

**REPUBLIC OF ALBANIA  
PEOPLE'S ASSEMBLY**

**LAW**

**No. 9572, DATE 3.7.2006**

**ON THE FINANCIAL SUPERVISORY AUTHORITY**

In line with articles 78 and 83 paragraph 1 of the Constitution of the Republic of Albania, with the proposal of the Council of Ministers,

**THE PEOPLE'S ASSEMBLY  
OF THE REPUBLIC OF ALBANIA**

**DECIDED:**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1**

**Scope of law**

The scope of this law is to define the rules concerning the establishment, tasks and functions of the Financial Supervisory Authority, which hence is going to be referred to as the Authority

**Article 2**

**Scope of activity of the Authority**

The scope of activity of the Authority is the regulation and supervision of:

- a. the securities market and the activity of the securities market, including the activities of other subjects included in this market;
- b. The insurance market and the activities of the insurance market, which includes all activities of insurance, re-insurance, brokerage and operations that derive from these activities;
- c. The supplementary pensions market and the activity of supplementary pensions market, which includes all activities of insurance of supplementary pensions offered by private supplementary pensions institutions;
- ç. and other activities related to financial leasing, factoring, mortgage and other non-banking financial activities according to the definitions provided by the relevant legislation, which are going to be referred to as “non-banking financial markets”.

## **CHAPTER II**

### **THE STATUS, STRUCTURE AND ADMINISTRATION OF THE AUTHORITY**

#### **Article 3**

##### **The status of the Authority**

The Authority is a public legal person independent with the residence in Tirana specialized in the regulation and supervision of the activity of the subjects engaged in one or more of the activities mentioned in article 2 of this Law.

The Authority for the activity it exercises in line with this law reports to the Assembly.

#### **Article 4**

##### **The Board of the Authority**

The Board is the decision-making body of the Authority. The Board comprises of 7 members, namely: one Chairman, two Vice Chairmen, and four other members.

#### **Article 5**

##### **Requirements for appointment of members of the Board**

Members of the Board are:

- 1. Albanian citizens;
- 2. university degree in economics, or law, or actuarial science;
- 3. at least 3 years professional experience in at least one of the following fields:
  - a. finance - accounting;

- b. administration of trade companies
- c. legal counseling of trade companies;
- ç. drafting of legislation;
- d. Actuarial science
- e. Social insurance and pensions
- 4. enjoy moral and professional integrity;
- 5. do not exercise any high ranking functions in a political party.
- 6. Have not been found criminally indicted through a court decision of final verdict
- 7. Meet the legal provision requirements regarding the conflict of interest.

The Chairman and the vice chairmen of the Board do not exercise other paid activities, except for lecturing, research and scientific activities or participation in local or international organizations related to the activity of the Authority.

The four other members of the Board may be full time employee in other institutions, but can not be members of more than one The Board or decision-making body of any other supervisory Authority.

Each member of the Board has the obligation to declare to the Speaker of the Parliament related to the circumstances anticipated in this article.

## **Article 6**

### **Appointment of the members of the Board**

The members of the Board get appointed by the Parliament.

The chairman, two Vice chairmen, and two of the members of the Board are appointed by the Parliament with the proposal of the Council of Ministers.

One member of the Board is appointed by the Parliament with the proposal of the Laws, Public Administration and Human Rights Parliamentary Commission.

One member of the Board is appointed by the Parliament with the proposal of the Economy and Finance Parliamentary Commission.

The Minister of Finance, Supervisory Board of the Bank of Albania, and the National Accounting Council each are entitled to propose to the Council of Ministers one candidate as member of the Board of the Supervisory Authority. The candidate proposed by the BoA, should not be a member of BoA's Board. The candidate proposed by the NAC should not be a member of the NAC Board. The Council of Ministers based on its two candidates and the candidates proposed by the Minister of Finance, the

Supervisory Board of the Bank of Albania, and the National Accounting Council drafts the proposals for the Parliament.

