

## **LAW 3340/2005**

*For the protection of Capital market from actions of persons  
that possess inside information and market manipulation*

**(Government Gazette A' 112/10-5-2005)**

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**The present English translation is an unofficial translation and is for informational purposes. The official Greek language version, published on the Government Gazette A' 112/10.05.2005, is the only official version of this text.**

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### **CHAPTER A' AIM AND DEFINITIONS**

#### **Article 1**

The present law aims at the adaptation of the legislation with the provisions of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003, on insider dealing and market manipulation (market abuse), Official Journal of The European Union L096/16/12.4.2003, as well as to the Commission Directive 2003/124/EC, Official Journal of The European Union L 339/70/24.12.2003, Commission Directive 2003/125/EC, Official Journal of The European Union L 339/73/24.12.2003 and Commission Directive 2004/72/EC, Official Journal of The European Union L 162/70/30.4.2004.

#### **Article 2**

On the aims of this law:

1. "Accepted market practices" shall mean practices that are reasonably expected in one or more financial markets, regulated or not and are accepted according to the provisions of the resolution that is forecasted in paragraph 10.

2. "Market operators" shall mean the person that directs the activities of a regulated market or exploits such market. Market operator may also be the regulated market itself.

3. "Issuers"<sup>1</sup> shall mean the legal entities, including the states, the securities of which have been admitted to trading in a regulated market that is seated or is operating in Greece or for which a request for admission to trading on such a market has been made *or securities admitted to trading in a Multilateral Trading Facility (MTF), operated by a credit institution, an investment firm (AEPEY) or a regulated market operator licensed by the Bank of Greece or the Hellenic Capital Market Commission.* In the case of titles representing securities, issuer shall mean the institution that published the securities represented in these titles.

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<sup>1</sup> Paragraph 3 has been amended as above by virtue of par. 6 of article 9 l.3756/2009, Government Gazette A 53/23.12.2009.

4. “Market abuse” shall mean the abuse of inside information, as defined in articles 3 to 6 of this law and market manipulation, as defined in article 7.

5. “Transferable securities” shall mean the transferable securities, as defined in paragraph 6 of article 2 of L. 2396/ 1996 (FEK 73 [A]’).

6. “Regulated market” shall mean the market defined in paragraph 14 of article 2 of L. 2396/1996.

7. “Person” shall mean any individual or legal entity.

8. “Persons professionally arranging transactions” shall mean the persons who are:

(a) Investment Firms (E.P.E.Y.), as defined in paragraph 3 of article 2 of L 2396/1996, including Credit Institutions, as these are defined in paragraph 1 of article 2 of L. 2076/1992 (FEK 130 A) provided that they operate also as E.P.E.Y., or

(b) Investment Intermediation Firms (Societe Anonyme Companies for the Reception and Dispatch of Orders), as defined in paragraph 1 of article 3 and in case (θ) of paragraph 1 of article 30 of L. 2396/1996.

9. ‘Financial instrument’ shall mean:

- transferable securities as defined in paragraph 1 of article 2 of L. 2396/1996,
- derivatives on commodities,
- any other instrument admitted to trading on a regulated market of a Member State or for which a request for admission to trading on such a market has been made.

10. By virtue of resolution of the Board of Directors of the Capital Market Commission the criteria that have be taken into consideration during the examination of the acceptable or not character of market practices are defined, as well as the procedures of consultation and announcement of decisions for the acceptable or not character of practices of paragraph 1 of the present article, according to the provisions of the implementing measures of Directive of 2003/6/EC of the European Parliament and of the Council.

## **CHAPTER B’ PROHIBITION OF INSIDER DEALING**

### **Article 3**

1. The persons, who possess inside information, as defined in article 6:

- (a) by virtue of their membership of the administrative, management or supervisory bodies of the issuer; or
- (b) by virtue of their holding in the capital of the issuer; or
- (c) by virtue of their having access to the information through the exercise of their employment, profession or duties; or
- (d) by virtue of their criminal activities.

is prohibited from using that information to acquire or dispose or to try to acquire or dispose, for their own account or for the account of third parties, either directly or indirectly, financial instruments to which that information relates.

2. Where the person referred to in paragraph 1 is a legal person, the prohibition laid down in this article applies also to the natural persons who take part in the decision to carry out the transaction for the account of the legal person concerned.

3. The prohibition of this article does not apply to transactions conducted in the discharge of an obligation that has become due to acquire or dispose of financial instruments where that obligation results from an agreement concluded before the person concerned possessed inside information.

#### **Article 4**

Any person subject to the prohibition laid down in the previous article is prohibited from:

(a) disclosing inside information to any other person unless such disclosure is made in the normal course of the exercise of his employment, profession or duties;

(b) recommending or inducing another person, on the basis of inside information, to acquire or dispose, the same or through another person, either directly or indirectly, of the financial instruments to which that information relates

#### **Article 5**

The prohibitions laid down in articles 3 and 4 also apply to any person, other than the persons referred to in Articles 3 and 4, who possesses inside information while that person knows, or ought to have known, that it is inside information.

#### **Article 6**

1. An information is considered as ‘Inside’ if the following prerequisites are concurrently met:

a) is of a precise nature, i.e.:

aa) it concerns a situation which exists or may reasonably be expected to come into existence or an event which has occurred or may reasonably be expected to do so and

bb) it enables a conclusion to be drawn as to the possible effect of that situation or event on the prices of financial instruments or related derivative financial instruments.

b) which has not been made public,

c) relates, directly or indirectly, to one or more issuers of financial instruments or to one or more financial instruments

if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments, i.e. information a reasonable investor would consider, among others, as material for his investment decisions.

