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**REPUBLIC OF LITHUANIA**  
**L A W**  
**ON COLLECTIVE INVESTMENT UNDERTAKINGS INTENDED FOR INFORMED**  
**INVESTORS**

18 June 2013, No XII–376  
Vilnius

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1. Purpose and scope of the Law**

1. This Law shall define activities of collective investment undertakings intended for informed investors and the scope of supervision of these activities by the State. The purpose of the Law shall be to lay down requirements for collective investment undertakings intended for informed investors and for management companies thereof.

2. This Law shall apply to the activities of collective investment undertakings intended for informed investors established and managed in the Republic of Lithuania.

3. The Law shall not apply to the services of management companies of collective investment undertakings intended for informed investors or of collective investment undertakings intended for informed investors provided to the State, the Bank of Lithuania, the European Central Bank, central banks or institutions of other Member States engaged in the management of public debt.

4. The requirements set out for management companies of collective investment undertakings intended for informed investors or of collective investment undertakings intended for informed investors in the Law on Companies of the Republic of Lithuania (hereinafter – the Law on Companies) and in the Law on Partnerships of the Republic of Lithuania (hereinafter – the Law on Partnerships) shall apply to the extent this Law does not establish otherwise. The provisions of the Law on Collective Investment Undertakings of the Republic of Lithuania (hereinafter – the Law on Collective Investment Undertakings) shall apply only in the cases specified in this Law. The provisions of the Law on Financial Institutions of the Republic of Lithuania (hereinafter – the Law on Financial Institutions) shall apply to management companies of collective investment undertakings intended for informed investors and investment companies operating under this Law to the extent specified in this Law.

**Article 2. Definitions**

1. **Open-ended type collective investment undertakings intended for informed investors** means a collective investment undertaking intended for informed investors the units or shares whereof are redeemed or partner contributions of the general partnership or limited partnership are returned upon request of the partner.

2. **Financial instrument** means a financial instrument defined in the Law on Markets in Financial Instruments of the Republic of Lithuania (hereinafter – the Law on Financial Markets).

3. **Net assets** means difference between the value of assets of an investment fund or an investment company and non-current and current liabilities of the investment fund or the

investment company.

4. **Collective investment undertaking intended for informed investors** means a collective investment undertaking established in the Republic of Lithuania – an investment fund or investment company who comply with the conditions set out in Article 16(1) of this Law.

5. **Participant of a collective investment undertaking intended for informed investors** means the person who has acquired units or shares of a collective investment undertaking intended for informed investors or has made a contribution into a general partnership and limited partnership – a co-owner of an investment fund or a shareholder of a public limited company, private limited liability company, a general partner or a limited partner of a general partnership or a limited partnership.

6. **Prospectus of a collective investment undertaking intended for informed investors** means the document of any form intended for informed investors setting out the main information about the collective investment undertaking and the investment units, shares it offers or about proposal to make a contribution into the general partnership or limited partnership. A prospectus may also mean a document with a different title which has the meaning of this term (e.g., information memorandum).

7. **Incorporation documents of a collective investment undertaking intended for informed investors** mean articles of association of a public limited liability company, private limited liability company, rules of an investment fund, incorporation deed of a general partnership and limited partnership.

8. **Management company of a collective investment undertaking intended for informed investors** means a company the core activities whereof is the management of collective investment undertakings intended for informed investors. General partners of a general partnership or limited partnership shall not be considered a management company.

9. **Qualifying shareholding of the management company of a collective investment undertaking intended for informed investors** means any direct or indirect share of the authorised capital or voting rights in the management company of the collective investment undertaking intended for informed investors, which represents at least 1/10 or more of the authorised capital or of the voting rights or which makes it possible to exercise a significant influence over the management of the management company. For the purpose of calculating whether the holding of the management company's authorised capital or voting rights represents at least 1/10 of the authorised capital, the obligation to report an acquisition or loss of a shareholding and the procedure for calculating the votes held by persons as laid down in the Law on Securities of the Republic of Lithuania (hereinafter – the Law on Securities) shall apply.

10. **Manager of a collective investment undertaking intended for informed investors** means a management company of a collective investment undertaking intended for informed investors which manages an investment fund or an investment company or a company with a licence under the Law on Collective Investment Undertakings, which manages a collective investment undertaking intended for informed investors, as well as the management bodies and members of the management bodies of an investment company the management whereof has not been transferred to a management company, general partners of a general partnership or a limited partnership.

11. **Investment company** means a public limited liability company, a private limited liability company, a general partnership or a limited partnership, which has obtained a licence from the supervisory authority to engage in the activities of an investment company under the procedure set out by this Law.

12. **Investment fund** means a fund the assets of which are held by legal entities or natural persons by right of common fractional ownership and are managed by trust by the management company of a collective investment undertaking intended for informed investors or by the management company that has obtained a licence under the Law on Collective

Investment Undertakings under the procedure and conditions laid down in this Law and in the rules of the investment fund. An investment fund shall not be a legal entity.

13. **Investor** means a participant in a collective investment undertaking intended for informed investors who complies with the requirements set out in Article 3 of this Law and its implementing legislation or a potential participant.

14. **Another Member State** means a Member State other than the Republic of Lithuania.

15. **Supervisory authority of a host Member State** means a competent authority of another Member State carrying out the functions of supervision over the activities of collective investment undertakings and their management companies in the host Member State, which are equivalent to the functions of the supervisory authority as established in this Law.

16. **Management of a collective investment undertaking** means the management defined in the Law on Collective Investment Undertakings.

17. **Control** means direct and/or indirect decisive influence on the company as defined in the Law on Consolidated Accounts of the Groups of Undertakings of the Republic of Lithuania (hereinafter – the Law on Consolidated Accounts of the Groups of Undertakings).

18. **Persons of good repute** means persons as defined in the Law on Markets in Financial Instruments.

19. **Non-public offering of units or shares or non-public offering to make a contribution** means offering of units or shares, offering to make a contribution or assume a commitment to make a contribution in the future where this is done on the initiative of the investor without a prior offer made to the investor by the management company of a collective investment undertaking intended for informed investors or an investment company, as well as offering of investment units or shares, offering to make a contribution or assume a commitment to make a contribution in the future, if such offer is made to a predetermined and known group of persons. Non-public offering of units or shares or non-public offering to make a contribution includes the actions referred to in this paragraph, if they satisfy with the criteria set out in Article 24(1) of this Law.

20. **Subsidiary undertaking** means a subsidiary undertaking as defined in the Law on Consolidated Accounts of the Groups of Undertakings.

21. **Parent undertaking** means a parent undertaking as defined in the Law on Consolidated Accounts of the Groups of Undertakings.

22. **Supervisory authority** means the Bank of Lithuania performing the supervision functions over activities of collective investment undertakings intended for informed investors or their management companies in accordance with the procedure laid down by this Law and other laws.

23. **Professional investor** means a professional client as defined in the Law on Markets in Financial Instruments.

24. **Special collective investment undertaking** means the undertaking as defined in the Law on Collective Investment Undertakings.

25. **Investor associated with a collective investment undertaking intended for informed investors and/or its manager** means the natural person or the legal entity referred to in Article 16(4) of this Law.

26. **Third country** means any state not a member of the European Union or a state of the European Economic Area.

27. **Supervisory authority of a third country** means a competent authority of a third country carrying out the functions of supervision over the activities of collective investment undertakings and their management companies in a non-Member State, which are equivalent to the functions of the supervisory authority as established in this Law.

28. **Closed-ended type collective investment undertaking intended for informed investors** means a collective investment undertaking intended for informed investors the units

or shares whereof are redeemed or the investor's contributions to the general partnership or limited partnership are returned only at the expiry of the activity period specified in its incorporation documents or at any other time specified in advance therein – on the initiative of the collective investment undertaking or its management company.

29. **Managers** means the head of administration, members of the board and supervisory board of the management company of a collective investment undertaking intended for informed investors or an investment company.

30. **Member State** means any member state of the European Union and a state of the European Economic Area.

31. **Public offering of units or shares or public offering to make a contribution** means offering of investment units or shares, or offering to make a contribution to a general partnership and limited partnership by providing as much information about the terms and conditions of such offering and the investment instruments offered as necessary for the investor to make a decision to acquire and assume a commitment to acquire the investment units or shares offered or to assume a commitment to make a contribution. Offering of investment units or shares, or offering to make a contribution through intermediaries of public trading in securities shall also be deemed to be the public offering provided it meets the features of the public offering described in this paragraph.

32. Other terms used in this Law shall be understood in accordance with the definitions provided for in the Law on Markets in Financial Instruments, the Law on Financial Institutions, the Law on Consolidated Accounts of the Groups of Undertakings, the Law on Collective Investment Undertakings and the Law on Securities.

### **Article 3. Informed investors**

1. For the purposes of this Law, informed investors shall mean:

1) professional investors;

2) natural persons without the status of professional investors who have confirmed in writing to the management company of a collective investment undertaking intended for professional investors (hereinafter – the management company) or to the investment company that has not designated a management company their status as that of informed investors and who satisfy at least one of the following requirements: invest or undertake to invest not less than EUR 125 000 or an equivalent amount in another currency to a collective investment undertaking intended for informed investors (hereinafter – a collective investment undertaking) operating under this Law; or a financial brokerage firm or a credit institution with the right to provide investment services or a financial adviser undertaking operating under the Law on Markets in Financial Instruments or a management company (or an equivalent undertaking of another Member State) operating under the Law on Collective Investment Undertakings has assessed that person's knowledge and experience in the area of investment and confirms in writing that such a person is capable of adequately perceiving risk related to investments into collective investment undertakings operating under this Law;

3) legal entities without the status of professional investors who have confirmed in writing to the management company or to the investment company that has not designated a management company their status as that of informed investors and who invest or undertake to invest not less than EUR 125 000 or an equivalent amount in another currency to a collective investment undertaking operating under this Law.

2. The requirements laid down in this Article shall be applied to a final investor (natural person), except in the cases when informed investors are legal entities who invest the assets of their clients, as well as collective investment undertakings or pension funds.

3. A management company or an investment company that has not designated a management company shall ensure on a permanent basis that the persons who do not satisfy the requirements for an informed investor as set out in this Law and other implementing legal acts should not become participants of collective investment undertakings intended for

informed investors operating under this Law (hereinafter – a participant). For this purpose, the management company or investment company that has not designated a management company shall make sure prior to investment that the investors fulfil the requirements set for informed investors in this Articles and in other legal acts implementing this Law and shall inform investors in proper manner that this collective investment undertaking is intended only for informed investors.

4. The management company or investment company that has not designated a management company, upon noticing an investor who does not satisfy the requirements for informed investors among participants of the collective investment undertaking, shall immediately redeem the investment units, shares held by him in the collective investment undertaking or return the contribution made without a separate consent of such participants.

5. The supervisory authority, with agreement with the Ministry of Finance of the Republic of Lithuania, shall draw up the rules specifying additional requirements for informed investors.

## **CHAPTER II**

### **ACTIVITIES OF COLLECTIVE INVESTMENT UNDERTAKINGS**

#### **SECTION ONE**

#### **ACTIVITY FORMS AND INCORPORATION GROUNDS OF COLLECTIVE INVESTMENT UNDERTAKINGS**

##### **Article 4. Activity forms and types of collective investment undertakings**

1. A collective investment undertaking may operate in the form of an investment fund or an investment company incorporated in the Republic of Lithuania.