The proposal defines the functions that candidates will have/exercise in the Board of the Authority. In the case of the Vice Chairmen, the proposal also defines which will be the department that each will run.

The Parliament, in the decision for the appointment of each of the Vice Chairmen also determines the department that will be run by each of them.

## **Article 7**

### **The mandate of the Members of the Board**

The mandates of the Chairman, Vice Chairmen and other members of the Board are 5 years. In the instances, when the mandate of the chairman, vice chairmen or The Board's member has terminated, each will continue to exercise their duties until the appointment of the new members. One month before the termination of the mandate of each of the members, the Authority notify in a written form the Parliament, which starts the procedure for the appointment of the new member.

The individuals that have been once appointed as members of the Board of the Authority are entitled to be re-appointed only once. The individual who has been appointed once as Chairman of the Board of the Financial Supervisory Authority can not be re-appointed as Chairman.

At the end of his/her mandate, the member of the Board can not be employed for a period up to two years or be directly or indirectly paid from any of the subjects supervised by the Authority.

Individuals who held the position of either the chairman or of the Vice Chairmen of the Board, after their release from office, when is unemployed are entitled to one year of remuneration in the amount of the salary that they have had while in their position. The individual who has been re-appointed as member of the Board and the individual that is released from the duty based on article 8 of this Law are not entitled to this right.

## **Article 8**

### **Release from duty of the members of the Board**

The Parliament decides on the release from duty of any of the members of the Board, before the termination of the mandate provided for in the first paragraph of article 7 of this Law in the following cases:

- a. the individual resigns;

- b. the individual becomes physically incapacitated to accomplish the assigned task for more than 3 months;
- c. due to new circumstances the provisions envisaged in points 5 and 6 of the first paragraph of article 5, and the conditions foreseen in paragraphs 2, 3, and 4 of article 5 of this law are no longer respected;
- d. in case of absence, without proper ground, in more than three consecutive meetings;
- e. during exercise of his/her functions acts in violation of the obligation for maintaining confidentiality;
- f. Because of professional incapacity or negligence causes damages/detriment to the Authority or to the image of the Authority as an independent institution
- g. Lost of Albanian citizenship

The proposal for the release from duty for any of members of the Board is submitted to the assembly from each of the institutions that enjoy the right for the proposal of members of the Board and from other public institutions, whose function is related to that of the Authority. The proposal also should define the reason thereof and evidence related to the case. The Parliament may decide suspension from office of a given member until the end of the process of verification and until decision making. The Parliament, after the review takes a decision regarding the proposal for the release from duty, while approving or refuting the proposal.

In case of release from office before the deadline of any of the members of the Board, the other member is appointed via the same procedure as the member who is being released for the period until the completion of the deadline of the member who is released.

## **Article 9**

### **Competencies for the approval of the structure and salaries of the Authority**

The monthly salary of the chairman of the Board, of the vice chairmen and remuneration for the other members who do not carry out executive functions in the Authority are approved by the assembly, with the proposal of the Board of the Authority.

The structure of the Authority is approved by the Parliament with the proposal of the Board of the Authority.

The Authority, in addition to other units is composed of two main Departments. The name of these departments and other units of the Authority are determined related to the structure of the Authority.

The Board approves its regulation, related to the structure, specific functions and responsibilities of the departments and directorates, procedures for communication among them, and the duties of the civil servants and other employees.

## **Article 10**

### **Meetings of the Board**

The meetings of the Board are summoned with the initiative of the chairman of the Board or upon the request of each of its members sent to the Chairman. The Board meets at least once a month to discuss and decide regarding the agenda.

The meetings of the Board are chaired by the chairman, and in his absence according to his delegation of Authority, by one of the vice chairmen.

The meetings of the Board are considered valid when have participated at least 4 members of the Board.

The decisions of the Board are considered valid when at least four members of the Board have voted "in favor".

Abstention is not allowed in voting.

Minutes are kept for each meeting. The minutes are signed by all the members who have been present. The decisions of the Board are signed by the chairman and the responsible vice chairman for the issue for which the decision has been taken. In case the decision is of general nature, it is signed by the chairman and by both Vice chairmen.