2. ‘Inside information’ in relation to derivatives on commodities, ‘shall mean information

a) of a precise nature

b) which has not been made public,

c) relating, directly or indirectly, to one or more such derivatives and

d) which users of markets on which such derivatives are traded would expect to receive in accordance with accepted market practices on those markets, provided that these information are.

(aa) routinely made available to the users of those markets, or

(bb) required to be disclosed in accordance with legal or regulatory provisions, market rules or relevant contractual obligations or in accordance with customs on the relevant underlying commodity market or commodity derivatives market.

3. For persons professionally arranging transactions, 'inside information' shall also mean information that is, concurrently,
- a) conveyed by a client
  - b) related to the client's pending orders,
  - c) of a precise nature,
  - d) relate directly or indirectly to one or more issuers of financial instruments or to one or more financial instruments, and
  - e) if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments.

## **Chapter C'**

### **Prohibition of Market Manipulation**

#### **Article 7**

1. Market manipulation is prohibited.

2. Market manipulation shall mean:

(a) transactions or orders to trade which give, or are likely to give, false or misleading signals as to the supply of, demand for or the price of a financial instrument, or with which is formed, by one or more persons acting in collaboration, the price of one or more financial instruments at an abnormal or artificial level, unless the person who entered into the transactions or the person on behalf of whom the transactions were executed, or the person who gave the orders to trade proves that these transactions were executed or that he gave the order to trade for legitimate reasons and that these transactions or orders to trade conform to the accepted market practices on the market concerned;

(b) transactions or orders to trade which are compiled with/or constitute fictitious devices or any other form of contrivance;

(c) dissemination of information through the media, including the Internet, or by any other means, which give, or are likely to give, false or misleading signals as to financial instruments, or rumours or misleading news, where the person who made the dissemination knew, or ought to have known, that the information, the rumours or the news was false or misleading. In respect to journalists when they act in their professional capacity such dissemination of information is to be assessed taking into account the rules governing their profession, unless those persons derive, directly or indirectly, advantages or profits from the dissemination of the information in question.

3. Conducts constituting market manipulation, as defined in paragraphs 1 and 2, are indicatively the following:

- a) conduct by a person, or persons acting in collaboration, to secure a dominant position over the supply of or demand for a financial instrument which has the effect to fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions,
- b) the buying or selling of financial instruments during the period of the formation of the closing price with the effect of misleading investors acting on the basis of closing prices,
- c) taking advantage of occasional or regular access to the traditional or electronic media, including the internet, by voicing an opinion either directly about a financial instrument or indirectly about its issuer, while having previously taken positions on that financial instrument, either directly or through a third person, and profiting subsequently, directly or

indirectly, from the impact of the opinion voiced on the price of that instrument, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way.

d) the dissemination of false, inaccurate or misleading information by the members of the board of directors of companies, through the annual or periodic financial statements, the prospectus or other articles.

4 By virtue of resolution of the Board of Directors of the Hellenic Capital Market Commission, the criteria and the signals on the basis of which it shall be examined whether a specific conduct constitutes market manipulation in the scope of this article are defined, according to the provisions of the implementing measures of Directive of 2003/6/EC of the European Parliament and of the Council.

## **Article 8**

This Law shall not apply to transactions carried out in pursuit of monetary, exchange-rate or public debt-management policy by a Member State, by the European System of Central Banks, by a national central bank or by any other officially designated body, or by any person acting on their behalf.

The exemption of the present article shall not apply to actions carried out by the company "PUBLIC COMPANY OF TRANSFERABLE SECURITIES (DEKA A.E.)" of L. 2526/1997 (FEK 205 A')

## **Article 9**

The prohibitions provided for in this Law shall not apply to trading in own shares in 'buy-back' programmes or to the stabilisation of a financial instrument provided such trading is carried out in accordance with Regulation 2273/2003 of the Commission, Official Journal of The European Union L 336/33 23.12.2003

## **Chapter D' Proactive Measures**

## **Article 10**

1 The Issuers are obliged to inform the public without culpable delay of inside information which directly concerns the said issuers.

2 The Issuers are obliged to maintain an internet site and post on their internet site for at least six (6) months, all inside information that they are required to disclose publicly in accordance with the previous paragraph.

## **Article 11**

1. An issuer may under his own responsibility, in exceptional circumstances, delay temporarily the public disclosure of inside information, such as not to prejudice his legitimate interests provided that such delay would not be likely to mislead the public and provided that the issuer is able to ensure that the referred information shall remain confidential for the time period of the delay.

2. Whenever, in case of delay of public disclosure of inside information according to the

previous paragraph, an issuer, or a person acting as the issuer's direct or indirect representative, discloses intentionally inside information to a third party, if the issuer or the representative of the issue is acting in the normal exercise of his employment, profession or duties, the issuer is obliged to make complete and precise public disclosure of that information, simultaneously with the disclosure to the third party. If the disclosure was non-intentional, the issuer is obliged to make public the referred information immediately.

3. The provisions of the previous subparagraph shall not apply if the person receiving the information owes towards the issuer a duty of confidentiality, regardless of whether such duty is based on a contract, on a law, or from a regulation, and for all the period that this information remains confidential.