2. An investment company intending to operate under this Law may be of the following legal forms:

- 1) public limited liability company;
- 2) private limited liability company;
- 3) general partnership;
- 4) limited partnership.

3. Investment funds or investment companies may be of open-ended type or closed-ended type as specified in their incorporation documents.

##### **Article 5. Place of establishment of a collective investment undertaking and management company**

A collective investment undertaking, a management company, a general partner–legal entity of a general partnership or limited partnership shall be established in the Republic of Lithuania. An investment fund shall be considered established in the Republic of Lithuania, if it has been established according to the requirements laid down in this Law.

##### **Article 6. Right of a management company or an investment company that has not designated a management company to assign some of its functions to another company**

1. For the purpose of a more effective management of a collective investment undertaking, an investment company that has not designated a management company or a management company shall have the right to assign some of its management functions to another management company, which has the right to provide the relevant services, and shall promptly notify the supervisory authority of such intention in writing. The notification shall indicate the name of the company that will accept the delegation and the list of functions to be delegated to it.

2. The carrying out of some of the management functions may be delegated only, if:

- 1) this does not prevent the supervision over a management company or an investment

company and does not prejudice the interests of investors;

2) the managers of the management company or the investment company are authorised to monitor the activity the company (agent) that has taken over part of the management functions at any time;

3) the management company or the investment company may give further instructions to the agent or withdraw the mandate at any time when this is in the interest of investors;

4) the agent has the qualifications specified by the supervisory authority and is capable of carrying out the functions in question;

5) the incorporation documents of the collective investment undertaking (hereinafter – incorporation documents) indicate which functions may be delegated to another company.

3. A management company or an investment company that has not designated a management company shall not delegate its functions to the extent that it becomes a letter-box entity. It shall be prohibited to delegate a decision-making and/or execution function to the depositary keeping assets of the collective investment undertakings controlled by the management company or of the investment company or to any other undertakings whose interests may conflict with those of the management company, the investment company or the participants.

4. The fact that some of the functions have been delegated to another company shall not release a management company or an investment company from liability.

## **SECTION TWO**

### **AUTHORISATION FOR ACTIVITIES OF A MANAGEMENT COMPANY OR AN INVESTMENT COMPANY**

#### **Article 7. Right to pursue activities of a management company or an investment company**

1. Only a private or public limited liability company holding an authorisation for activities issued by the supervisory authority shall have the right to engage in the activities of a management company operating under this Law. The authorisation for activities shall be obtained before the company engages in the management activities of collective investment undertakings defined in this Law. The company that holds an authorisation for management activities of collective investment undertakings intended for informed investors shall be referred to as a management company.

2. The management company that obtains a licence under the Law on Collective Investment Undertakings shall have the right to engage in the management activities of collective investment undertakings specified in this Law without the authorisation for activities referred to in paragraph 1 hereof. It shall be subject to all requirements set for the activities, capital and other prudential requirements for management companies imposed by the Law on Collective Investment Undertakings.

3. The authorisation for management activities of collective investment undertakings intended for informed investors obtained under this Law shall not grant the right to provide investment services, manage the collective investment undertakings referred to in the Law on Collective Investment Undertakings, pension funds and engage in other licensed activities.

4. Only a public limited liability company, a private limited liability company, a general partnership or a limited partnership holding an authorisation for activities issued by the supervisory authority shall have the right to engage in the activities of an investment company operating under this Law. The authorisation for activities shall be obtained before the public limited liability company, the private limited liability company, the general partnership or the limited partnership makes public offering of shares or public offering to make a contribution. In case of non-public offering of shares or non-public offering to make a contribution, an application for an authorisation for activities under this Law may be submitted to the supervisory authority after the non-public offering of shares or non-public offering to make a

contribution have been commenced, but not later than within one month after the day of incorporation of the investment company.

#### **Article 8. Identification requirements of collective investment undertakings and their management companies**

1. Only management companies with an authorisation for activities shall have the right to use the words ‘investment fund management company’, ‘management company of investment companies’ or other combinations or derivatives of these words in their names and advertisements.

2. Articles of association of the management companies operating under this Law and incorporation documents of collective investment undertakings shall clearly state that the requirements laid down in this Law apply to their activities.

3. The name of a collective investment undertaking shall state information enabling to identify that the collective investment undertaking is intended for informed investors.

4. It shall be prohibited to use in the name and/or documents of a management company or a collective investment undertaking the words, combinations of words, abbreviations or other information which create a misleading impression that the undertakings operate under this Law, if an authorisation to this effect has not yet been obtained from the supervisory authority. This prohibition shall not apply to investment companies engaged in non-public offering of shares or non-public offering to make contributions, which exercises the right provided for in Article 7(4) of this Law.

#### **Article 9. Conditions and procedure for issuance of an authorisation for activities of a management company or an investment company**

1. The public limited liability company or the private limited liability company intending to obtain an authorisation for the activities of a management company, as well as the public limited liability company, the private limited liability company, the general partnership or the limited partnership intending to obtain an authorisation for the activities of an investment company shall submit an application to the supervisory authority.

2. The company intending to obtain an authorisation for the activities of a management company shall, together with the application submit:

1) registered articles of association;

2) agreements (if any) with the future depositary of the assets of the collective investment undertaking, the manager of accounts, the person who will provide administrative services and other service providers whose services will have a major impact on the activities of the management company;

3) information about the auditor;

4) curriculum vitae (certified by the signature) of each candidate to the positions of the manager and the person who will take investment decisions in the management company indicating the date it has been drawn up and other information that confirms that these persons satisfy the requirements set out in this Law and other legal acts;

5) documents allowing to assess the compliance of candidates to the managerial positions of the management company and the owners of shareholdings with the requirement for good repute and other requirements laid down in this Law and other legal acts. If the owners of shareholdings are public limited liability companies or private limited liability companies, a set of financial reports for the previous financial year and, if the laws or articles of association provide for an obligation to audit the set of financial reports of the financial year, an independent auditor's report shall also be submitted. The data referred to in this paragraph shall be submitted about the owners of the shareholdings of the management company – public limited liability companies or private limited liability companies – disclosing the data up to natural persons who hold more than 10 per cent of voting rights and/or authorised capital, while in case of the owners of shareholdings are general

partnerships or limited partnerships, data shall be disclosed up to participants – natural persons (in case participants of the partnership that holds a shareholding are public limited liability companies or private limited liability companies, data shall be disclosed up to natural persons who hold more than 10 per cent of voting rights and/or authorised capital);

6) data confirming that not a single employee of the management company is an employee of the operator of the regulated market operating in the Republic of Lithuania and/or of a multilateral trading facility, the supervisory authority or the Central Securities Depository of Lithuania;

7) description of organisational structure;

8) description of the system of control of core functions;

9) policy for management of conflicts of interest.

3. The company or the partnership intending to obtain an authorisation for the activities of an investment company shall, together with the application, submit (according to the legal form):

1) registered articles of association of the public limited liability company or the private limited liability company or the incorporation deed of the general partnership or the limited partnership;

2) incorporation documents of the general partner (legal entity) of the general partnership or the limited partnership;

3) prospectus of the collective investment undertaking (hereinafter – the prospectus), if any. If the prospectus has not yet been drawn up at the time of submission of the application for an authorisation for activities, a description of the investment strategy shall be submitted. The prospectus shall in all cases be submitted to the supervisory authority as soon as it has been drawn up;

4) agreements (if any) with the future depository of the assets of the investment company, the manager of accounts, the person to provide administrative services and other service providers whose services will have a major impact on the activities of the investment company. If no agreement with the depository of assets has been made, it shall be indicated where the funds and financial instruments of the investment company will be stored;

5) information about the auditor;

6) brief description of the procedure for offering shares or offering to make contributions, along with a description of a typical investor, indicating the states where it is intended to offer shares or offer to make contributions and other relevant information;

7) curriculum vitae (certified by the signature) of each candidate to the positions of the manager and the person who will take investment decisions in the investment company indicating the date it has been drawn up and other information that confirms that these persons satisfy the requirements set out in this Law and other legal acts. Where there are any legal entities among general partners of the investment company, which operates as a general partnership or a limited partnership, the information indicated in this paragraph shall be provided about the managers–natural persons of these legal entities;

8) documents allowing to assess the compliance of candidates to the managerial positions of the investment company with the requirement for good repute and other requirements laid down in this Law and other legal acts. Where there are any legal entities among the person seeking to become general partners of the investment company, which operates as a general partnership or a limited partnership, the information indicated in this paragraph shall be provided about the managers–natural persons of these legal entities;

9) data confirming that not a single employee of the investment company is an employee of the operator of the regulated market operating in the Republic of Lithuania and/or of a multilateral trading facility, the supervisory authority or the Central Securities Depository of Lithuania;

10) description of organisational structure;

11) description of the system of control of core functions;



12) policy for management of conflicts of interest;

13) policy for investment risk spreading.

4. In order to ascertain that the company or the partnership fulfils all the requirements set for management companies or investment companies in this Law and other implementing legal acts, the supervisory authority shall have the right to request additional documents and/or information related to the activities planned to be pursued by the management company or the investment company.

5. The supervisory authority shall refuse an authorisation for activities only in the following cases:

1) the management company or the investment company has been incorporated not in the Republic of Lithuania;

2) the functions of the collective investment undertaking, except in the cases when part of the functions has been delegated to another company under Article 6 of this Law and except offering of investment units or shares or offering to make contributions, will be carried out not in the Republic of Lithuania;

3) the documents and/or information submitted do not satisfy the requirements set out in this Law and/or implementing legal acts, incomplete or misleading documents and/or information referred to in paragraph 2 or 3 of this Article have been provided;

4) the company or the partnership intending to obtain an authorisation for activities, the owners of a shareholding of the management company and/or the managers of the management company or the investment company do not satisfy the requirements set out in this Law and other legal acts;

5) at least one employee of the management company or the investment company is an employee of the operator of the regulated market operating in the Republic of Lithuania and/or of a multilateral trading facility, the supervisory authority or the Central Securities Depository of Lithuania;

6) the management company, the investment company and any other legal entity or natural person has a close relationship, which is likely to hinder the supervisory authority from carrying out the supervision functions effectively, or the legal act of another Member State or the third country regulating the activities of the relevant person or the implementation of these legal acts can hinder the supervisory authority from carrying out the supervision functions effectively;

7) the investment risk spreading policy, the policy for management of conflicts of interest, the procedure of control of core functions of the management company or the investment company is inadequate and/or effective;

8) there is reason to believe that the owners of shareholdings of the management company will not be able to ensure a reliable and transparent management of the management company and the collective investment undertaking and/or that the management company or the investment company will not be able to ensure permanent compliance with the requirements set out in this Law, other legal acts and incorporation documents of the collective investment undertaking.

6. The supervisory authority shall notify its agreement or refusal to issue an authorisation for activities to the applicant within 3 months after the submission of all documents, data and explanations. Refusal to issue an authorisation for activities shall be written.

7. The supervisory authority may consult with the supervisory authority of another Member State, if:

1) the applicant is a subsidiary of the management company, financial brokerage firm, credit institution or insurance company authorised in another Member State;

2) the applicant is a subsidiary of a parent company of the management company, financial brokerage firm, credit institution or insurance company authorised in another Member State;

3) the applicant is controlled by the same persons who control the management company, financial brokerage firm, credit institution or insurance company authorised in another Member State.