The Board approves the regulation regarding the operation and maintenance of minutes of the meeting.

## **Article 11**

### **Transparency in the activity of the Authority**

The Board publicly announces the policies and practice it follows in the implementation of the legal and by-legal provisions, as well as the ground for their change/amendment.

The policies that the Board follows for the implementation of provisions according to the first paragraph of this article include also the means selected by the Authority and used independently from it in the course of fulfillment of the objectives of this law.

The Authority approves the regulations for the procedures of making available to the public its documentation and the deadlines and terms for maintaining/keeping certified copies of this documentation.

The Board approves regulations regarding the type of publications, deadlines for their publication, and formulation and operation of the web page of the Authority.

### **CHAPTER III**

## **THE OBJECTIVES, THE COMPETENCIES OF THE AUTHORITY AND THE RIGHTS OF THE BOARD**

### **Article 12**

#### **The objectives of the Authority**

In carrying out its functions and competencies foreseen in this law, the Authority has the following objectives:

1. To protect the interests of investors and insured persons;
2. To promote sustainability and enhance transparency and credibility of non-banking financial markets;
3. To ensure respect of law.

### **Article 13**

#### **The aim of the Authority's activity**

The Authority and its structures aim to:

1. to regulate the activity of the supervised subjects via drafting of by laws foreseen by this law, as well as to publish guidelines and explanatory notes/materials;
2. To ensure public supervision on the securities market, insurance market, and supplementary pensions schemes, which are regulated and function in line with the relevant legislation

In the exercise of the competencies foreseen in article 2 of this law, the Authority, enjoy full rights regarding:

- a) approval, issuing or rejection of licenses for subjects that wish to exercise activities in one of the non-banking financial markets;
- b) oversight and organization of the supervision of subjects that request to exercise activities in one of the non-banking financial markets; The subjects, either individuals or physical or legal persons, that exercise the activities mentioned in Article 2 of this law, are called “ supervised subjects”.

- c) Follow up the implementation of this law and its by-laws issued on its base and sectoral laws and their by-laws, and enforcement of the restraining measures.

## **Article 14**

### **The competencies of the Board**

The Board has the following competencies:

1. in line with the structure, the Board drafts rules regarding the job descriptions and the scope of work;
2. drafts and approves the basic principles of its activity;
3. drafts and approves rules and instructions envisaged in the law;
4. disseminates written instructions regarding interpretation and enforcement of laws that regulate the area of activity, and the by-laws for their implementation;
5. approves the format of licenses issued for the exercise of activities supervised by the Authority;
6. Issues, rejects, bring to a close, or revoke the licenses or permits to exercise activities in one of the non-bank financial markets supervised by the Authority. In line with this competency, the Board:
  - a) in compliance with the deadlines, terms and procedures foreseen in the Albanian legislation for securities approves or refutes the prospects for public offers or for the registration of new emissions for sale according to the rules of the regulated securities market;
  - b) supervise the enforcement of temporary or final decisions regarding publication of public bids of shares;
  - c) approves licenses for individuals or companies that wish to exercise activities in the securities market, including activities as security markets, registrars, depositories, brokers or investment advisors and other subjects involved in the market;
  - ç) approves licenses of companies that wish to exercise activities as administrators of investment funds, as well as licenses for the exercise of activities as investment companies;
  - d) endorse the statute and changes/amendments to the statute of the companies that wish to exercise activities in the securities market;
  - dh) in line with the legislation that regulates that the activity of insurance, re-insurance and brokerage in insurance and re-insurance approves licenses for the exercise of the activity of insurance, and for the exercise of the activity of insurance brokerage and operations that directly stem from these activities;