## **Article 12**

Issuers are obliged to draw up a list of the persons working for them, under a contract of employment or otherwise, who have access to inside information. Issuers update the list every time the elements included in this list are changed. The Issuers are obliged to make this list available to the Hellenic Capital Market Commission immediately upon the latter's request.

## **Article 13**

1 Persons discharging managerial responsibilities within an Issuer and persons closely associated with them, are obliged to notify the Issuer the transactions conducted on their own account relating to shares of the said Issuer, or to derivatives or other financial instruments linked to them.

2 The Issuer is obliged to transmit the notification of the above paragraph to the public and the Hellenic Capital Market Commission.

3 . The issuer is obliged to draw up a list of the persons referred to in paragraph 1 above and to submit the same to the Hellenic Capital Market Commission. The issuer updates the list in every case of change of the elements contained in the list and submits it to the Hellenic Capital Market Commission.

## **Article 14**

1. Persons who:

- a) produce or disseminate to the public research concerning financial instruments or issuers of financial instruments recommending or suggesting investment strategy or
- b) produce or disseminate to the public recommendations or suggestions of investment strategy, other than those of paragraph (a)

intended for distribution either through information channels or directly to the public, are obliged to ensure that such information is fairly presented and disclose their interests and or conflicts of interest concerning the financial instruments or the issuers which consist the object of the referred researches, recommendations or suggestions.

## **Article 15**

Market operators are obliged to have effective mechanisms and procedures for the prevention and the immediate detection of market manipulation practices and are also obliged to notify the Hellenic Capital Market Commission immediately the cases for which they reasonably suspect that market abuse takes place, notifying all the relevant information and providing every necessary assistance for their examination.



## **Article 16**

Persons disseminating statistics liable to have a significant effect on financial markets shall disseminate them in a fair and transparent way.

## **Article 17**

The persons that professionally arrange transactions in financial instruments are obliged to notify the Hellenic Capital Market Commission when there are serious suspicions that transactions executed could constitute market abuse.

Whenever the Hellenic Capital Market Commission receives notifications of the present article from credit institutions, transmits them to the Bank of Greece.

## **Article 18**

1. The persons that professionally arrange transactions in financial instruments are obliged to record and file all the orders that their customers give for the conclusion of transactions on financial instruments, and particularly to record the orders that are given by phone, as well as to store the orders that are given via fax or electronic means, such as the electronic post or the internet.
2. The recording and record keeping of the above orders should be done in a way ensuring the reliability, the precision and the completeness of the recorded elements, the ability of facile reproduction of the recorder elements in writing or in electronic or magnetic means, as well as allowing the facile access and research of the recorded elements and their safe storage.
3. The persons that professionally arrange transactions in financial instruments are obliged to maintain for one year, at least in sound form, the telephone discussions that they record according to paragraph 1, defining accurately the identity of the mandator.

Hellenic Capital Market Commission may by resolution order the maintenance of the elements of previous section for an additional period that cannot exceed the two (2) years, provided that an investigation is carried out for market abuse.

The persons that professionally arrange transactions in financial instruments are obliged to place at the Hellenic Capital Market Commission's disposal the recorded discussions, as well as to make transcripts of the same and to place at her disposal in writing and in a sound form and to the extent that HCMC will in any case determine, the telephone discussions that they record according to the present article.

4. The persons that record orders for the conclusion of transactions on financial instrument that are given by phone owe to inform the persons calling, at the beginning of the telephone discussion, that the telephone discussion is recorded for reasons of protection of transactions. They also owe, in any case, to include in their contract that they conclude with their customers explicit term that all the orders that are transmitted by phone are recorded and filed for reasons of protection of transactions, as well as that they are placed, provided that this is requested, at the disposal of HCMC.
5. The obligations of paragraphs 2 and 3 continue being in effect also in any case that the persons professionally arranging transactions in financial instruments have suspended temporarily their operation or have ceased their operation in any way.

## **Article 19**

By decision of the Board of Directors of Hellenic Capital Market Commission are determined, the implementing measures of Directive of 2003/6/EC of the European Parliament and of the Council:

- (a) the terms and the process of announcement of inside information, according to article 10 and the paragraphs 2 and 3 of article 11,
- (b) the terms and the process on the postponement of announcement of inside information, according to the paragraph 1 of article 11 and especially the legal interest, that justifies the postponement of announcement of inside information and the obligations that the issuers have for the maintenance of confidentiality of inside information in this case,
- (c) the way of composing and updating, by the issuers, the list of the persons working for them and having access to inside information, according to article 12,
- (d) the categories of persons that discharge managerial responsibilities within an issuer or are closely connected with these persons, according to article 13, the content, the way and the conditions of notification which they owe to realise the persons of paragraphs 1 and 2 of article 13, as well as the elements and the terms of updating the list provided in paragraph 3 of article 13,
- (e) details with regard to the development and the disposal of analyses and proposals or suggestions of investment strategy to the public, according to article 14, as well as the way of announcement of interests or even conflicts of interests by referring to the financial instruments that are the subject of the analysis, the suggestion or the proposal, taking into consideration, also, indicatively, the professional principles and generally the rules of self regulation of the profession.
- (f) the way the time and the content of the notification to the Hellenic Capital Market Commission in cases of transactions as for which the persons that professionally arrange transactions have serious suspicions, that they could constitute market abuse, according to article 17.