8. For the purpose of assessing the eligibility of owners of the qualifying holding of the management company intending to obtain an authorisation for activities and the repute and experience of the heads of companies belonging to the same group, the supervisory authority may seek the opinion of the supervisory authority of another Member State in the cases referred in paragraph 7 of this Article.

9. The supervisory authority shall notify about the issuance, suspension or revocation of an authorisation of a management company or an investment company the registrar of the Register of Legal Entities, the institutions specified in other legal acts and on the website of the supervisory authority.

#### **Article 10. Withdrawal of authorisation**

1. The supervisory authority may withdraw the authorisation issued to a management company or an investment company under the procedure set out in legal acts, if:

- 1) the authorisation holder has expressly renounced the authorisation in writing;
- 2) the authorisation holder does not make use of the authorisation within 12 months of the day of granting the authorisation or has ceased the activities more than six months previously;
- 3) the period of activities indicated in the incorporation documents of the investment company ends and the authorisation holder fails to apply in writing for the cancellation of the authorisation;
- 4) it turns out that the authorisation holder had obtained the authorisation having submitted the documents and/or information which do not correspond to reality or, for the purpose of obtaining the authorisation, had acted in infringement of laws or other legal acts of the Republic of Lithuania;
- 5) the authorisation holder no longer fulfils the conditions for granting the authorisation of the management company or the investment company;
- 6) the management company or the investment company is unable to perform liabilities under its obligations or there are data that it will be unable to do so in the future;
- 7) in other cases established by laws of the Republic of Lithuania.

2. The management company or the investment company shall be informed about consideration of the issue of revocation of the authorisation in writing. Representatives of the management company or the investment company shall have the right to take part during the hearing of the issue of revocation of the authorisation.

### **SECTION THREE REQUIREMENTS FOR ACTIVITIES OF MANAGEMENT COMPANIES OR INVESTMENT COMPANIES**

#### **Article 11. Management and managers of management companies and investment companies**

1. A management company and an investment company that has not designated a management company shall have the board and the manager. This requirement shall not apply to investment companies the legal form whereof is a general partnership or a limited partnership. General members of the investment companies the legal form whereof is a general partnership or a limited partnership shall satisfy the requirements set for managers in this Law and other legal acts.

2. An investment company that has designated a management company shall not form any management bodies. A management company designated to manage an investment company shall be liable for the performance of actions covered by Article 2.67 and

Article 2.82(3) of the Civil Code of the Republic of Lithuania.

3. Incorporation documents of a collective investment undertaking the legal form whereof is a public limited liability company or a private limited liability company may lay down the procedure for granting voting rights other than that established in the legal acts regulating their legal form.

4. Managers of a management company or an investment company that has not designated a management company must be of good repute, qualification and experience to ensure reliable management of the management company or the investment company. Where there are any legal entities among general partners of the investment company, which operates as a general partnership or a limited partnership, the requirements set out in this paragraph shall apply managers–natural persons of such legal entities.

5. A management company or an investment company that has not designated a management company shall inform the supervisory authority about all future changes of the managers of the management company or the investment company and also provide information necessary to assess whether newly elected or planned to be elected managers satisfy the requirements of good repute, adequate experience and qualification.

6. The newly elected managers of a management company or an investment company that has not designated a management company may start working in their position only when their candidatures are approved by the supervisory authority.

7. The supervisory authority shall have the right to reject the newly nominated managers if they are not of sufficiently good repute, do not possess sufficient experience and required qualification in line with the investment strategy of the collective investment undertaking managed, if they are financially unreliable or if there are other objective grounds to believe that planned changes of managers pose threat to sound and transparent management of the management company and/or the collective investment undertaking.

8. Detailed requirements for candidate managers and the procedure for coordination of their candidatures with the supervisory authority shall be laid down by the supervisory authority.

## **Article 12. Acquisition and disposal of a qualifying holding of the management company and requirements for holders of a qualifying holding**

1. A natural or legal person or these persons acting in concert, who have taken a decision either to acquire, directly or indirectly, or to further increase, directly or indirectly, a qualifying holding of the management company already held by them (hereinafter – ‘the acquirer’), if as a result of the planned increase of the company’s qualifying holding the proportion of the voting rights or of the authorised capital of the person would reach or exceed, in ascending order, 20 %, 30 % or 50 %, or the company would become a subsidiary of that legal person (hereinafter – ‘proposed acquisition’), shall obtain a decision of the supervisory authority not to oppose the proposed acquisition. Non-compliance with this requirement shall not invalidate the transaction, however, it shall give rise to consequences specified in paragraph 16 of this Article. For the purpose of this Article ‘persons acting in concert’ shall mean two or more persons who on the basis of their explicit or implicit verbal or written arrangement exercise or seek to exercise their rights carried by their qualifying holding in the management company.

2. The acquirer shall communicate to the supervisory authority a written notification of a proposed acquisition indicating the size of the qualifying holding of the management company planned to be acquired and also submit the supporting documents and other information and particulars specified by the supervisory authority.

3. A person, who has taken a decision to directly or indirectly dispose of or reduce a qualifying holding in the management company held by him, if as a result the company would cease being a subsidiary of that legal person or the proportion of the voting rights or of the authorised capital held by the person would reach or exceed, in descending order, 20 %, 30 %

or 50 %, shall communicate to the supervisory authority a written notification indicating the size of the qualifying holding in the management company intended to be disposed or reduced.

4. The supervisory authority shall establish the list of documents and data to be enclosed with the notification of the proposed acquisition and necessary for the assessment of the acquirer and the proposed acquisition. The documents and data indicated in the list must be sufficient and adapted to the acquirer and the proposed acquisition. The list may not contain the documents and data which are not necessary for the assessment of the acquirer and the proposed acquisition in accordance with the criteria laid down in this Article.

5. Upon receipt of the acquirer's notification about the proposed acquisition and of all documents and data indicated in the list specified in paragraph 4 of this Article and of the additional documents and data under paragraph 7 of this Article, the supervisory authority shall without undue delay, no later than within two working days, acknowledge their receipt in writing and notify the acquirer about the date of expiration of the assessment period laid down in paragraph 6 of this Article.

6. The supervisory authority shall carry out the assessment no later than within 60 working days of sending a written acknowledgement of receipt of the notification referred to in paragraph 5 of this Article.

7. Where appropriate, during the assessment period the supervisory authority may request additional documents and data necessary for completion of the assessment. Such request shall be submitted in writing and shall specify the required additional documents and data. Calculation of duration of the assessment period of the proposed acquisition shall be interrupted from the day on which the supervisory authority requests additional documents and data and shall be resumed on the day on which the acquirer's response to the request is received.

8. Considering the notification about the proposed acquisition referred to in paragraph 2 of this Article, the documents and data necessary for the assessment of the acquirer and proposed acquisition, the supervisory authority shall, in order to ensure the sound and transparent management of the management company the acquisition or increase of the qualifying holding of which is proposed, and having regard to the possibility of the acquirer's influence on the management company, assess the eligibility of the acquirer and financial soundness of the acquisition against all of the following criteria:

1) good repute of the acquirer;

2) good repute and experience of a person who will be the manager of the management company after the proposed acquisition. The supervisory authority shall assess the good repute and experience of the person who will be the manager of the management company after the proposed acquisition having regard to Article 11 of this Law;

3) the financial soundness of the acquirer;

4) whether the management company will be able to comply on a regular basis with prudential requirements set out in this Law and other legal acts, whether the structure of the group that the management company will become a member of after the proposed acquisition facilitates the effective supervision;

5) whether there are grounds to suspect that for the purpose of implementing the proposed acquisition, money laundering or terrorist financing acts within the meaning of the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing are being or were perpetrated or attempted, or that the proposed acquisition is likely to increase the risk of such acts.

9. The supervisory authority may disagree with the proposed acquisition only on the basis of criteria set out in paragraph 8 of this Article or when the acquirer has provided not all documents and data specified in paragraph 4 or 7 of this Article.

10. The supervisory authority shall decide on the proposed acquisition after having consulted the supervisory authorities of other Member States, when the acquirer is a

management company authorised in a Member State, a financial brokerage firm, a credit institution, an insurance undertaking, a reinsurance undertaking or a parent or controlling undertaking of any of these undertakings.

11. If the supervisory authority does not submit a reasoned refusal within the assessment period indicated in paragraph 6 of this Article, the calculation whereof may be interrupted under paragraph 7 of this Article, it shall be deemed that the supervisory authority does not object to the proposed acquisition. If the supervisory authority decides to approve the proposed acquisition earlier than two working days until the expiry of the assessment period, it shall notify the acquirer within two working days in writing. If the supervisory authority decides to approve the proposed acquisition, it may establish and, where appropriate, extend the time limit for the implementation of the person's intention to acquire or increase the qualifying holding of the management company.

12. Having decided to disapprove the proposed acquisition, the supervisory authority shall, within two working days from adoption of such decision and without exceeding the assessment period specified in paragraph 6 of this Article, the calculation whereof may be interrupted under paragraph 7 of this Article, inform the acquirer to the effect in writing, specifying the motives of the decision.

13. If the management company becomes aware of the acquisition or disposal of its shares as a result of which the qualifying holdings of shareholders of the management company exceed the thresholds specified in paragraph 1 of this Article in ascending or descending order, the management company must notify to the effect the supervisory authority without undue delay.

14. The management company must at least once a year communicate to the supervisory authority a notification specifying in it the management company's shareholders who possess the qualifying holding of the management company and the size of their qualified holdings.

15. Where the influence exercised by acquirers is likely to pose threat to the sound and transparent management of the management company, the supervisory authority shall take measures to rectify the situation. To that end the supervisory authority shall have the right to issue compulsory instructions and impose sanctions specified in this Law on managers and other persons responsible for the management of the management company.

16. The person who has acquired or increased the qualifying holding of the management company exceeding the thresholds specified in this Article without having obtained the supervisory authority's decision to approve the proposed acquisition or before expiration of the time limit laid down in paragraph 6 of this Article (save as in cases when the supervisory authority's decision to approve the proposed acquisition has been made earlier) shall lose the voting right at the general meeting of shareholders to the extent of the votes carried by the shares acquired in the manner specified in this paragraph. The voting right shall be resumed on the day on which the decision of the supervisory authority not to oppose the proposed acquisition is received or if the supervisory authority does not decide on the disapproval of the proposed acquisition within the assessment period.