- e) reviews requests for expansion of the activities from subjects that exercise activities in the insurance market;
  - ë) reviews requests for exercise of activities outside the territory of the Republic of Albania, as well as for opening representation offices of foreign companies that exercise related activities with the objective of Authority's function;
  - f) reviews requests for the transfer of portfolio, and for undertaking some of the functions of the insurance company;
  - g) approves the merger or split of insurance companies (licensed);
  - gj) approves high management bodies, approves the statute of the insurance companies (licensed), and the changes to the statute before they are submitted for approval to the general assembly of shareholders;
  - h) reviews the requests for influential participation in the insurance companies, and the capital investments of the insurance companies;
  - i) approves volunteer liquidation, and decides on the start of procedures for bankruptcy of the insurance company;
  - j) approves high management bodies, approves the statute and the changes to the statute of the companies that wish to exercise activities as private pensions institutions prior to court registration;
  - k) undertakes appropriate corrective measures and on time when the insurance or re-insurance companies do not reach the required level of payment capacity or in case there is an observation of cases of failure to meet the payment capacity as determined in the legislation in effect in the area of insurance and re-insurance;
  - l) approves methodological guidelines, the format of the insurance contracts, lists, types of notes and other documents related to the activities of private pensions institutions;
  - ll) approves the regulations of private supplementary pensions, as well as the changes to these regulations, and controls their implementation;
  - m) approves the type, format and content of the reports submitted to the Board by the licensed subjects;
  - n) approves the transfer of the takeover of the supervised subjects.
7. restricts or suspends investments of the insurance and re-insurance company when it is certified that these investments are not in compliance with the established regulatory and when they put at stake the financial position of the company;
  8. within a month from the submission of the request, reviews the general and specific terms of the insurance contract, that the insurance company wants to put in the market;

9. approves the financial statements of the insurance and re-insurance companies;
10. approves and disseminates accounting standards, and the financial reporting formats mandatory for implementation by the licensees;
11. approves the list of the accounting experts who may exercise this function for the companies that operate in the non-banking financial markets;
12. in the instances spelled out in the legislation takes a decision for the start of the bankruptcy procedures for the supervised subjects, and when spelled out in the law, it also appoints the liquidator;
13. approves the policy for wages and remuneration of staff and other employers of the Authority;
14. in line with the activity of the Authority, it takes decisions for signing memorandums of understanding and exchange of information with authorities within and outside the country;
15. it discusses on periodical terms the reports related to the main activity of the main departments of the Authority;
16. approves the draft budget and the Annual Report of the Authority;
17. within June of each year, it approves the Industry Report regarding the status and perspective of the market supervised by the Authority;
18. in the regulations for internal administrative procedures, it approves the deadlines for submission of issues/cases for review;
19. approves the inspection manuals;
20. defines the policies on supervising and control of supervised subjects and the development of non-banking financial market;
21. decides on purchase of the counseling service from experts of the area;
22. approves rules on employment and resignation of the employees of the Authority
23. other competencies spelled out in this law or in other legislation of the area.

The decisions are reasoned and are subject of appeal to a court.

The administrative decisions of the Board are published in the forms decided by the Board for the publication of official notifications.

## **Article 15**

### **The competencies of the Chairman of the Board**

The chairman of the Board is also the general executive director. The chairman runs and administers the activities of the Authority and its administration, except for the activities which are the competencies of the vice chairmen of the Board or of the other members spelled out in this law or in any other act.

The chairman of the Board is in charge of:

1. representing the Authority;
2. calling and chair the meetings of the Board;
3. to coordinate the work of the two vice chairmen;
4. propose the ratio of salaries of staff and other employees of the administration;
5. organizing, run and control the activities of the administration;
6. organizing the work for the preparation and submission for approval by the Board of the draft budget;
7. organizing the work for the implementation of the budget, closure of the financial year, and of the financial report, and submit them for approval by the Board.
8. signs for criminal investigation in the instances of discovery of actions or failure of action that constitute a criminal act.
9. exchanging information with the Bank of Albania, other governmental institutions and agencies, local authorities and administration, NGOs that exercise their activity in the financial non-bank markets supervised by the Authority, and with the supervised subjects;
10. in cooperation with the Bank of Albania, through a joint order instructs and orders carrying out of inspections in the depository banks regarding the activities of the subjects licensed by the Authority, and which exercise activities in one of the financial non-banking financial markets supervised by the Authority.
11. requesting the Bank of Albania to exercise inspections within a given scope in the banks of this level, in compliance with the law "On second tier (commercial) banks in the Republic of Albania", and to be informed about the results of the control.
12. establishing advisory committees that support him in the exercise of his functions.