#### **Article 19a<sup>2</sup>**

1. *By decision of the Board of Directors of HCMC there may be determined the obligations of the companies having their securities admitted to trading in a regulated market or in a MTF operating in Greece in case of publication of unconfirmed information by a third party, the content of the announcement and the procedure of its issuance, as well as additional obligations of the above mentioned entities and their management.*
2. *In the event of infringement of the provisions of the previous paragraph, HCMC imposes fine up to 500.000 Euros.*

*During the admeasurement of the fine, indicatively are taken into consideration, the consequence of the infringement to the orderly operation of the market and to the diffusion of correct and valid information to the investors, the degree of default, the degree of collaboration with HCMC at the stage of research and investigation, the needs of special and general prevention and any relapse of infringements of the present law or the remaining legislation on the capital market.*

#### **Article 20**

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<sup>2</sup> Article 19a has been added by virtue of par. 16 of article 9 of l. 3756/2009, Issue of Government Gazette A 53/23.12.2009.



1. This Law shall apply to actions or omissions taking place:

- a) In the Greek territory or abroad and concern financial instruments admitted to trading on a regulated market seated or operating in the Greek territory or financial instruments for which a request for admission to trading on such a market has been submitted,
- b) In the Greek territory and concern financial instruments admitted to trading on a regulated market seated or operating in another Member State of the European Union or for which a request for admission to trading on such a market has been submitted.
- c) *To actions or omissions that take place in the Greek territory or abroad and concern financial instruments admitted to trading in a MTF, operated by a credit institution, an investment firm (AEPEY) or a regulated market operator licensed by the Bank of Greece or the HCMC<sup>3</sup>.*

2. Articles 3, 4 and 5 shall apply:

- a) to actions or omissions taking place in the Greek territory and concern financial instruments that have not been admitted to trading on a regulated market seated or operating in a Member State of the European Union, the value of which depends on financial instruments admitted to trading on a regulated market seated or operating in at least one Member State or for which admission to trading on such a market has been requested,
- b) to actions or omissions taking place in the Greek territory or abroad and concern financial instruments that have not been admitted to trading on a regulated market seated or operating in the Greek territory, but the value of which depends on a financial instrument admitted to trading on a regulated market seated or operating in the Greek territory or for which admission to trading on such a market has been requested.

3. Articles 10 to 12 shall not apply to issuers who have not requested or have not approved the admission of their financial instruments to trading on a regulated market seated or operating in the Greek territory or in another Member State of the European Union.

## **Article 21**

- 1. Hellenic Capital Market Commission supervises the compliance with the provisions of this law.
- 2. Hellenic Capital Market Commission adopts procedures of consultation with the market participants regarding possible amendments in the legislation. In these consultation procedures participates also the Bank of Greece.
- 3. For the consultation of the previous paragraph Hellenic Capital Market Commission may particularly compile, upon resolution of its Board of Directors, consultation committees, in which representatives of the issuers, the providers of investment services and the Bank of Greece will have to be contained at least.
- 4. Hellenic Capital Market Commission may take all necessary measures for the correct information of public in accordance to articles 10 to 14.

## **Article 22**

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<sup>3</sup> Subparagraph c) has been added by virtue of par. 7 of article 9 of l. 3756/2009, Government Gazette A 53/23.12.2009.

1. The commissioned bodies of Hellenic Capital Market Commission can:

(a) have access in and receive copies or extracts from documents, books and other elements that are observed in whatever form (written, electronic, magnetic or other) in the professional installation of persons that professionally arrange transactions in financial instruments or are monitored by HCMC, which cannot invoke professional or other secrecy.

(b) if there is refusal of access to documents, books or other elements or to provide copies or extracts according to case (a), they can proceed with attachment of relative books, documents and other elements, including also the electronic means of storage and transmission of data, that are found in the professional installation of persons that professionally arrange transactions in financial instruments or are regulated by HCMC.

(c) request information from any person, and particularly from those persons that intervene in succession in the dispatch of orders or in the execution of relative action, as well as from their mandators.

(d) receive from the persons that professionally arrange transactions in financial instruments elements for telephone communications and receive copies of recorded communications, as well as files of transmission of data.

2. Hellenic Capital Market Commission can also:

(a) receive testimonies without oath.

(b) receive elements for telephone communications and for data traffic records from telecommunications services providers.

3. In the investigations and seizures that are carried out according to cases (a) and (b) of paragraph 1 in the professional installation of persons regulated by the Bank of Greece, a representative of the Bank of Greece participates as well.

4. Hellenic Capital Market Commission is able to ask the assistance of Service of Special Controls (YP.E.E.) of the Ministry of Finance of Economy according to the relative provisions of paragraph 8 of article 30 of l. 3296/2004 (FEK 253 [A]’). In this case, [YP.E.E.] communicates to the Hellenic Capital Market Commission relative investigation report with any findings-conclusions that concern in infringements of the capital market legislation.

5. The commissioned bodies of Hellenic Capital Market Commission exercise their competences defined in paragraph 1 only if a relative written command is given by the General Director or the Director of the competent Directive of the Hellenic Capital Market Commission. The command is given either to a certain investigator or to a team of investigators. In the last case, the command should define also the investigator that is the head of the investigation.

6. The investigations of case (a) of paragraph 1, the reception of information and elements of cases (c) and (d) respectively of paragraph 1, as well as the attachments of case (b) of paragraph 1, are effected at any working hour for the investigated person. The commissioned bodies of Hellenic Capital Market Commission go to the professional installation of the investigated person. The head of the investigators seeks, in order of precedence, a person that participates in the administration or management of the investigated person, the internal auditor of the investigated person or any employee of person in question, in order to announce the purpose his visit, shows his official identity, delivers a copy of the command and the investigation takes place immediately.