### **Article 13. Operating conditions and prudential requirements**

1. A management company or an investment company that has not designated a management company must at all times comply with the following requirements:

1) act honestly and professionally in the performance of the obligations assumed for investors and following incorporation documents of the collective investment undertaking, the requirements set out in this Law and other legal acts;

2) have and employ the resources and procedures necessary for its activities;

3) ensure that all participants of the collective investment undertaking satisfy the requirements for informed investors set out in Article 3 of this Law and in other legal acts; enter into and where appropriate promptly update the list of participants of the collective investment undertaking;

4) disclose to the investor the information related to the investor and other information specified in this Law;

5) have in place the organisational structure which allows avoiding the conflicts of interest between the management company or the investment company and its clients, between several clients of the management company or the investment company; between several collective investment undertakings managed by the management company or their participants;

6) ensure that persons who make decisions on the management of the assets of the collective investment undertaking possess required qualification, sufficient experience and are of sufficiently good repute;

7) carry out ongoing control how essential functions of the management company and the collective investment undertaking (hereinafter – control of performance of essential functions) are carried out and submit a report on the control of performance of essential functions to the supervisory authority at least once a year;

8) comply with the investment risk spreading policy of the collective investment undertaking;

9) ensure that administrative and accounting procedures, control and safeguard arrangements for electronic data processing are reliable and enabling the tracing back of the parties to all transactions, the content, time and place of transactions, verifying whether assets are invested according to the terms and conditions laid down in incorporation documents of the collective investment undertaking and under the requirements set out in legal acts;

10) ensure that the documents and information of concluded transactions and applications filed by investors for the acquisition or redemption of units or shares, for making or returning contributions are kept for the whole period of operations of the collective investment undertaking and at least 3 years after the termination of such activities;

11) submit to the supervisory authority all the information required by it and necessary for the supervision of the collective investment undertaking and the management company or the investment company;

12) comply with all requirements laid down in this Law, other legal acts and incorporation documents of the collective investment undertaking;

13) fulfil instructions of the supervisory authority.

2. Control of performance of essential functions means a permanent function of the management company or the investment company intended to control how the management company or the investment company complies with the requirements set out in this Law and in its implementing legal acts on the basis whereof the management company or the investment company has been issued an authorisation and/or received approval for the establishment of the investment fund. Control of performance of essential functions includes control over the following functions carried out by the management company or the investment company:

1) making and performing investment decisions;

2) determination and calculation of the value of net assets, investment units, shares of contributions of the collective investment undertaking;

3) separation and keeping of the assets of the collective investment undertaking;

4) management of the investment units, offering of shares or offering to make contributions, list of participants of the collective investment undertaking;

5) permanent compliance of the collective investment undertaking with the criteria set out in Article 16(2) of this Law;

6) control over other functions, which are considered essential under agreements made by the management company or the investment company with investors.

#### **Article 14. Requirements for capital of a management company or an investment company**

The capital of management companies or investment companies shall be subject to the requirements of legal acts regulating the relevant legal form.

**Article 15. Obligation to inform the supervisory authority and gets its approval**

1. An advance authorisation of the supervisory authority shall be required for:

- 1) incorporation documents of the collective investment undertaking;
- 2) candidates to management and their changes;
- 3) changes of holders of a qualifying holding of the management company.

2. The supervisory authority may refuse approval in the cases referred to in paragraph 1 of this Article only where this would contradict the requirements of this Law or other legal acts.

3. Where having received a respective request in the cases referred to in paragraph 1 of this Article the supervisory authority does not produce a reasoned objection within 20 working days, it shall be considered that the approval has been given, unless this Law establishes otherwise. Where necessary, the supervisory authority may extend the time period to hear the request by stating the reasons but not more than by 15 working days. The supervisory authority shall promptly inform the applicant about the extension of the time period for hearing of the request and its reasons.

4. A management company or an investment company shall immediately and not later than within 7 working days as of the day of occurrence of the relevant facts, inform the supervisory authority in writing about:

- 1) amendment or supplement of incorporation documents of the collective investment undertakings by submitting the most recent versions of the documents;
- 2) selection or change of the management company, at the same time indicating the newly selected management company;
- 3) delegation of some of the management functions to another company, the name of the agent and the list of the functions delegated to it;
- 4) transfer of the assets of the investment fund to another management company, at the same time indicating that management company;
- 5) merger of the investment funds managed by the management company.
- 6) entry into or amendment of the agreement of the management company with the depositary of the assets of the collective investment undertaking;
- 7) reorganisation or restructuring of the management company or the investment company.

**SECTION FOUR  
REQUIREMENTS FOR ACTIVITIES OF COLLECTIVE INVESTMENT  
UNDERTAKINGS**

**Article 16. Criteria applicable to collective investment undertakings**

1. A collective investment undertaking intending to operate under this Law shall satisfy the following conditions:

- 1) the only purpose of incorporation of such collective investment undertaking shall be collective investment of collected assets of informed investors to the assets specified in the incorporation documents and in the prospectus of the collective investment undertaking in order to spread out risk and earn profit for participants of the collective investment undertaking from these activities;
- 2) normally an offer shall be made to more than one investor who is not related to the manager of this collective investment undertaking for investment units or shares or it should be proposed to make a contribution to a general partnership or a limited partnership;
- 3) incorporation documents of the collective investment undertaking shall clearly state that the collective investment undertaking is subject to the requirements of this Law and that

its investment units or shares are offered or it is proposed to make a contribution to a general partnership or a limited partnership only to informed investors.

2. A collective investment undertaking intending to operate under this Law shall comply with at least three out of the following criteria:

1) a collective investment undertaking shall be intended for more than one investor who is not associated with the manager of the collective investment undertaking intended for informed investors (hereinafter – the manager);

2) more than 50 per cent of the assets of the collective investment undertaking shall be comprised of the assets of the investors not associated with the manager, including the obligations subscribed by investors;

3) the period of activities of the collective investment undertaking shall be not longer than 10 years after the issuance of the authorisation for the investment company by the supervisory authority or from the day of approval of the rules of the investment fund. The period of activities of the collective investment undertaking may be extended for additional 2 years under the conditions and procedure set out in the incorporation documents of the collective investment undertaking;

4) incorporation documents of the investment company or the investment fund shall indicate that in case of liquidation of the investment company or dissolution of the investment fund the assets of the collective investment undertaking shall be sold to the investors not associated with the manager.

3. A decision regarding compliance of a specific collective investment undertaking to the criteria laid down in this Article shall be made by the supervisory institution by passing a decision regarding the issuance of an authorisation for the investment company or the approval of the rules of the investment fund.

4. For the purposes of this Law, an investor associated with the collective investment undertaking intended for informed investors and/or with its manager shall mean a natural person or legal entity who is:

1) a head of the collective investment undertaking intended for informed investors or a head of its manager, partner or a person holding a similar position or having a similar status;

2) an employee of the collective investment undertaking intended for informed investors or its manager, as well as any other person participating in the activities of the collective investment undertaking intended for informed investors or in the management by the manager of the collective investment undertaking intended for informed investors, if its services are provided on behalf of the collective investment undertaking intended for informed investors or its manager and are controlled by them;

3) a natural person who is directly involved in the activities of the collective investment undertaking intended for informed investors or in the activities of its manager under an agreement regarding the delegation of certain functions whereby it is intended to ensure that the collective investment undertaking intended for informed investors or its manager could perform investment activities;

4) a spouse, cohabitant, adopted child of the persons referred to in sub-paragraphs 1, 2 and 3 of this paragraph;

5) persons related to the persons referred to in sub-paragraphs 1, 2 and 3 of this paragraph by consanguinity (in the direct line up to the second degree, in the collateral line up to the fourth degree) or by marriage (a natural person and the relatives of his spouse (in the direct line up to the second degree, in the collateral line up to the second degree);

6) spouses or cohabitants of the relatives of the persons referred to in sub-paragraphs 1, 2 and 3 of this paragraph (in the direct line up to the second degree, in the collateral line up to the fourth degree) as well as the relatives of the said spouses or cohabitants (in the direct line up to the first degree, in the collateral line up to the second degree);

7) relatives of the cohabitants of the persons referred to in sub-paragraphs 1, 2 and 3 of this paragraph (in the direct or collateral line up to the second degree);



8) legal entity related to the persons referred to in sub-paragraphs 1, 2 and 3 of this paragraph, if the head, a member of its board or supervisory council is the person referred to in paragraphs 4 and 5 hereof or is controlled by or has been incorporated for the benefit of such person, or if its economic interests are equivalent to the economic interests of such person.

#### **Article 17. Amount of net assets of collective investment undertakings**

1. Net assets of a collective investment undertaking may not be less than EUR 1 000 000 for 12 months after the issuance of an authorisation for the activities of an investment company by the supervisory authority or, respectively, from the day of approval of the rules of the investment fund, except the collective investment undertakings operating on the basis of liabilities subscribed by investors.

2. The assets and liabilities of a collective investment undertaking operating on the basis of liabilities subscribed by investors (including also the liabilities subscribed by investors) may not be less than EUR 2 000 000 for 24 months after the issuance of an authorisation for the activities of an investment company by the supervisory authority or, respectively, from the day of approval of the rules of the investment fund.

3. In case the net assets become lower than the amount referred to in paragraph 1 or 2 of this Article, the management company or the investment company shall immediately notify this to the supervisory authority and indicate the plan and time limits of the actions to rectify the situation. If the management company or the investment company fails to rectify the situation within a reasonable time, it shall immediately take the actions specified in this Law to liquidate the investment company or wind-up the investment fund.

#### **Article 18. Separation and keeping of assets**

1. The management company or the investment company that has not designated a management company shall take measures to ensure the protection of the right of ownership of the participants of a collective investment undertaking, in particular, in case of insolvency of the management company, and to prevent any unlawful use of the monetary funds owned by the participants.

2. The assets constituting each collective investment undertaking shall be always separated from assets held by the management company, its heads, other collective investment undertakings managed by the management company and other persons and shall be recorded in the accounting separately.

3. Financial assets (cash, deposits, financial instruments, etc.) of the collective investment undertaking managed by the management company shall be held and recorded in the accounting in the account(s) opened with the depositary of assets separately from the assets held by the management company and the depositary of assets. A depositary of assets may be only a commercial bank with the right to provide investment services in the Republic of Lithuania or in another Member State and a registered office or branch in the Republic of Lithuania. Upon receipt of the funds of the participants of the collective investment undertaking it manages, the management company shall immediately transfer them to the account(s) opened with the depositary of assets.

4. In order to ensure compliance with the requirements laid down in this Article, the management company shall:

1) select the depositary of the assets of a collective investment undertaking professionally, carefully and diligently, review its eligibility and the appropriateness of agreements on the safekeeping of assets regularly;

2) take into account the experience and reputation of the depositary of assets on the market, as well as legal acts regulating the safekeeping of financial instruments and market practice;

3) take organisational measures necessary to minimise the risk of loss or impairment of

the assets of participants or of the rights related to the assets of participants, which can arise as a result of unlawful use of the assets of participants, fraud, improper administration, inadequate data protection or any other negligence.

#### **Article 19. Umbrella collective investment undertakings**

1. The incorporation documents of a collective investment undertaking shall contain the information provided separately for each sub-fund constituting it, which is different from the information describing other sub-funds of the collective investment undertaking (the name of the sub-fund of the collective investment undertaking, investment strategy, rights and obligations of the participants and the management company, methodology for calculating the remuneration to a management company, its amount and payment procedure, etc.).

2. The safekeeping of assets of sub-funds constituting an umbrella collective investment undertaking must be entrusted to a single depositary.

3. Assets constituting each sub-fund shall be accounted for separately from assets of other sub-funds constituting the same collective investment undertaking.

4. The list of participants of a collective investment undertaking shall be managed by a management company or an investment company that has not designated a management company in respect of each sub-fund separately.

5. Assets constituting one sub-fund of a collective investment undertaking may not be used for discharging the liabilities to participants of another sub-fund constituting the same collective investment undertaking or to third parties.

6. The provisions of this Law and other legal acts regulating the activities of a collective investment undertaking shall apply to each sub-fund of the collective investment undertaking separately.