## **Article 16**

### **The competencies of the Vice Chairmen**

The competencies of the Vice Chairmen are determined in the rules of the job description prepared by the Board.

The Vice chairmen of the Board, according to the definition of the decision for their appointment are each managers of one of the two main departments of the Financial

Supervisory Authority. Within the legal competencies, the vice chairmen organize, run and are responsible for the work of the relevant departments.

## **Article 17**

### **Competencies of the members that do not hold executive functions**

The four members of the Board, who do not have managerial functions in the Authority, in cases of a request for the review of a special case related to deficiencies or law violations during the Authority's activity operate as the Audit Committee. The Members of the Board review the documentation and prepare detailed reports which they submit to the Board. In case of observation of violations or gaps, the report contains recommendations for the measures that need to be taken.

The audit committee appoints one of its members as a reporter who reviews the appeals and claims against the decisions of the Board and its bodies.

The rapporteur enjoys all rights to carry out a full-fledged inspection regarding the matter. For the appealed decisions, the rapporteur prepares detailed reports and submits them to the Board. In case of observation of violations or gaps, the report contains recommendations regarding the measures that need to be taken regarding the improvement of the situation.

The Board reviews the submitted report and decides regarding the proposed measures, if any.

The Parliament decides, if it is necessary the external auditing of the Authority.

## **Article 18**

### **The procedures for the execution of the rights of the Board and of the structures of the Authority**

In the exercise of the rights of the Board and all other structures of the Authority, members of the Board and the appointed employees with supervisory functions enjoy these rights in compliance with the procedures spelled out in this law, and with the duty that they are in charge of delivering:

1. to request from the supervised subjects and other subjects as well who have been acting in violation of the provisions of this law or other legislation that regulate the markets of the area, written explanation, documentation, including certified copies of documents, data, information and other data, and verify the documentation and the reporting. The documentation and written information shall be in Albanian;

2. to obtain data regarding funds, assets, including securities and other assets in the ownership of supervised subjects;

3. to inspect the accounts, trade/commercial documents, and other documentation related to the performed transactions;

4. to lead the third party inspections, which will include the review of that part of the documentation of the third party's activity, related to the issue that the supervised subject is inspected.

5. request from third parties information, and documentation including certified copies of documents, statement of accounts, and other necessary data for the process of verification;

6. to attend the meetings organized by the managerial and control structure of the supervised entities.

In order of the implementation of the exercise of the supervisory procedures, the vice chairman in charge can for a supervised subject ask from the Board the appointment of external experts, in compliance with the specific requests approved by the Board. In this particular instance, the incurred expenses shall be paid by the supervised subject.

Upon the request of the chairman of the Board, the banks for the supervised subjects by the Authority must provide information regarding the existing or closed account numbers and codes alongside with the data of the latest transaction.

All data and documents related to violation of this law, which contain the name of the individual in charge of their drafting, are submitted to the third parties by the chairman of the Board, only with the preliminary approval/consent of the above mentioned individual, except when the law foresees otherwise.

The police authorities, prosecutor's offices and all other state authorities shall within their competencies assist the work of the Authority and of its staff during the course of the exercise of their supervisory functions.

In the context of the exercise of the competencies of this law, the Authority may carry out general inspections, in cooperation with the tax authorities.

The members of the Board of the Authority and the other staff of the administration are not financially liable for damages caused in the course of the exercise of their inspection activity, except when they have committed a crime or have been acting wrongly on purpose.

## **Article 19**

### **The Inspection**

The inspection is exercised by the staff of the Authority according to the definition of the Order signed by the chairman or one of the Vice chairmen. The inspection takes place with prior notification or without.