7. For the attachment that is carried out on the basis of case (b) of paragraph 1 a report of attachment is drawn up.

The report is signed by the investigator of Hellenic Capital Market Commission that carries out the attachment and by the person that participates in the administration or management of the investigated person or from the internal auditor of the person in question or the employee of the investigated person that is present during the realisation of the attachment. The report of attachment is issued in three copies. Two copies are kept by the investigator of HCMC and the remaining one is given to the person that signed on behalf of the investigated person. In case of refusal from the above persons to sign, the relative provisions on services of articles 47-57 of the Code of Administration Procedure shall apply. The investigated person has the right to receive copies of the attached books, elements and remaining documents at his cost. Copy of the seizure report signed also by the Director of the competent Directive of HCMC is served, with a juridical commissary, to the person to whom the seizure was imposed, within ten working days following the completion of the seizure, applying as to the remaining respectively, articles 47-57 of the Code of Administration Procedure.

8. The attachment report includes at least:

- (a) the title "Attachment Report of the Hellenic Capital Market Commission",
- (b) the time of realisation of attachment,
- (c) the place of attachment, that is to say the details of the professional installation, as well as the legal form, name or complete details of identity of the investigated person,
- (d) the full name and the position of the commissioned body of HCMC and the identity of his Director,
- (e) the number and the date of the command of investigation by the HCMC,
- (f) the reasoning for the realisation of attachment,
- (g) the signature of the commissioned bodies of HCMC acting the attachment, as well as the signature of person that signed on behalf of the investigated person,
- (h) the object of attachment. In the report of attachment there should be explicit, precise and detailed description of the confiscated objects, so that no misinterpretation would be possible and that no doubts are created for the type and amount of elements or objects that were confiscated.

9. The reception of testimonies, according to case (a) of paragraph 2 of the present article, is carried out at the seat of the HCMC. The persons that are mentioned in paragraphs 1 and 2 of article 215 and in paragraph 1 of article 216 of the Code of Penal Procedure are examined in their residence. The investigated person that is to testify is summoned in writing in certain day and hour. The summon is signed by the Director of the competent Directive of the HCMC.

The summon contains brief description of the case for which the witness is summoned, makes reference to the authority to which the witness is called and cites that in case where the witness does not appear, the sanctions provided in paragraph 3 of article 23 of the present law are imposed.

The summon is served to the investigated person, with juridical commissary, applying as to the remaining issues proportionally articles 155 to 164 of the Code of Penal Procedure, at least one working day before the day for which is summoned for examination. The time limit for summon may be extended to three working days, if the examined person has its residence or its seat outside the prefecture of Attica. The time limit for summon is extended to seven working days, if the examined person has its residence or its seat outside the Greek territory.

10. The reception of testimonies is carried out before at least one employee of the special scientific personnel of the HCMC and one civil servant of the HCMC as secretary, that have been authorised for this purpose by the Executive Committee of the HCMC.

Before testifying, the witness is requested to declare his name and surname, the place of birth and his residence, as well as his age.

11. As to the way of receiving the testimonies and as to the professional secrecy of witnesses the provisions of article 212 and articles 223 to 227 of the Code of Penal Procedure are applied proportionally.

12. A report of testimony is drawn up by the secretary for the testimony. The report has to mention the place and the date of the testimony, the time at which the testimony started and finished, the names and surnames and the residence of the employee that received the testimony, the secretary and the witness, as well as precise description of those that were testified by the witness.

The report is read from all the persons that were present at the examination and is signed by them. If one of these persons refuses to sign, this is mentioned in the report. The report constitutes complete proof for those testified by the witness. The report is invalid, if the date is not mentioned (unless it results with certainty from the all content of the report or from other documents that they are repeated in this), the names and the surnames or the signature of the persons that were present in the testimony according to paragraph 1.

The report is issued in two copies one of which is given to the witness and the other one is put in the file of the case with responsibility of the employee who received the testimony.

13. False or inaccurate testimonies are punished according to the provisions of paragraph 2 of article 225 of the Penal Code.

14. The receipt of the elements of case (b) of paragraph 2 of the present article is carried out following a relevant application of the HCMC. The receipt of the elements of the previous phrase may be carried out by the HCMC requesting the relevant assistance of the Y.P.E.E. of the Ministry of Economy according to the relative provisions of paragraph 8 of article 30 of l. 3296/2004.

15. Police and other public authorities are obliged, when this is requested, to assist immediately and effectively the commissioned bodies of the HCMC during the exercise of their duties according to the present article and provide any relevant information and element.

16. The credit institutions that operate also as investment firms (EPEY) and professionally arrange transactions in financial instruments are obliged to provide to the HCMC, apart from those mentioned in case (a) of paragraph 1 of the present article, information that concern any kind of deposits, that they keep in their names or in the name of their investors clients, which are necessary for the exercise of HCMC competences, in the frame of application of articles 3 to 5 and 7 of the present law, without being able to plead banking secrecy.

