission shall publish the annual report balance sheet and the statement of a sworn auditor in the official gazette *Latvijas Vēstnesis* not later than on 1 July of the year following the accounting year.

[5 September 2013]

**Section 29.** The Commission shall perform an independent assessment of its activity once every three years and publish it on the website of the Commission.

[13 June 2019]

### Transitional Provisions

1. The Credit Institutions Supervision Department of *Latvijas Banka*, the Securities Market Commission and the Insurance Supervision Inspectorate shall be merged until 30 June 2001.

2. The Commission shall commence work on 1 July 2001.

3. The Commission is a legal successor of the rights, obligations and liabilities of the Securities Market Commission and the Insurance Supervision Inspectorate, the Board of the Deposit Guarantee Fund and the legal successor of the rights, obligations and liabilities of *Latvijas Banka* in the field of monitoring of credit institutions.

4. The chairperson shall draw up a draft budget of the Commission for year 2001 until 31 August 2000. The expenses for the establishment and commencing activities of the Commission shall be proportionally covered from the funds of *Latvijas Banka*, the Securities Market Commission and the Insurance Supervision Inspectorate.

5. Within the time period from 1 July 2001 to 31 December 2006 the activities of the Commission shall be funded from payments of participants of the financial and capital market, the State budget and *Latvijas Banka*:

1) expenses related to the supervision of credit institutions:

a) in 2001, 2002 un 2003 the amount of 1 200 000 LVL shall be covered by *Latvijas Banka*,

b) in 2004 the amount of 960 000 LVL shall be covered by *Latvijas Banka*, but the remaining sum – by credit institutions in accordance with the provisions of Chapter VII of this Law,

b) in 2005 the amount of 600 000 LVL shall be covered by *Latvijas Banka*, but the remaining sum – by credit institutions in accordance with the provisions of Chapter VII of this Law,

b) in 2006 the amount of 240 000 LVL shall be covered by *Latvijas Banka*, but the remaining sum – by credit institutions in accordance with the provisions of Chapter VII of this Law,

2) expenses related to the insurance supervision shall be covered by insurers in accordance with the provisions of Chapter VII of this Law;

3) expenses related to the securities market and private pension fund supervision:

a) in 2001 100% of the sum shall covered from the State budget,

b) in 2002 198 962 LVL shall be covered from the State budget, but 50 000 LVL – by participants of the financial and capital market, except credit institutions and insurers, in accordance with the provisions of Chapter VII of this Law,

c) in 2003 150 000 LVL shall be covered from the State budget, but 100 000 LVL – by participants of the financial and capital market, except credit institutions and insurers, in accordance with the provisions of Chapter VII of this Law,

d) in 2004 100 000 LVL shall be covered from the State budget, but 150 000 LVL – by participants of the financial and capital market, except credit institutions and insurers, in accordance with the provisions of Chapter VII of this Law,

e) in 2005 50 000 LVL shall be covered from the State budget, but 200 000 LVL – by participants of the financial and capital market, except credit institutions and insurers, in accordance with the provisions of Chapter VII of this Law,

f) in 2006 the amount of 250 000 LVL shall be covered by participants of the financial and capital market in accordance with the provisions of Chapter VII of this Law;

4) expenses related to the supervision of credit institutions shall be covered by savings and loan associations in accordance with the provisions of Chapter VII of this Law.

[8 November 2001]

6. The payments laid down in Clause 5, Sub-clause 1 of the Transitional Provisions shall be made by the Bank of Latvia once a quarter until the 15th date of the first month of each quarter in the amount equal to one quarter of the sum that should be covered by *Latvijas Banka* in the relevant year.

7. Starting from 2007, the activities of the Commission shall be fully funded from the payments of participants of the financial and capital market.

8. Licences (permits) and professional qualification certificates for the operation in the financial and capital market, which are valid until 1 July 2001, issued by the Securities Market Commission, the Insurance Supervision Inspectorate and the *Latvijas Banka*, shall remain in effect until the expiry date indicated therein. The intensified supervision procedures applied and the financial service restrictions determined by *Latvijas Banka* in accordance with the Law on Credit Institutions, which are effective on 1 July 2001, shall remain effective until a relevant decision of the Commission is taken to cancel the intensified supervision procedures applied and the restrictions laid down.