### **SECTION FIVE INCORPORATION AND SPECIFICS OF INVESTMENT FUNDS**

#### **Article 20. Investment fund**

1. Assets constituting an investment fund shall be common partial ownership of its participants. The participant's share in common partial ownership shall be determined on the basis of the number of units entered into his personal unit account.

2. A management company shall manage, use and dispose of the assets constituting an investment fund on a fiduciary basis.

3. It shall be prohibited to levy the recovery against the assets constituting an investment fund according to the obligations of a management company or participants of a fund. Creditors of an investment fund's participant shall have the right to levy their claims in respect of a fund's participant only against the investment fund's units held by the participant. A participant of an investment fund shall be held liable for the obligations assumed on behalf of an investment fund only to the extent of the value of the investment fund's units held by him.

#### **Article 21. Incorporation of an investment fund**

1. A management company intending to incorporate an investment fund operating under this Law shall obtain approval from the supervisory authority to the rules of the investment fund. The approval of the supervisory authority to the rules of the investment fund shall be obtained prior to a public offering of investment units. In order to get approval to the rules of the investment fund, the management company shall submit to the supervisory authority:

1) rules of the investment fund;

2) prospectus of the investment fund, if any. If the prospectus has not yet been drawn up at the time of submission of the application to the supervisory authority for approval of the rules of the investment fund, a description of the investment strategy of the investment fund

shall be submitted. The prospectus shall in all cases be submitted to the supervisory authority as soon as it has been drawn up;

3) agreement of the management company with the future depositary of the assets of the investment fund, with the manager of accounts, the person to provide administrative services and other service providers whose services will have a major impact on the activities of the investment fund;

4) policy for investment risk spreading of the investment fund;

5) brief description of the procedure for offering of investment units along with a description of a typical investor, indicating the states where it is intended to offer investment units or shares and other relevant information.

2. An investment fund shall be considered as incorporated under this Law when the supervisory authority approves the rules of the investment fund.

3. The supervisory authority has the right to refusal approval of the rules of the investment fund, if:

1) the documents and/or information specified in paragraph 1 of this Article have not been submitted or have been submitted incompletely;

2) the investment fund or the documents and/or information referred to in paragraph 1 of this Article do not satisfy the requirements of this Law and legal acts adopted on its basis;

3) the risk spreading policy of the investment fund is inadequate and/or effective;

4) the are data that the management company will not be able to ensure a reliable and transparent management of the investment fund or ensure permanent compliance with the requirements set out in this Law, other legal acts and/or the rules of the investment fund.

4. The supervisory authority shall notify its approval or refusal to approve the rules of the investment fund to the management company referred to in paragraph 1 of this Article within 2 months after the submission of all documents, data and explanations to the supervisory authority.

## **Article 22. Rules of an investment fund**

1. The rules of an investment fund shall be approved by decision of the board of a management company after the approval by the supervisory authority.

2. The rules of an investment fund shall define the relations between a management company and participants of an investment fund. The rules shall specify:

1) the name of an investment fund enabling to identify the type of its activities (open-ended or closed-ended type fund) and information allowing to determine whether the fund is a collective investment undertaking operating under this Law;

2) the names and registered offices of a management company and a depositary of the investment fund;

3) the duration of activities of the investment fund, if its activities are of limited duration;

4) the investment strategy of the assets constituting the investment fund and the its amendment procedure;

5) rights and obligations of participants of the investment fund;

6) rights and obligations of the management company in the management of the investment fund, transactions which the management company may conclude and carry out on account and for the benefit of the investment fund;

7) conditions and procedure for acquisition and redemption of investment units;

8) grounds and procedure for suspending the redemption of investment units;

9) frequency and methods of distribution and procedure of disbursement of the investment fund's income;

10) methodology of calculation, amount and payment procedure of remuneration to a management company;

11) list and calculation methodology of other costs covered with assets comprising the

investment fund;

12) procedure for publishing information about the investment fund;

13) procedure of valuation of assets, calculation and making public the investment unit value of the investment fund;

14) procedure for establishing the redemption and sale price of investment units;

15) grounds and procedure for winding-up the investment fund;

16) procedure of amendment of the investment fund's rules;

17) the unit classes and/or series (if applicable), the rights and obligations carried by them and applicable restrictions;

18) conditions and procedure of replacement of the management company and the depositary of the investment fund.

3. The investment fund's rules may also contain other provisions that do not contradict this Law and other legal acts.

4. The investment fund's rules shall be updated if necessary.

## **SECTION SIX**

### **SPECIFICS OF INVESTMENT COMPANIES**

#### **Article 23. Specifics of an investment company**

1. An investment company whose legal form is a public limited liability company may have variable capital, if this is provided for in the articles of association of this company. In this case it shall be considered that the amount of the company's capital shall be equal to the value of its net assets and the value of its share shall vary depending on the change in the value of net assets. The variability of shares shall not be subject to the requirements to amend and publish the articles of association of the company in the Register of Legal Entities as set out in the Law on Companies.

2. The procedure established and applied in the articles of association of the companies referred to in paragraph 1 of this Article may vary from the procedure specified in the Law on Companies:

1) procedure for the issuance, subscription, payment and/or redemption of shares;

2) procedure of dividends, their distribution and disbursement to the company's shareholders;

3) procedure for determining the pre-emption right of shareholders to acquire the shares issued by the company;

4) procedure for forming reserves.

3. The articles of association or their amendments of the investment companies referred to in paragraph 1 of this Article shall be submitted to the Register of Legal Entities after they have been approved by the supervisory authority.

4. It shall not be required to state in the articles of association of the investment companies referred to in paragraph 1 of this Article the amount of authorised capital and the number of shares; the articles of association may indicate the maximum amount for which shares may be distributed. The par value of shares shall be indicated only if they have the par value. Only fully paid-up shares of such investment companies shall be deemed issued and may be entered in a personal account of transferable securities of a shareholder.

5. The procedure established and applied in the incorporation deed of an investment company the legal form whereof is a general partnership or a limited partnership may differ from the procedure laid down in the Law on Partnerships:

1) procedure for making and/or return of contributions;

2) procedure for distributing profit for participants of a general partnership and limited partnership.

6. When issuing additional shares of an investment company or proposing to make contributions, it shall not be required to take into account the value of a share (participant's

contribution) established according to the value of net assets at the time of issuance.

7. The investment companies referred to in paragraph 1 of this Article shall be prohibited from having their own shares.

## **SECTION SEVEN**

### **PROCEDURE FOR ISSUANCE, ACQUISITION AND REDEMPTION OF INVESTMENT UNITS OR SHARES AND FOR MAKING OR RETURNING OF CONTRIBUTIONS**

#### **Article 24. Issuance and acquisition of investment units or shares, making of contributions**

1. Non-public offering of investment units or shares, or non-public offering to make a contribution shall mean the actions referred to in Article 2(19) of this Law, if:

1) all investors who have acquired investment units or shares, or have made or undertaken to make contributions in the future confirm their agreement to the non-public offering of investment units, shares or with the proposal to make a contribution by their signatures;

2) the management company or the investment company ensures that it will not start a public offering of investment units, shares or a public proposal to make a contribution.

2. The supervisory authority shall have the right to specify detailed requirements for a non-public offering of investment units, shares or a non-public proposal to make a contribution.

3. Investment units or shares of a collective investment undertaking shall be issued and acquired and contributions shall be made under the procedure specified in incorporation documents of a collective investment undertaking.

4. Shares of a collective investment undertaking whose legal form is a private limited liability company may not be offered and traded publicly.

#### **Article 25. Non-cash settlement for investment units or shares, making of a non-cash contribution by investors**

1. Investment units or shares of a collective investment undertaking may be settled by a non-cash contribution held by the payer by right of ownership. A contribution into a general partnership or limited partnership may be made by a non-cash contribution held by the investor by right of ownership, if the management company or the investment company ensures a permanent active management of such non-cash contribution and the possibility of settlement by a non-cash contribution or of making a non-cash contribution is provided for in the incorporation documents of the collective investment undertaking.

2. Only assets conforming to the investment policy of a collective investment undertaking may be used for non-cash contributions. Assets withdrawn from civil turnover as well as works and services may not be used for non-cash settlements.

3. A non-cash contribution shall be evaluated by an independent property valuator in accordance with the procedure laid down by legal acts regulating the valuation of property. In addition to other information, the property valuation report shall specify:

1) value of the non-cash contribution;

2) a person whose property has been valued (full name, personal identification number and place of residence of a natural person; name, legal form, code and registered office of a legal entity);

3) description of each element of the valued property;

4) description of valuation techniques employed;

5) number of units or shares to be acquired for a non-cash contribution;

6) conclusion whether the established value of a non-cash contribution corresponds to the number of units or shares to be issued for such contribution according to their aggregate

value.

4. The property valuation report referred to in paragraph 3 of this Article shall be provided to the collective investment undertaking or its management company before the acquisition of units or shares or before the non-cash contribution. A collective investment undertaking or its management company shall provide access to the property valuation report to all participants of the collective investment at their request.

5. Investment units or shares of a collective investment undertaking may be settled by a non-cash contribution. A non-cash contribution to a general partnership or a limited partnership may be made only if the value of such non-cash contribution has been approved by a written decision of the management company or the investment company, or of general partners of the general partnership or limited partnership.

6. The value of the units or shares settled by a non-cash contribution or of a non-cash contribution into a general partnership or a limited partnership may not exceed the value of a non-cash contribution specified in the property valuation report.

7. The settlement for units or shares shall be considered effected by a non-cash contribution or the non-cash contribution into a general partnership or a limited partnership shall be considered effected when the investor transfers all the assets specified in a share subscription agreement or in an agreement which provides for a contribution (the last part of the assets) to the ownership of a collective investment undertaking.

#### **Article 26. Redemption of units or shares, return of contributions**

1. Investment units or shares of an open-ended type collective investment undertaking intended for informed investors shall be redeemed or the participant's contribution shall be returned at the request of the participant. Settlements for redeemed investment units or shares shall be effected or the participants' contribution shall be returned under the procedure specified in incorporation documents of the collective investment undertaking.

2. Investment units or shares of a closed-ended type collective investment undertaking intended for informed investors shall be redeemed and paid for or the participant's contribution shall be returned under the procedure set out in incorporation documents of the collective investment undertaking.

#### **Article 27. Price of units or shares**

The price of investment units or shares shall be determined under the procedure specified in incorporation documents of the collective investment undertaking.

#### **Article 28. Suspension of redemption of units or shares, or of return of contributions**

1. The right to suspend redemption of units or shares, or return of contributions shall be vested in a management company, an investment company and the supervisory authority where this is necessary to protect the interests of the public and/or participants of the collective investment undertaking.

2. A management company or an investment company may suspend redemption of investment units or shares, or return of contributions under the procedure specified in incorporation documents of the collective investment undertaking. Suspension of redemption of investment units or shares, or return of contributions shall be immediately notified to the supervisory authority.

3. From the moment of adoption of a decision to suspend the redemption of units or shares, or return of contributions it shall be prohibited to:

1) accept the applications for redemption of units or shares, or requests for return of contributions;

2) pay for the units or shares or return the contributions the redemption or return of which was requested before deciding to suspend the redemption or the return.