17. Banking secrecy does not apply towards the Bank of Greece as concerns the exercise of supervision in the frame of application of articles 3 to 5 and 7 of the present law, as well as for the investigation of issues connected in general with the supervision of the orderly operation of the market. HCMC may, upon a justified resolution of the Board of Directors, request from the Bank of Greece to provide her information on any kind of deposit of any person at credit institutions, when this is required for the exercise of her supervision competences. HCMC, to which the Bank of Greece provides the requested information, is obliged to use them exclusively for the exercise of its supervision competences, observing particularly the provisions of paragraphs 12 and 13 of article 76 of l. 1969/1991, article 5 of l. 2396/ 1996, article 43 of l. 3283/ 2004 and article 26 of the present law.

## **CHAPTER E'**

### **Administrative sanctions and measures**

#### **Article 23**

1. In whoever violates the prohibition of market abuse, according to articles 3 to 5 and 7, HCMC imposes fine from 10.000 up to 2.000.000 Euros. The maximum limit can be tripled in the event of relapse.

2. In whoever violates the obligations, that are provided in articles 10 to 18, HCMC imposes written reprimand or fine from 3.000 up to 500.000 Euros. The maximum limit can be tripled in the event of relapse.

If the breach of obligations in question constitutes also infringement of the provisions for market abuse, attracts accumulatively the sanctions that are forecasted in the previous paragraph.

3. In whoever:

(a) impedes with any way the investigation that is carried out by HCMC, in the frame of application of provisions of this law, or

(b) denies or impedes the provision to the HCMC of information of article 22 or provides knowingly false information or hides true information, or

(c) denies, even if though he has been called for this purpose, according to article (a) of paragraph 2 of article 22, to provide elements or conceals elements or testifies false elements, or denies to testify in front the HCMC,

HCMC imposes fine from 3.000 up to 500.000 Euros.

4. HCMC before proceeding with the imposition of sanctions or the reception of the measures provided in paragraphs 1 to 3 of the present article, invites the alleged offender to express his opinions in writing for the infringement attributed to him. The alleged offender has the right to be informed the part of the investigation report that concerns him.

5. During the admeasurement of the fines that are imposed according to the present article, indicatively are taken into consideration, the value of the illegal transactions, the achieved economic profit if any, the consequence of the infringement to the orderly operation of the market and to the diffusion of correct and valid information to the investors, the degree of collaboration with HCMC at the stage of research, control-investigation from the latter, the needs of special and general prevention and any relapse of infringements of the present law and the remaining legislation on the capital market<sup>4</sup>.

6. HCMC notifies to the Bank of Greece every fine imposed on the basis of the provisions of the present article, to credit institution or even to persons occupied in a credit institution.

7. With regard to infringement of provisions of article 18 or provisions of paragraph 3 of the present article from credit institutions that are regulated by the Bank of Greece or from persons that are occupied in them, the Bank of Greece is responsible for the imposition of sanctions according to paragraph 2, acting following a suggestion of the HCMC or even ex officio.

## **Article 24**

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<sup>4</sup> As paragraph 5 has been amended by virtue of par.1 of art 32 of l. 3556/2007, *Government Gazette A 91/30.4.2007*.

1. In the event of infringement of the provisions of articles 3 to 5, 7, 10 to 18, as well as of paragraph 3 of article 23 of the present law, HCMC may, independent from the imposition of sanctions of the previous article:

(a) suspend temporarily and for a period that cannot exceed one year, wholly or partly, the operation of legal persons that are licensed or controlled by HCMC or the exercise of professional activity of individuals that are certified or licensed by HCMC,

(b) prohibit the exercise of professional activity to individuals that are certified or licensed by HCMC.

2. With regard to infringement of provisions of articles 3 to 5, 7, 10 to 18, as well as paragraph 3 of article 23 of the present law by credit institutions that are regulated by the Bank of Greece or by persons occupied in them, the Bank of Greece has the power, independent from the imposition of sanctions of previous article:

(a) to suspend

[aa] the exercise, by the credit institutions that are regulated by the Bank of their Greece, of their activities that are defined by the Bank of Greece with the decision with which imposes the sanction

[bb] the exercise of professional activity by individuals that are certified or regulated by the Bank of Greece,

(b) to prohibit the exercise of professional activity from individuals that are certified or regulated by the Bank of Greece,

following a suggestion of the HCMC or ex officio.

## **Article 25**

1. The decisions of HCMC and Bank of Greece, that are issued on the basis of articles 23 and 24, are subject to a recourse on the merits before the Administrative Court of Appeal of Athens, which judges in first and final instance, within a deadline of sixty days from their notification.

2. The time limit for the exercise of the recourse and the exercise of the same does not suspend the execution of the decision of the HCMC and the Bank of Greece.

3. In case there are reasons for suspension of article 202 of the Administrative Judicial Procedure Code, following an application of the interested party, the Chairman of the Administrative Court of Appeal of Athens may suspend wholly or partly or under conditions the execution of the decision against which the recourse was exercised, applying respectively the provisions of article 200 and following, of the Administrative Judicial Procedure Code.

In the event that the decision against which the recourse was exercised concerns the imposition of a fine, suspension is not allowed to be granted for the part of the fine that amounts to twenty per cent (20%) of the fine. The part of the fine for which suspension is not allowed to be granted may not exceed the maximum limit of one hundred thousands (100.000) Euros.

4. The recourse is tried within three months from the date of its submission. Adjournment of the trial is possible only for one time for a substantial cause and for a date that does not abstain more than one month from the date that was initially set for the trial.