The staff appointed according to paragraph 1 of this article inspects the following:

1. respect of the legal and by-legal provisions of the legislation that regulates the activities of the non-banking financial markets;
2. prevention and identification of violations.

In the course of the exercise of the inspection, the supervised subject shall have to ensure normal working conditions, and provide documentation or any other written information in Albanian.

The staff of the administration of the Authority shall have to introduce themselves at the outset of the inspection procedures, by presenting the order spelled out in the first paragraph of this article.

The supervised subject shall assist the Authority and its administration, and to this end it:

- a) provides them with the necessary means for inspection if so requested, and responds to the questions in the facilities of the Authority;
- b) from its staff appoints the contact persons that will help out in the process of inspection;
- c) ensures free access in the building;
- ç) makes available all the accounts, commercial documentation, and any other necessary documentation to determine the facts and circumstances related to the case for which the inspection is taking place;
- d) after a preliminary request, ensures and makes available photocopies of the accounts and other documents, putting in writing in capital letters: "the same with the original" and the date and signature of the person authorized by the inspected subject.

The final report for each inspection is prepared in two copies, and is signed by the staff of the Authority in charge with the inspection, and is submitted for countersignature to the person that represents the supervised subject.

## **CHAPTER IV**

### **THE ADMINISTRATION OF THE SUPERVISORY AUTHORITY**

#### **Article 20**

##### **Organization and Obligations**

The activity of the Authority is supported by an administration which operates in compliance with the internal regulation of the job description of the administration of the Authority, and the other regulations related to the operation of the administration, which are approved by the Board in line with the proposal of the chairman.

The working relations with the personnel of this administration are regulated according to the Labor Code.

The following individuals can not be employed in the structures of the Authority:

- a) have been criminally charged with a decision of the court of the final instance;
- b). they are shareholders in supervised subjects;
- c) have been members of executive or control entities of the supervised subjects during the last 2 years;
- ç) have family links with the individuals spelled out in letter “c” of this article, with members of the Board, or with other staff of the administration who have hierarchical relations;
- d) work part-time or full time in the supervised subjects;
- dh) do not have a good reputation and have violated previously the ethics.

#### **Article 21**

##### **Remuneration of the administration**

The internal rules regarding the level of salaries, monthly salary of staff of the Authority, and remuneration are established by the Board with the proposal of the chairman, in accordance with the regulatory framework of the field.

## **CHAPTER V**

### **DECLARATION OF CONFLICT OF INTEREST**

## **Article 22**

### **Conflict of interest**

The Members of the Board and the staff of the Authority shall declare their assets at the moment of the start of their duty, and further on in line with the legal provision in effect.

The Members of the Board do not participate in the procedures of discussion, voting and decision making in the cases when they have a direct or vested interest in the matter in discussion, which makes him/her bias in the official position.

The staff of the Authority does not participate in inspections of the supervised subjects if they have direct or vested interests in the matter for which the inspection is taking place, and which makes him/her biased in the official positions.

The Members e The Board and the staff of the Authority, in case they observe that they are in a situation spelled out in the second and third paragraphs of this article they declare this in written and withdraw from the review of the case.

In case there is an observation that even though they have been faced with a case spelled out in the second and third paragraphs of this article, and have not made the relevant declaration and consequently have not withdrawn from the review of the case, the individuals are either released from duty or fired. This measure does not have an impact on the decisions taken up until that moment.

## **CHAPTER VI**

### **CODE OF ETHICS, PROFESSIONALISM AND CONFIDENTIALITY**

#### **Article 23**

##### **Code of Ethics and professionalism**

The members of the Board and the other employees of the Authority in the exercise of their activity implement the code of ethics and the professional standards approved by the Board, according to the proposal of the chairman.

In those instances when there is an observation of the violation of the code of ethics disciplinary measures are taken up to release from duty or firing.

#### **Article 24**

##### **Confidentiality**



The information which is made available to the Authority, in the course of the exercise of the supervisory activity of the institution, and the dissemination of which might infringe the commercial interest or the good name of the supervised subject is classified under confidential information.