9. The following Cabinet Regulations shall be in force until the day of coming into force of the relevant regulatory provisions of the Commission, but not later than until 1 January 2002, insofar as they are not in contradiction with this Law:

1) Regulation No. 401 of 6 October 1998, Procedures for the Making of Payments into the Insured Protection Fund;

2) Regulation No. 421 of 27 October 1998, Regulations Regarding Drawing-up the Annual Report of Insurance Companies;

3) Regulation No. 436 of 17 November 1998, Regulations Regarding Registration of Insurance Agencies and Agents;

4) Regulation No. 441 of 24 November 1998, Procedures for the Registration of Services of an Insurance Broker in Insurance Brokerage Company;

5) Regulation No. 442 of 24 November 1998, Regulations Regarding the Civil Liability Insurance of Insurance Brokerage Companies;

6) Regulation No. 18 of 19 January 1999, Procedures for the Certification of Insurance Brokers;

7) Regulation No. 91 of 17 March 1998, Procedures for the Issuance of Special Permits (Licences) for the Operation of Private Pension Funds;

8) Regulation No. 243 of 7 July 1998, General Procedures for the Calculation of the Additional Pension Capital Accumulated in the Private Pension Fund;

9) Regulation No. 253 of 14 July 1998, Regulations Regarding the Annual Report of the Private Pension Fund.

10. Until the regulatory provisions of the Commission are issued, but not later than until 1 January 2002, the regulatory acts issued by the Securities Market Commission, the Insurance Supervision Inspectorate and *Latvijas Banka* which govern the activities of participants of the financial and capital market and the procedures for the calculation and submission of indicators characterising them shall be applied insofar as they are not in contradiction with this Law.

11. The Law On the Securities Market Commission (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1995, No. 20; 1997, No. 14; 1998, No. 23) is repealed as of 1 July 2001.

12. In 2009 the remuneration (salary, etc.) specified in accordance with this Law shall be determined in accordance with the law On Remuneration of Officials and Employees of State and Local Government Authorities in 2009.

*[12 December 2008]*

13. In accordance with this Law, upon determining remuneration in 2010 and in January and February of 2011, the Commission shall not disburse bonuses, shall not perform material incentive on the employees work results and shall not pay vacation benefit.

*[1 December 2009; 20 December 2010]*

14. Amendments to Section 23, Paragraph one, Clause 7 of this Law in relation to payments of investment management companies shall come into force on 1 January 2012.

*[13 October 2011]*

15. Amendments to Section 7, Paragraph one, Clause 13 of this Law shall come into force concurrently with the corresponding amendments to the Electronic Communications Law.

*[8 November 2012]*

16. Amendments to Section 23, Paragraph one, Clauses 4, 5, 6 and 9 of this Law relating to the revenue of the Commission from payments of participants of the financial and capital market shall come into force concurrently with the corresponding amendments to the corresponding laws governing the financial and capital market. Until the date when the corresponding amendments to the governing laws of the financial and capital market come into force, the participants of the financial and capital market referred to in Section 23, Paragraph one, Clauses 4, 5, 6 and 9 of this Law shall make payments to fund the activities of the Commission to the extent that has been determined for the relevant participant in Section 23, Paragraph one of this Law until the date when amendments thereto came into force (regarding rewording of Paragraph one).

*[5 September 2013]*

17. In applying that laid down in Clause 16 of the Transitional Regulations, the participants of the financial and capital market referred to in Section 23, Paragraph one, Clauses 4, 5 and 6 of the Law shall make payments to fund the activities of the Commission to the following extent:

1) investment brokerage companies – up to 1 per cent, including from average gross income of the investment brokerage company transactions in a quarter, but not less than 2845 EUR yearly;

2) regulated market organisers – up to 2 per cent, including from the average gross income of transactions thereof in a quarter, but not less than 7114 EUR yearly;

3) depository – up to 2 per cent, including from the average gross income of the depository transactions in a quarter, but not less than 7114 EUR yearly.

*[28 November 2013]*

18. Section 23, Paragraph one, Clause 13 of this Law (with regard to the income of the Commission from payments of insurance and re-insurance intermediaries and subsidiaries of insurance and re-insurance intermediaries of other Member States) shall come into force concurrently with the relevant amendments to the Activities of Insurance and Reinsurance Intermediaries Law.

[11 June 2015]

19. The Board shall, by 1 January 2017, issue the recommendations (guidelines) referred to in Section 17.<sup>1</sup>, Paragraph two of this Law regarding imposition of sanctions on the persons who have violated the laws and regulations governing the financial and capital market.