## **CHAPTER F'**

### **Cooperation of regulating authorities**

## **Article 26**

1 . Hellenic Capital Market Commission cooperates with the competent authorities of the other Member States for the purpose of carrying out its duties, according to the present law. Cooperates as well with the Bank of Greece on issues concerning the credit institutions that operate in Greece, given that the provisions of the present law do not prejudice the regulating



authorities of the Bank of Greece on the credit institutions.

2 . Without prejudice to the obligations under criminal law, whenever Hellenic Capital Market Commission receives information pursuant to the previous paragraph, uses them only for the exercise of its functions within the scope of this Law and in the context of administrative or judicial proceedings specifically related to the exercise of those functions. Hellenic Capital Market Commission may use it for other purposes or forward it to other States' competent authorities, following the explicit consent of the authority that communicated the information.

3 . Hellenic Capital Market Commission may notify the Committee of European Securities Regulators, where a request for information submitted is not acted upon within a reasonable time or is rejected.

4 . Hellenic Capital Market Commission renders assistance to competent authorities of other Member States, in particular with the exchange of information and the cooperation in investigation activities.

Hellenic Capital Market Commission, on request of the competent authority, immediately supplies all the necessary information for the purposes referred to in the previous paragraph and takes immediately all the necessary measures in order to gather the requested information.

If Hellenic Capital Market Commission is not able to supply immediately the requested information, it shall notify the relevant reasons to the requesting competent authority. Information thus supplied shall be covered by the obligation of professional secrecy to which the persons employed or formerly employed by the competent authorities receiving the information are subject.

5. Hellenic Capital Market Commission may refuse to reply to a request for information where:

- a) communication of the information adversely affects the sovereignty, security or public policy of the Greek State,
- b) penal procedure has already been initiated in respect of the same actions and against the same persons before the Greek Courts,
- c) where a final judgment of Greek Court has been delivered in relation to the same persons and the same actions.

In the cases (b) and (c) above, Hellenic Capital Market Commission notifies in detail the requesting competent authority on the pending judicial proceedings or the judgment that has been issued.

## **Article 27**

1 . Where Hellenic Capital Market Commission establishes infringements of this law or where several acts are affecting financial instruments traded on a regulated market situated in another Member State, it shall inform the competent authority and shall provide the latter with the details available to her.

3. Where Hellenic Capital Market Commission is notified that acts contrary to the provisions of this Directive are being, or have been, carried out in the Greek territory or that acts are affecting financial instruments traded on a regulated market situated in the Greek territory, shall take appropriate action and shall inform the notifying competent authority of the outcome of its interference.

## **Article 28**

1. Hellenic Capital Market Commission may request that an investigation be carried out by the competent authority of another Member State in the latter's territory and may further request that members of its own personnel be allowed to be present during the course of the investigation.
2. The competent authority of one Member State may request that an investigation be carried out by the Hellenic Capital Market Commission in the Greek territory and may further request that certain members of its own personnel be allowed to be present during the course of the investigation.
3. Hellenic Capital Market Commission may refuse to conduct an investigation requested in accordance to the previous paragraph or may not allow the personnel of the requesting competent authority of another Member State to accompany its personnel, where one of the cases of paragraph 5 of article 26 exists. In this case, notifies accordingly the requesting competent authority, which updates on the judicial process or the existence of a final judgment.

## **Chapter G' Penal sanctions**

## **Article 29**

1. With the penalty of imprisonment of up to one year is punished whoever, with the intention to acquire himself or a third person, financial benefit, knowingly uses, inside information to acquire or dispose or to try to acquire or dispose, the same or through another person, financial instruments to which that information relates.
2. Imprisonment of up to ten years is imposed to anyone who executes by profession or by habit the crime of the previous paragraph and provided that:
  - a) the value of the illegal transactions exceeds one million euros or
  - b) Gains personally, or procures to a third party, financial benefit of more than three hundred thousand euros.

## **Article 30**

1. With the penalty of imprisonment of up to one year is punished whoever, for the purpose of forming artificially the price or the volume of a financial instrument in order to acquire, himself or a third person, financial benefit:
  - (a) carries out transactions using knowingly fictitious devices or deception means or
  - (b) disseminates knowingly, information through the public means, the Internet, or by any other way, misleading or false information or rumours.

2. Imprisonment of up to ten years is imposed to anyone who executes by profession or by habit the crime of the previous paragraph and provided that:

- a) the value of the illegal transactions exceeds one million euros or
- b) gains personally or procures to a third party financial benefit of more than three hundred thousand euros.