4. The suspension of redemption of units or shares, or of return of contributions shall be immediately communicated by the management company or the investment company to persons who are intermediaries in the process of redemption of units or shares, or of return of contributions. Where a decision to suspend redemption of investment units or shares, or return of contributions is made by the management company or the investment company, they shall also make this known to the supervisory authority. When investment units or shares offered in other Member States or third countries with a prospectus drawn up under the procedure defined in the Law on Securities, the supervisory authority shall also inform the supervisory authorities of other Member States or third countries about the suspension of redemption of investment units or shares or of return of contributions. When public offers for investment units or shares or making of contributions were made, the management company or the investment company shall announce the suspension of redemption of investment units or shares, or of return of contributions through mass media. In case of non-public offering, participants shall be informed about suspension of redemption of investment units or shares or of return of contributions under the procedure specified in incorporation documents of the collective investment undertaking.

#### **Article 29. Renewal of redemption of units or shares, or of return of contributions**

1. The redemption of investment units or shares, or of the return of contributions suspended by decision of the supervisory authority may be renewed only by decision of the supervisory authority or by a court, having annulled such decision of the supervisory authority. In other cases, this right shall also be vested in a management company or an investment company who have adopted a decision to suspend redemption of investment units or shares or return of contributions.

2. A notice of the decision to renew the redemption of units or shares, or the return of contributions shall be communicated under the same procedure as notice about suspension of redemption of investment units or shares or of return of contributions.

### **SECTION EIGHT**

#### **INVESTMENT SPECIFICS OF ASSETS OF COLLECTIVE INVESTMENT UNDERTAKINGS AND DETERMINATION OF ASSET VALUE**

#### **Article 30. Investment of assets**

1. Assets of a collective investment undertaking shall be invested into the investment objects specified in its incorporation documents.

2. The investment portfolio of a collective investment undertaking shall in all cases be diversified to the extent capable of ensuring a proper investment risk-spreading. This obligation shall not apply to collective investment undertakings whose assets are invested following the strategy of venture capital investment.

3. The supervisory authority shall draw up the rules detailing:

1) requirements for the strategy of venture capital investment;

2) requirements for the diversification of investment portfolio of collective investment undertakings operating under this Law to ensure adequate spreading of investment risk.

4. It shall be prohibited to lend assets of a collective investment undertaking to its participants, except to general partners of a general partnership or a limited partnership, if such possibility is provided for in the incorporation deed of the general partnership or the limited partnership.

#### **Article 31. Determination of net asset value**

1. The net asset value of a collective investment undertaking shall be established on the basis of the market price of assets of a collective investment undertaking and following the principles of establishing the net asset value laid down in incorporation documents of the

collective investment undertaking, as well as the principles and methods acknowledged on the market as recommended by associated structures of managers of collective investment undertakings.

2. The value of net assets of a collective investment undertaking shall be determined under the procedure and frequency specified in the incorporation documents of the collective investment undertaking, but not less frequently than once a year.

#### **Article 32. Determining the value of investment units, shares or contributions**

The value of an investment unit, share or contribution of a collective investment undertaking shall be calculated under the procedure and frequency specified in the incorporation documents of the collective investment undertaking, but not less frequently than once a year.

### **CHAPTER III. INFORMATION PROVIDED TO INVESTORS**

#### **Article 33. Duty to draw up a prospectus**

1. The management company or the investment company of the collective investment undertaking intending to make public offering of investment units or shares or public offering to make a contribution or include investment units or shares into trade on the regulated market shall draw up a prospectus (for each investment fund it manages). A prospectus shall be drawn up, approved, renewed and published following the requirements and procedure set out in the Law on Securities. Drawing up and publishing of a prospectus of a collective investment undertaking shall not be subject to the exceptions for the publication of prospectuses provided for in the Law on Securities.

2. In the cases not covered by paragraph 1 of this Article, a prospectus of a collective investment undertaking shall be drawn up and provided to investors under the procedure laid down in this Law.

#### **Article 34. Requirements for prospectuses**

1. A prospectus shall state all information necessary for investors to be able to understand the nature and the risks inherent in the investment product that is being offered to them and to make reasoned investment decisions. For this purpose, a prospectus shall describe the investment strategy of the collective investment undertaking, specify potential objects of investment, if applicable, the principles of diversification of the investment portfolio, explain risk factors and provide other essential information related to the investments being offered.

2. Essential information of the prospectus shall be updated with a new issue of investment units or shares or with a new proposal to make a contribution.

#### **Article 35. Procedure for publication and provisions of prospectuses to investors**

1. A prospectus shall be made public only in the cases when it has to be drawn following the requirements laid down in the Law on Securities.

2. A copy of the prospectus shall be provided to the investors free of charge before the entry into an agreement on the acquisition of investment units or shares, before making a contribution or signing a commitment to do that in the future; a copy of the prospectus shall also be provided to the investor willing to get it.

3. Incorporation documents of the collective investment undertaking shall be provided to the investor as annexes to the prospectus. Incorporation documents of the collective investment undertaking need not be annexed, if investors are informed that on their request the documents will be provided to them or if it is indicated where they may be accessed.

#### **Article 36. Procedure for providing annual performance reports to participants**



1. An annual performance report of a collective investment undertaking and its management company shall, together with an auditors report, be accessible to all participants of the collective investment.

2. A copy of the annual performance report of the collective investment undertaking shall be provided to the investors free of charge before the entry into an agreement on the acquisition of investment units or shares, before making a contribution or signing a commitment to do that in the future; it shall also be provided to the participant willing to get the annual performance report of the collective investment undertaking or its management company.

#### **Article 37. Information about the value of an investment unit, share or contribution**

Information about the value of the investment units, shares or contribution held by a participant of a collective investment undertaking shall be provided at the participant's request, but not less frequently than once a year.

#### **Article 38. Offering of investment units or shares, proposal to make contributions and advertising**

1. Advertising information intended for investors shall be easily recognisable. It shall be correct, clear and not misleading.

2. Advertising information intended for investors and its publication shall follow the restrictions and provisions set out in this Law and in the Law on Securities.

3. Marketing information comprising a public offering of investment units, shares or a public invitation to make a contribution shall indicate that there is a prospectus and the places where it may be obtained or accessed.

4. Any advertising of a collective investment undertaking shall clearly and understandably state that only informed investors satisfying the requirements laid down in this Law and in the legal acts adopted by the supervisory authority under this basis shall be allowed to acquire its investment units or shares, or make a contribution.

### **CHAPTER IV AUDIT AND REQUIREMENTS FOR ANNUAL PERFORMANCE REPORTS OF COLLECTIVE INVESTMENT UNDERTAKINGS**

#### **Article 39. Accounting and audit of a management company, collective investment undertakings managed by it or of an investment company that has not designated a management company**

1. Financial accounting and reporting of management companies shall be carried out in accordance with laws and other legal acts of the Republic of Lithuania and the international accounting standards.

2. Financial accounting and reporting of collective investment undertakings shall be carried out under the procedure laid down in laws and other legal acts of the Republic of Lithuania regulating financial accounting and drawing up of sets of financial reports.

*Amendments to this paragraph of the Article:*

No [XII-2216](#), 22/12/2015, published in the Register of Legal Acts on 30/12/2015, i. k. 2015-21011

3. Audit of a management company, collective investment undertakings managed by it or of an investment company that has not designated a management company shall be subject to the requirements laid down in the Law on Audit of the Republic of Lithuania, the Law on Financial Institutions and in this Article.

4. The data of the set of financial reports of a collective investment undertaking shall be audited. An audit firm which audits the set of annual financial reports of the collective investment undertaking shall issue an auditor's report regarding the financial reports and a report on audit thereof. An auditor shall specify in the audit report information whether the

net asset value is calculated correctly, assets have been invested in accordance with the incorporation documents of the collective investment undertaking, effectiveness of control of performance of essential functions and investment risk spreading measures of the collective investment undertaking approved by the management company or an investment company that has not designated a management company has been assessed, as well as indicate all identified infringements of this Law and other legal acts.

5. At the request of the supervisory authority, a management company shall provide explanations with regard to its own financial reports or the financial reports of the collective investment undertaking managed by it, and an investment company that has not designated a management company – with regard to its own financial reports, and an auditor – explanations concerning any identified infringements of this Law and/or other legal acts.

6. An auditor auditing a management company, a collective investment undertaking managed by it or an investment company that has not designated a management company shall immediately give written notice to the supervisory authority of any identified circumstances or facts which may:

1) result in an essential infringement of laws and other legal acts of the Republic of Lithuania that establish conditions for the granting of authorisations or approval by the supervisory authority or specifically regulate the activities of management companies or collective investment undertakings;

2) interfere with continuous operation of a management company or an investment company that has not designated a management company;

3) constitute the basis for refusal to issue an opinion about the set of financial reports or formulate a qualified opinion.

7. An auditor shall also notify to the supervisory authority the facts and circumstances referred to in sub-paragraphs 1, 2 and 3 of paragraph 6 of this Article, which come to light in the process of audit of an undertaking which is closely linked with a management company or with an investment company that has not designated a management company.

8. The notification of the supervisory authority referred to in paragraphs 5, 6 and 7 of this Article shall not be considered as an infringement of the prohibition to disclose confidential information laid down in legal acts or agreement and therefore shall not give rise to any negative consequences in respect of an auditor.

#### **Article 40. Annual performance report of a collective investment undertaking and a management company**

1. A management company (in respect of each investment fund managed by it) or an investment company that has not designated a management company shall draw up an annual performance report which shall contain the information for investors to be able to make an informed judgement on the activities, financial standing and performance results of the collective investment undertaking.

2. The annual performance report of an investment fund shall contain:

1) report on net assets;

2) report on the change in net assets;

3) explanatory notes;

4) annual report;

5) other important information to enable investors to make an informed judgement on the activities and performance results of the investment fund.

3. The annual performance report of an investment company shall contain:

1) balance-sheet;

2) statement of profit (loss);

3) statement of changes in equity;

4) statement of cash flows;

5) explanatory notes;

6) annual report;  
7) other important information to enable investors to make an informed judgement on the activities and performance results of the investment company.

4. The annual performance reports of an umbrella collective investment undertaking shall detail information by each sub-fund of the collective investment undertaking.

5. The annual performance report of a collective investment undertaking and its management company as well as the auditor's report shall be submitted to the supervisory authority within 6 months as of the end of the reporting financial year. Later submission of annual performance reports may be allowed only due to important reasons of which the supervisory authority shall be informed in writing in advance. A notification of delay to provide the annual performance report to the supervisory authority shall state when the documents will be submitted.

6. Collective investment undertakings operating under this Law shall not be obligated to draw up a consolidated set of financial reports in relation to the undertakings acquired by the collective investment undertaking for the purposes of investment.

#### **Article 41. Half-yearly reports of collective investment undertakings**

1. A management company or an investment company that has not designated a management company shall draw up every six months and, not later than within two months after the end of the reporting six month period, submit to the supervisory authority the following information in relation to a collective investment undertaking:

1) total value of liabilities undersigned by participants and the amount of the capital issued and paid up;

2) debt amount;

3) number of participants under each category of informed investors specified in subparagraphs 1, 2 and 3, paragraph 1 of Article 3 of this Law;

4) composition of the investment portfolio.

2. The supervisory authority shall have the right to establish the form of a half-yearly report.

#### **Article 42. Obligation to provide information**

A management company or an investment company that has not designated a management company shall submit at the request of the supervisory authority all the information necessary for the supervision of the management company or the collective investment undertaking.