Commercial information which has been obtained by the supervised subject, and the obligation for the publication of which is spelled out in this law or other legislation is not considered confidential information. Classification of information is done through internal regulations approved by the Board.

Members of the Board, the staff and the other employees of the Authority shall preserve and not distribute confidential information.

In those instances when there is a verification of the violation of the terms spelled out in this article, administrative measures are taken up to the release from duty of the members of the Board, or firing of other staff of the Authority.

## **Article 25**

### **Termination of treatment as confidential information**

Information which falls under the confidential category is no longer regarded as such 3 years from the moment it has become available to the Authority. This deadline may be prolonged with a decision of the Board.

Exceptions regarding the respecting of the deadline spelled out in the first paragraph of this article are the cases when:

1. it is requested by the court authorities according to legal requirements ;
2. requested by the bank supervisory authorities or intelligent services according to the criteria and conditions spelled out in joint agreements;
3. requested by the supervisory authorities of other countries who have equal or similar activity with that of the Authority, based on joint agreements with the scope of exchange of information, and when these authorities ensure:
  - a) at least the same level of confidentiality for the information being forwarded;
  - b) have the authority and agree, that with the request of the Authority to make available the same type of information;
  - c) have justified reason for the request for information

In the provision of this information shall apply the legal provisions regarding personal data.

The information obtained by the supervised subject may be given back to it any time.

## **CHAPTER VII**

### **FINANCING AND THE BUDGET OF THE AUTHORITY**

#### **Article 26**

##### **Financing and the Budget**

The Authority is an independent institution which is financed mainly by its own resources. Any differences that arise between the funds sources and the expenditures for the activity, the Financial Supervisory Authority is financed from the state budget until the moment when the income of the Authority are sufficient to ensure its normal functioning. The part of the financing from the state budget for the Authority is approved by the Albanian parliament as an independent part of the state budget. The surplus of the budget for the financial year, goes to the state budget revenues within 4 months after the end of financial year, except the funds for ongoing investments.

The revenues of the budget of the Authority are generated from:

1. tariffs according to article 27;
2. revenues from sanctions in line with the legislation in effect in the area of non-banking financial markets,
3. sale of periodical publications;
4. financings from the state budget;
5. other resources and activities permitted by law, and the legislation in effect for the non-banking financial markets.

The tables of income and expenditures are drafted in compliance with the legal provisions in effect.

#### **Article 27**

##### **Tariffs**

The Authority applies tariffs for:

1. issuing of licenses for the exercise of activities stipulated in the Law "On Securities", Law "On Activities of Insurance, re-insurance and intermediaries in insurance and re-insurance", and the Law "On supplementary pensions and private pensions' institutions".
2. approval of the public offerings' prospectus;
3. approval of the decision of the General Meeting of Shareholders for liquidation of a company that exercises activities as a pension institution.
4. Approval of additional permit for the exercise of activities, which include a new type or a new insurance package;

5. insurance companies as contributions of 1,5% of gross premium collected from the insurance and re-insurance non-life activities, and the quota obtained from the activities of life insurance and re-insurance. Gross premium collected from the activities of non-life insurance and re-insurance, and the quota obtained from the activities of life insurance and re-insurance shall be certified by an independent external auditor of the insurance company. The reconciliation of contributions of this point according to the figures certifies by the independent external auditor shall take place within 30 days from the signing of the audit certificate.
6. The companies of supplementary pensions as annual premium, which must be not more than 1.5% of the contributions.
7. Review of the documentation for the publication of declarations or announcements/notifications regarding the issues spelled out in points 1, 2, 3, and 4 of this paragraph.

The list of the tariffs is subject of approval by the Parliament.

The tariffs for taxation purposes are reported as an expenses account of the supervised subject.

The chairman of the Board issues the order for the collection of tariffs whose liquidation deadline has expired, and which should be paid to the Authority. The appeal against the decision of the Board through the court does not suspend its execution.