[19 May 2016]

20. The Cabinet shall issue the regulations referred to in Section 13, Paragraph 4.<sup>1</sup> of this Law by 1 August 2019.

[13 June 2019]

21. Amendments to Section 13, Paragraph two of this Law with regard to its rewording, amendments to Paragraph seven, rewording of Section 14, Section 14.<sup>1</sup> and amendments to Section 15 with regard to rewording of Paragraphs one and two thereof shall be applied from the moment when the *Saeima* has approved the new Chairperson and both Board members in the office. Until the day when the *Saeima* has approved the new Chairperson and Board members in office, the provisions of this Law that were in force until the moment when the amendments, which were made under the Law of 13 June 2019, came into force with regard to the composition of the Council, removal from office, chairing of meetings and quorum.

[13 June 2019]

22. In accordance with the conditions specified in Section 14.<sup>1</sup> of this Law regarding the one-off compensation, if the *Saeima* releases the Chairperson of the Commission or Board member, the Cabinet shall, by 31 December 2020, inform the *Saeima* of possible solutions with regard to officials of other independent institutions approved by the *Saeima*.

[13 June 2019]

23. The Cabinet shall, by 1 October 2019, propose a candidate for the office of the Chairperson to the *Saeima* for approval. The current Chairperson shall continue fulfilling his or her duties until approval of a new Chairperson or until the moment when the *Saeima* releases him or her from the office in accordance with Section 14, Clause 1 of this Law. The current Deputy Chairperson shall continue fulfilling his or her duties until the moment when the *Saeima* approves the first new Board member in the office. The current Board members appointed in the office by the Chairperson shall continue fulfilling their duties until the moment when the *Saeima* approves the second new Board member in the office. The new Chairperson approved by the *Saeima* shall, upon agreement with the Minister for Finance and the Council of *Latvijas Banka*, without delay direct the new candidates for the office of Board members for approval to the *Saeima*.

[13 June 2019]

24. The Chairperson shall, immediately, but not later than 30 days prior to releasing a Board member from the office, inform the Minister for Finance and the Council of the *Latvijas Banka* in writing if an application for resignation has been received from the Board member.

[13 June 2019]

25. If the *Saeima* releases the current Chairperson or Deputy Chairperson from the office, it may, temporarily, until the moment when it has approved a new Chairperson or Council member in office in accordance with the procedures laid down in Section 13 of this Law, upon a joint proposal of the Minister for Finance and Council of *Latvijas Banka*, appoint the Chairperson or Board member from other Board members or employees of the Commission for the purpose of ensuring continuity of Commission's operations. If the Chairperson releases a current Board member from office, the *Saeima* may, temporarily, until the moment when it has approved a new Board member in office in accordance with the procedures laid down in Section 13 of this Law, upon a joint proposal of the Minister for Finance and Council of *Latvijas Banka*, appoint a Board member from employees of the Commission. Such persons shall be subject to legal provisions, which, with regard to the requirements for the Chairperson and Board members, were into force until the day of entry into force of the amendments made to Section 13, Paragraph five of this Law regarding its rewording and amendments made to Paragraph six regarding deletion thereof. During the transitional period the number of Board members shall not be less than three. The Chairperson or the member of the Board appointed by the *Saeima* on temporary basis shall fulfil his or her duties until the day when the *Saeima* has approved a new Chairperson or member of the Board in office in accordance with the rewording of Section 13, Paragraph three of this Law. In such case the meetings of the Board shall be convened and chaired by the temporarily appointed Chairperson, but during his or her absence – by a member of the Board appointed by him or her. The Board shall act in accordance with this Law and have a quorum if its meeting is attended by at least two Board members, one of whom is the Chairperson or – during his or her absence – a member of the Board appointed by him or her.

[13 June 2019]

26. If an application is received from the current Chairperson or Deputy Chairperson for resignation and the *Saeima* releases the relevant persons from office until 1 August 2019, a one-off compensation in the amount of 80 per cent of their annual monthly salary shall be disbursed to the current Chairperson or Deputy Chairperson, upon ceasing the fulfilment of his or her duties. The compensation shall be disbursed from the budget of the Commission.

[13 June 2019]

This Law shall come into force on 1 July 2001, but Section 13 of the Law on appointing the chairperson and his or her deputy, Clauses 1, 2 and 4 of the Transitional Provisions shall come into force on the day following its proclamation.

This Law has been adopted by the *Saeima* on 1 June 2000.

President

V. Vīķe-Freiberga

Rīga, 20 June 2000