### **CHAPTER V BANKRUPTCY, REORGANISATION, RESTRUCTURING, UNBUNDLING AND LIQUIDATION OF A MANAGEMENT COMPANY AND AN INVESTMENT COMPANY**

#### **Article 43. Specifics of bankruptcy proceedings of management companies and investment companies**

1. Bankruptcy proceedings of a management company and an investment company shall be carried out under the requirements of the Enterprise Bankruptcy Law of the Republic of Lithuania (hereinafter – the Enterprise Bankruptcy Law), legal acts regulating the relevant legal form of legal entities, unless this Law specifies otherwise.

2. Bankruptcy proceedings of a management company or an investment company may be heard only in court.

3. In addition to other entities specified in the Republic of Lithuania Law on Enterprise Bankruptcy, the supervisory authority shall also have the right to file an application with court for the institution of bankruptcy proceedings against a management company or an

investment company.

4. The court, having received from the supervisory authority an application for the institution of bankruptcy proceedings, shall on the same day prohibit the management company or the investment company from using bank accounts and investment instruments.

5. Not later than within 15 days of the receipt of the application, the court shall pass a ruling on the institution of or refusal to institute bankruptcy proceedings. After rendering the ruling to institute bankruptcy proceedings, the court shall immediately notify the supervisory authority.

6. The administrator of the management company or the investment company shall repay the funds owned by participants of collective investment undertakings or shall delegate the management of collective investment undertakings to another management company.

#### **Article 44. Specifics of reorganisation, unbundling and restructuring proceedings of management companies and investment companies**

1. A management company and an investment company shall be reorganised, unbundled and restructured following the requirements of this Law and legal acts regulating the relevant legal form.

2. A management company and an investment company may not be reorganised or restructured into a company that would be excluded out of the scope of this Law.

3. The terms and conditions of reorganisation of a management company or an investment company shall, in addition to other information required under the Civil Code, the Law on Companies, the Law on Partnerships, indicate the number of collective investment undertakings managed by the management company and the number of their participants (number of participants of the investment company), provide the particulars of collective investment undertakings transferred and received for management and their assets, own assets of the management company, the depositary, the conditions and time limits of transfer and receipt of liabilities of the management company or the investment company, property and non-property rights of participants of collective investment undertakings after reorganisation, time limits for the acquisition of such rights and responsibilities.

4. A management company or an investment company shall publish a notification about the reorganisation or transformation in accordance with the procedure set by laws of the Republic of Lithuania.

5. Adequate and accurate information about ongoing reorganisation or restructuring shall be provided to participants of the collective investment undertakings managed by the management company under reorganisation or restructuring (participants of the investment company) such as to enable them to take an informed judgment of the impact thereof on the investments of the participants. The information referred to in this part shall be communicated to the participants of the collective investment undertaking under the procedure specified in incorporation documents of the collective investment undertaking.

6. Information about the progress and time limits of the reorganisation or restructuring shall be provided to each shareholder of the management company, participant of the collective investment undertaking or supervisory authority who had requested that.

7. The authorisation of a management company or an investment company which ceases to exist after reorganisation shall be cancelled upon request of the management company or, in the absence of such request, on the initiative of the supervisory authority.

8. Where reorganisation of a management company or an investment company results in the establishment of a new company, such newly set up company shall obtain an authorisation for activities under the procedure laid down by this Law and by the supervisory authority.

9. A part of a management company, which continues in operation, may be unbundled and on the basis of the assets, rights and obligations assigned to such part one or more new management companies of the same legal form may be set up. A part of an investment company, which continues in operation, may be unbundled and on the basis of the assets,

rights and obligations assigned to such part one or more new investment companies of the same legal form may be set up. Provisions of this Law regulating the reorganisation of a management company or an investment company and provisions of the Civil Code regulating reorganisation by way division shall apply *mutatis mutandis* to the unbundling of a management company or an investment company.

#### **Article 45. Specifics of liquidation proceedings of management companies and investment companies**

1. A management company and an investment company shall be liquidated following the requirements of this Law and legal acts of the Republic of Lithuania regulating the relevant legal form.

2. A management company may be liquidated on the initiative of a general meeting of shareholders only when the management company has designated another management company for all collective investment undertakings or has wound-up all its managed collective investment undertakings intending to liquidate the management company and where the management company's authorisation has been withdrawn by decision of the supervisory authority.

3. A liquidator of the management company or the investment company going into liquidation shall be responsible for ensuring the compliance of the actions of the management company or the investment company during the process of liquidation with the requirements of this Law.

4. From the day of adoption of the decision to liquidate an investment company, the sale and redemption of the investment company's units or shares, contributions or their return shall be discontinued.

5. Assets of an investment company under liquidation shall be assessed and sold under the procedure down in this Law, other legal acts and incorporation documents of the collective investment undertaking. Settlement with participants of the investment company under liquidation shall be made in cash or in any other manner specified in incorporation documents of the collective investment undertaking.

6. If it is impossible to dispose of the assets of the investment company during its liquidation following the criterion laid down in Article 16(2)(4) of this Law, the management company or the investment company may apply to the supervisory authority with an application to allow disposal of the assets of the investment company disregarding this criterion. In its decision regarding the permission referred to in this paragraph of the Article, the supervisory authority shall take into account the goals and investment strategy of the investment company as well as the market situation.

7. The liquidator of the management company or the investment company under liquidation shall provide to the supervisory authority the information about the progress of liquidation.

8. An umbrella investment company shall be considered liquidated only after dissolution of all the sub-funds of collective investment undertaking and its deregistration from the Register of Legal Entities.

### **CHAPTER VI MERGER AND DISSOLUTION OF INVESTMENT FUNDS**

#### **Article 46. Merger of investment funds**

1. Investment funds operating under this Law may be merged either by way of formation of a new undertaking or by way of absorption upon receipt of a prior approval from the supervisory authority.

2. The merger of investment funds by way of formation of a new undertaking means transfer of all assets and liabilities of two or more investment funds merging into a new

investment fund.

3. The merger of investment funds by way of absorption means transfer of all assets and liabilities of one or more merging investment funds to a receiving investment fund.

4. Adequate and accurate information about the merger shall be provided to participants of the investment funds involved in the merger such as to enable them to take an informed judgment of the impact of the merger on the investments of the participants. The information referred to in this paragraph shall be communicated to the participants of the investment fund under the procedure specified in rules of the investment fund.

5. The following information shall be provided to the supervisory authority along with a request to approve the merger of investment funds:

1) information about the reasons of the merger;

2) information about the period after expiration of which the units of a merging investment fund will no longer be issued and redeemed;

3) a draft prospectus of the receiving investment fund or the investment strategy of the receiving investment fund (in the absence of a prospectus);

4) planned completion data of the merger.

6. The merger of investment funds shall be considered as completed when the final entries are made in the personal accounts of investment units following the conversion of the investment units of the merging investment fund into the units of the receiving investment fund.

7. The exchange ratio of the units of the merging investment fund into the units of the receiving investment fund shall be established on the day of completion of the merger specified in paragraph 6 of this Article.

8. Information about the progress and time limits of the merger of investment funds shall, at the request, be provided to each participant of the investment funds involved in the merger and to the supervisory authority.

9. The management company shall promptly and not later than within 5 working days notify the completion of a merger of investment funds to the supervisory authority in writing and to participants of the funds involved in the merger under the procedure laid down in the incorporation documents of the receiving investment fund.

10. The rules of the merging investment fund(s) shall be recognised as invalid at the request of the management company and shall be submitted to the supervisory authority together with the notification referred to in paragraph 9 of this Article or, where such notification is not made, on the initiative of the management authority.

#### **Article 47. Dissolution of an investment fund**

1. An investment fund shall be dissolved after the assets comprising it have been divided in the cases under the procedure laid down in the investment fund's rules and in this Law. A decision on dissolution of an investment fund may be passed by the management company's board or by the supervisory authority under the grounds stipulated in this Law and in the investment fund's rules.

2. Participants and creditors of the investment fund under dissolution shall receive adequate and accurate information about the reasons of dissolution of the investment fund, and the procedure of division of assets and settlement with the fund's participants and creditors. The information referred to in this paragraph shall be communicated to the participants and creditors of the investment fund under the procedure and within the time limits specified in rules of the investment fund.

3. If it is impossible to dispose of the assets of the investment fund during its dissolution following the criterion laid down in Article 16(2)(4) of this Law, the management company may apply to the supervisory authority with an application to allow disposal of the assets of the investment fund irrespective of this criterion. In its decision regarding the permission referred to in this paragraph, the supervisory authority shall take into account the goals and

investment strategy of the investment funds as well as the market situation.

4. After the decision to dissolve the investment fund, the sale and redemption of investment units shall be terminated.

5. When during dissolution of an investment fund it appears that the assets constituting the investment fund are insufficient for discharging the liabilities assumed on its account, the management company shall not be required to discharge the outstanding liabilities if the supervisory authority confirms that there is no information showing that management company improperly fulfilled the obligations laid down for it in this Law and in the investment fund's rules.

6. After satisfying the claims of creditors, the proceeds received from sale of the assets constituting the investment fund or the assets remaining after the sale shall be divided among participants of the investment fund proportionately to their holdings in common partial ownership or under the conditions and procedure laid down in the rules of the investment fund.

7. If there are any claims pending in court regarding the obligations to be discharged on account of the investment fund, the investment fund may be dissolved only after court decisions in such cases become enforceable.

8. After dissolution of an investment fund, the management company shall promptly submit to the supervisory authority the incorporation instruments of such investment fund along with the application to repeal them.

9. The supervisory authority shall recognise the rules of the dissolved investment fund at the request of the management authority or, in the absence of such request, on its own initiative.

10. An umbrella investment fund shall be recognised as dissolved only after dissolution of the last sub-fund of collective investment undertaking it consists of and after invalidation of its rules.

## **CHAPTER VII**

### **SUPERVISION OF MANAGEMENT COMPANIES AND INVESTMENT COMPANIES**

#### **SECTION ONE**

#### **STATE SUPERVISION OF ACTIVITIES OF MANAGEMENT COMPANIES AND INVESTMENT COMPANIES**

##### **Article 48. Supervisory authority**

1. Supervision of activities of management companies and investment companies shall be carried out by the supervisory authority.

2. The supervisory authority shall carry out the supervisory functions in accordance with this Law, the Law on Collective Investment Undertakings and the Law Markets in Financial Instruments. The supervisory authority shall have the rights and obligations specified in this and other laws of the Republic of Lithuania.

3. Decisions of the supervisory authority shall be reasoned.

4. Actions or omissions of the supervisory authority may be appealed against under the procedure set out in the Law on Administrative Proceedings of the Republic of Lithuania.

##### **Article 49. Functions of the supervisory authority**

The supervisory authority shall:

- 1) draft, approve, amend or repeal legal acts assigned to its competence by this Law;
- 2) provide clarifications and recommendations on the matters of application of this Law and legal acts implementing it;
- 3) grant authorisations to management companies and investment companies, withdraw

the authorisations and impose other sanctions;

4) authorise the approval of incorporation documents of collective investment undertakings and other documents and actions provided for in this Law;

5) verify whether shareholders of management companies, heads of management companies and investment companies satisfy the requirements imposed on them by this Law and other legal acts;

6) inspect activities of depositaries of collective investment undertakings;

7) give mandatory instructions to management companies, investment companies and depositaries with regard to elimination of infringements of legal acts;

8) have the right to obtain, in the manner set by laws of the Republic of Lithuania, information about persons who are required by this Law to have good repute;

9) collaborate with other institutions of the Republic of Lithuania, supervisory authorities of other Member States and third countries and share with them the information necessary for supervision;

10) exercise other functions set out in this Law and other laws of the Republic of Lithuania.