### **Article 31**

1. The penal prosecution for the infringements of articles 29 and 30 of the present law is exercised *ex officio*.
2. The public prosecutor of the First Instance Court submits to the competent Public prosecutor of the Court of Appeal the plaint reports with which is denounced the execution of the punishable actions of articles 29 and 30. The HCMC has the right to submit directly to the Public prosecutor of the Court of Appeal plaint reports with which is denounced the performance of the above punishable actions.
3. The public prosecutor of the Court of Appeal, on the basis of the above plaint reports or on the basis of elements that come to him from the HCMC or from any third person, but also *ex officio*, carries out personally preliminary examination or orders the realisation of the preliminary examination from a general or special pre-investigative employee, under his supervision and guidance. The inquiry is also extended to the pertinent punishable actions. In any case the preliminary examination is acted according to the provisions of paragraph 2 of article 31 of the Code of Penal Procedure.
4. If a preliminary examination is held for the punishable actions of articles 29 and 30 of the present law, the HCMC is invited to be informed of the judicial brief and within thirty days the latest from the service of the invitation, to submit, if wishes, report containing its opinions on all the denounced actions that are examined. In the event of imminent risk of prescription, the person that carries out the preliminary examination, has the right to abbreviate this deadline.
5. Following the end of the preliminary examination, the judicial brief is submitted to the Public prosecutor of the Court of Appeal, who, if sufficient clues are accrued, transmits the brief with precise order to the competent Public prosecutor of Misdemeanours for the exercise of the penal proceeding. If he judges the elements as legally or substantially unfounded, he places the case in the archive with a justified order.
6. In the trials for the offences that are mentioned in paragraph 1 of the present article, HCMC has the right in any case to attend as civil plaintiff (injured party in criminal action) for the support of category.
7. Competent court for the hearing of misdemeanours that are prescribed in articles 29 and 30 of this law is the Three-member Misdemeanour Court and for the felonies the Three-member Court of appeal of Felonies of the place of their execution.
8. The provisions of the previous paragraph do not apply to the cases for which summons or writ of summons has been delivered before the commencement of the application of the present law, in whichever procedural stage they are found.
9. At the process of hearing of the felonies of the present law, the provisions of articles 20 and 21 of L.663/1977 (FEK 215 A') apply.

## **Chapter H' Other provisions**

### **Article 32**

1. The following provisions are suppressed:

- (a) the provisions of the presidential decree 53/1992 (FEK 22 [A]') in their entirety,
- (b) the provisions of article 13 and paragraphs 2 and 3 of article 72 of L.1969/1991,
- (c) the provision of case (a) of paragraph 5 of article 5 of the presidential decree 350/1985 (FEK 126 [A]'), while the remaining cases (b) and (c) are changed to (a) and (b) respectively,
- (d) the provision of case (a) of paragraph 4 of article 6 of the presidential decree 350/1985, while the remaining cases (b), (c) and (d) are changed to (a), (b) and (c) respectively,
- (e) the provision of the second section of paragraph 5 of article 5 of the presidential decree 51/1992 of (FEK 22 [A]').

2. The following provisions are replaced:

- (a) paragraph 1 of article 72 of L. 1969/ 1991, article 73 of L. 1969/1991, as well as the articles 33 and 34 of L. 3632/1928 of 17/26 July "On Stock Exchanges" by the provisions of article 30 of the present law,
- (b) article 30 of L.1806/1988 (FEK 207 [A]') by the provisions of article 29 of the present law.

3. The following provisions are modified:

- (a) paragraph 2 of article 6 of L.3016/2002 (FEK 110 [A]') as follows:

"The internal Regulation of Operation includes:

- a. The structure of the departments of the company, their objects, as well as the relation of the departments among them and towards the administration. In the Regulation are forecasted at least departments of Internal Audit, Investor Relations and Corporate Announcements.
- b. The capacities of the executive and not executive members of the board of directors.
- c. The processes of employment of managerial executives of the company and evaluation of their performance.
- d. The processes of surveillance:
  - aa) of transactions carried out by the persons employed by the company either under an employment contract or otherwise and which have access to inside information, as well as the persons discharging managerial responsibilities and the persons closely connected with these persons, in transferable securities of the company or connected enterprises according to article 42e paragraph. 5 of L. 2190/1920, provided that the transferable securities are admitted to trading in a regulated market.
  - bb) of other economic activities of persons discharging managerial responsibilities and that are related with the company and the basic customers or suppliers.
- e. The processes of public notification of transactions of persons discharging managerial responsibilities in the company and the persons closely connected with these, as well as other persons for which the company has obligation of notification according to the current legislation.
- st. The rules that govern the transactions between connected companies, the surveillance of these transactions and their suitable notification in the bodies and the shareholders of the company".

- (b) of article 15 of L. 2533/1997 (FEK 228 [A]') as follows:

"Company the securities of which are admitted to trading in a regulated market, is not allowed to carry out for its own account transactions in derivatives admitted to trading in a derivatives market, that have as underlying value, either the values of the company or indexes, in which the values of this company participate by more than 25%. The prohibition applies to the issuer and its connected enterprises according to paragraph 5 of article 42e of L. 2190/1920. HCMC imposes to the offenders fine from 5.000 up to 300.000 Euros".

- (c) case (st) of paragraph 1 of article 78 of L. 1969/1991 as follows:

"It deals with cases that are connected with market abuse, that is to say the insider dealing and market manipulation, according to the current provisions."

4. Where in the current legislation reference is made to the presidential decree 53/1992 and to the articles 72 and 73 of L. 1969/1991 are comprehended henceforth the corresponding provisions of the present law.

**Article 32a<sup>5</sup>**

*The provisions of the Presidential Degree 53/1992 (Government Gazette 22 A`) and the provisions of the paragraphs 2 and 3 of article 72 of l. 1969/1991 (Government Gazette 167 A`) continue to apply to infringement behaviors that took place until the enforcement of the present law.*

**CHAPTER I'  
ENFORCEMENT**

**Article 36**

1. The enforcement of the present law commences 2 months after its publication on the Government Gazette.
2. The enforcement of article 18 commences 5 months after the publication of this law on the Government Gazette
3. The enforcement of article 33 commences upon publication of this law on the Government Gazette

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<sup>5</sup> Article 32a has been added by virtue of paragraph 7 of article 31 of l. 3461/2006, Government Gazette A 106/30.5.2006.