#### **Article 50. Powers of the supervisory authority in exercising the assigned functions**

1. The supervisory authority in exercising the assigned functions shall have the following powers:

1) require the cessation of any practice that is contrary to the provisions of this Law or legal acts of the supervisory authority adopted in their implementation;

2) require an investment company, a management company, their administrator, liquidator or a depositary to provide information or documents about activities of these undertakings;

3) adopt any measures specified in legal acts to ensure that investment companies and management companies continue to comply with the requirements of this Law and other legal acts;

4) require the suspension of the issue or redemption of investment units or shares, making or return of contributions in the interests of their holders, persons who have made the contributions or of the public;

5) suspend or withdraw the authorisation granted to a management company or investment company under the grounds provided for in this Law ;

6) allow auditors and experts to carry out verifications or inspections with respect to collective management undertakings or management companies;

7) take any required measures laid down by legal acts with regard to management companies and collective investment undertakings, if they infringe the requirements of legal acts of the Republic of Lithuania.

2. In addition to the powers referred to in paragraph 1 of this Article, the supervisory authority shall have the powers established in Article 71 of the Law on Markets in Financial Instruments.

3. The powers referred to in paragraph 1 of this Article shall be exercised by the supervisory authority in accordance with the procedure laid down by the Law on Markets in Financial Instruments.

#### **Article 51. Duty of board members and employees of the supervisory authority to protect confidential information**

1. Board members and employees of the supervisory authority shall, in accordance with the procedure laid down by the Law on Markets in Financial Instruments, protect the confidential information which came to their knowledge while performing the functions specified by this Law.

2. The right of the supervisory authority to communicate confidential information in



accordance with the procedure laid down in the Law on Markets in Financial instruments shall also apply to the information obtained while performing the functions specified by this Law.

**Article 52. Powers of the supervisory authority in considering the infringements of legal acts regulating activities of collective investment undertakings**

1. The supervisory authority shall have the right to organise and carry out inspections of activities of collective investment undertakings and their management companies in order to determine compliance with this Law and legal acts adopted on its basis.

2. Employees of the supervisory authority carrying out the inspection of activities of collective investment undertakings and their management companies shall have the powers set out in Article 81(2) of the Law on Markets in Financial Instruments. For the purpose of exercising these powers the supervisory authority may involve police officers.

3. Where the supervisory authority has good reason to suspect that the infringement of provisions of this Law and legal acts adopted on its basis and in order to avoid material damage or irreparable consequences to the investors' and/or participants' interests, it shall have the right to require the cessation of such activities until the investigation is carried out and a decision of the supervisory authority on the suspected infringement is adopted. The supervisory authority's decision to require the cessation of activities may be adopted only having obtained an authorisation from the court. The court authorisation shall be obtained in accordance with the procedure laid down in Article 81(4) of the Law on Markets in Financial Instruments.

4. The decision of the supervisory authority indicated in paragraph 3 of this Article may be appealed against to Vilnius Regional Administrative Court within one month of its adoption. The lodging of an appeal shall not suspend the enforcement of the decision.

**SECTION TWO**  
**LIABILITY FOR INFRINGEMENTS OF THIS LAW**

**Article 53. Sanctions applicable to management companies, investment companies, their managers and depositaries**

1. The supervisory authority shall have right to apply the following sanctions to management companies or investment companies:

1) give a warning of the shortcomings and infringements of activities and establish the time limits for their elimination;

2) impose the following fines established by this Law;

3) prohibit for maximum three months the conclusion of transactions regarding acquisition of investment instruments on account of a collective investment undertaking;

4) suspend the marketing or redemption of investment units or contributions of their return;

5) require a management company or an investment company to replace the manager;

6) suspend the authorisation of a management company or an investment company until the grounds for the suspension of the authorisation exist; when the grounds for the suspension of the authorisation cease, the supervisory authority shall immediately, but no later than within five working days of having satisfied itself that the grounds have ceased, renew the authorisation;

7) withdraw the authorisation for activities of a management company or an investment company.

2. The supervisory authority shall have the right to apply the penalties provided by the Code of Administrative Violations of Law of the Republic of Lithuania to managers or employees of management companies or investment companies.

3. The supervisory authority shall have the right to apply to a depositary the sanctions

referred to in sub-paragraphs 1 and 2 of paragraph 1 of this Article.

4. To management companies or investment companies shares (investment units of investment funds managed by management companies) whereof are marketed in public or it is proposed publicly to make contributions in breach of the requirements for drawing up, approval and publication of prospectuses established in the Law on Securities (except the exemptions from publication of prospectuses provided for in this Law), the supervisory authority shall apply sanctions in accordance with provisions of the Law on Securities.

#### **Article 54. Grounds for imposing sanctions**

1. Sanctions provided for by this Law may be imposed where at least one of the following infringements exists:

1) a management company, an investment company, their administrator, liquidator or a depositary has not provided the information or documents necessary to carry out supervision to the supervisory authority or has provided incorrect or misleading information;

2) a management company or an investment company no longer meets the requirements on the basis of which they have been authorised;

3) laws or other legal acts of the Republic of Lithuania have been infringed;

4) a management company or an investment company are incapable of fulfilling their obligations or according to the available information will not be able to fulfil them in future;

2. The supervisory authority shall impose sanctions in accordance with the procedure set by the Law on Markets in Financial Instruments.

3. A decision to impose sanctions may be taken no later than two years of the day of committing an infringement, and in the event of a single or continuous infringement – of the day of committing the last acts of a single infringement or of day of disclosing a continuous infringement.

#### **Article 55. Pecuniary penalties for the infringement of this Law**

1. In accordance with the procedure set by the Law on Markets in Financial Instruments, the supervisory authority shall have the right to impose the following pecuniary penalties on:

1) legal entities who claim that they or the collective investment undertaking they manage operate under this Law but do not have the authorisation specified by this Law and/or approval to the investment fund's rules – up to EUR 57 924; liability under this paragraph shall not apply to legal persons who stated in incorporation documents or the prospectus of a collective investment undertaking that they intend to operate or the collective investment undertaking they manage will seek to obtain an authorisation for activities or approval for the investment fund's rules under this Law, if the investor gets an explanation and the incorporation documents or prospectus of the collective investment undertaking clearly state the conditions and terms of such intention;

2) legal entities who make public offering of investment units or shares of collective investment undertakings or propose making contributions without the authorisation for activities referred to in this Law issued by the supervisory authority – up to EUR 57 924;

3) legal entities who do not comply with the requirements set out in Article 13(1)(3) of this Law – up to EUR 57 924;

4) legal entities who do not comply with the operational and prudential requirements set out in Article 13(1), sub-paragraphs 1, 2, 4–13 of this Law – up to EUR 57 924;

5) legal entities who do not comply with the procedure laid down in Articles 24, 25, 27, 28 and 29 of this Law for the issuance, acquisition and redemption of investment units or shares of, or making and return of contributions into collective investment undertakings – up to EUR 28 962;

6) legal entities who do not comply with the requirements laid down in Article 26 of this Law for non-cash settlement of investment units or shares, making a non-cash contribution, redemption and return of the contribution – up to EUR 57 924;

7) legal entities who do not comply with the requirements set out in Chapter III of this Law for the provision of information to investors – up to EUR 28 962;

8) legal entities who are in breach the prohibition laid down in Article 30(4) of this Law to lend assets for participants of a collective investment undertaking – up to EUR 28 962;

9) legal entities who are in breach with the requirements for calculating the value of net assets of a collective investment undertaking – up to EUR 28 962;

10) legal entities who do not comply with other requirements set out in this Law and other legal acts implementing it – up to EUR 28 962;

11) legal entities who do not comply with instructions of the supervisory authority, do not provide the supervisory authority with information specified in this Law and other laws of the Republic of Lithuania or hinder the supervisory authority or its authorised persons from carrying out investigations or inspections – up to EUR 28 962.

*Amendments to this paragraph of the Article:*

No [XII-1101](#), 23/09/2014, published in the Register of Legal Acts on 02/10/2014, i. k. 2014-13437

2. Where the infringements listed in paragraphs 1–9 of paragraph 1 of this Article result in generating illegal income, other property gains, avoiding losses or inflicting damage, and the amount of such income, other property gains, avoided losses or inflicted damage is larger than the amounts of pecuniary penalties referred to in the above-referred sub-paragraphs, the supervisory authority shall have the right to impose a pecuniary penalty up to the double amount of the illegally received income, other property gains, avoided losses or incurred damage.

3. Imposition of the sanctions referred to in paragraph 1 of this Article on legal entities shall not release their managers or employees from civil, administrative and criminal liability established by laws of the Republic of Lithuania and shall not prevent the supervisory authority from considering the suspension or withdrawal of authorisations or approvals granted by it.

#### **Article 56. Recovery of pecuniary penalties**

1. Pecuniary penalties shall be paid to the State budget not later than within one month as of the day the person receives the decision of the supervisory authority to impose the pecuniary penalty.

2. Any decision of the supervisory authority which has not been fulfilled voluntarily shall be enforced under the procedure established in the Code of Civil Procedure of the Republic of Lithuania.

### **CHAPTER VIII FINAL PROVISIONS**

#### **Article 57. Application of the Law only to collective investment undertakings intended for informed investors**

1. The collective investment undertakings and their management companies, which operated until the coming into force of this Law and which were excluded from the oversight of the supervisory authority, shall have the right to make public offers of investment units or shares or publicly invite to make contributions only upon receipt of an authorisation for activities of a management company or investment company and/or approval for the rules of an investment fund as specified in this Law and having satisfied other requirements set by this Law for public offering of investment units or shares or public proposal to make a contribution.

2. The undertakings, which operated before the entry into force of this Law, were

excluded from the oversight of the supervisory authority and were not engaged in public offering of investment units or shares or public proposal to make a contribution, may resort to the regulation established in this Law and apply to the supervisory authority with an application to issue an authorisation set out in this Law for activities of a management company or an investment company and/or for approval of the rules of an investment fund.

**Article 58. Entry into Force of the Law**

This Law shall come into force from 1 July 2013.

**Article 59. Implementation of the Law**

The supervisory authority shall adopt the implementing legal acts of this Law by 1 July 2013.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

DALIA GRYBAUSKAITĖ

**Amendments:**

1.

Seimas of the Republic of Lithuania, Law

No [XII-1101](#), 23/09/2014, published in the Register of Legal Acts on 02/10/2014, i. k. 2014-13437

Law amending Article 55 of the Law on Collective Investment Undertakings Intended for Informed Investors of the Republic of Lithuania No XII-376

2.

Seimas of the Republic of Lithuania, Law

No [XII-2216](#), 22/12/2015, published in the Register of Legal Acts on 30/12/2015, i. k. 2015-21011

Law amending Article 39 of the Law on Collective Investment Undertakings Intended for Informed Investors of the Republic of Lithuania No XII-376