Payments which according to the decision of a court of final instance are considered that are in excess are returned to the supervised subject.

## **CHAPTER VIII**

### **ACCOUNTING AND CONTROL OF THE AUTHORITY**

#### **Article 28**

#### **Reporting and control**

Within April of the next year, the Authority submits to the parliament:

1. the annual report of its activities ;
2. declaration of the annual financial position, and
3. the report on the realization of the budget plan.

The annual report of the Authority regarding its activities, in addition to other information that may be requested by the parliament shall contain the following information:

1. The suitability of the legal infrastructure of the financial market supervised by the Authority;
2. decisions regarding the licenses, approvals and other individual administrative acts issued in compliance with this law, refusal of issuing licenses or other requests that have been submitted to the Authority, registrations in the records, decisions appealed by the Board and in detail the claims supported by the decisions of the court;
3. result of the inspections carried on the supervised subjects;
4. public information policies, and those of domestic and international cooperation;
5. organization, financing and policies regarding the selection of the staff of the Authority;
6. other data in line with the decision of the Board.

The Authority submits to the Parliament any type of information and documents upon the request of the latter regarding its activities.

## **CHAPTER IX**

### **RECORDS OF THE AUTHORITY**

#### **Article 29**

#### **Records**

The Authority keeps open records with the public regarding:

1. companies that exercise activities in the securities market (stock exchange);
2. public companies and other companies issuing securities;
3. investment companies;
4. companies that administer investment funds; and private institutions of pensions
5. investment funds
6. investment brokers; investment advisors
7. insurance companies
8. insurance agencies;
9. companies that exercise activities as private pensions institutions

The Board, in line with the proposal of the chairman, approves other records and procedures regarding initial recording, maintaining and keeping of records, as well as the procedures that ensure the proper functioning of the registry as a full-fledged information system.

## **CHAPTER X**

### **CONSULTATIVE GROUP OF FINANCIAL STABILITY (GKSF)**

## **Article 30**

### **Mode of operation of GKSF**

The consultative group of financial stability, to which we shall hence refer as GKSF is established as a consultative entity to:

1. provides assistance in the development of joint policies, and coordination of the actions of the members of the council when it becomes necessary to carry out inspections over the supervised subjects;
2. ensures exchange of information among the members of the group;
3. assists in maintenance, stability and development of the financial markets in the Republic of Albania;
4. assists in improving and increasing the efficiency of the control over the participants in the financial markets.

Members of GKSF are:

- the Minister of Finance;
- The chairman of the Board of the Authority;
- The Governor of the Bank of Albania.

With the invitation of the GKSF, in its meetings may also participate the chairman of the Parliamentary Economic Commission, and other persons.

The GKSF makes to each of the representatives recommendations, and proposals that aim at improving practices of filling in and expanding the legal infrastructure of the financial markets.

Every member of GKSF enjoys the right to convene a meeting of the GKSF.

The meetings of the GKSF are chaired by the Minister of Finance. The first meeting of the GKSF is convened by the Minister of Finance within 3 months from the date of effectiveness of this law.

## **CHAPTER XI**

### **ADMINISTRATIVE SANCTIONS**

## **Article 31**

Any individual who prevents the Financial Supervisory Authority and its structures or the authorized staff of its administration in the exercise of their supervisory

competencies established in this law or any other act, if the violation does not constitute a crime are penalized with a fine ranging from Albanian Lek 50.000 75.000 In case of a repeat of the violation the amount is increase from Albanian Lek 80.000 to Albanian Lek100.000

Any violation according to the first paragraph of this article by individuals who are shareholders or partners of the legal entity and have managerial functions of the legal entity or are partners of the commercial company receive a fine from100.000 to125.000, and in case of a repeat of the violation the fine ranges from Albanian Lek 130.000 to Albanian Lek 150.000.

Administrative sanctions placed by the Board according to this article and the notification for the taken decisions are signed by the chairman of the Board. Appealing the decision via court does not hinder the execution of the decision of the Board

## **CHAPTER XII**

### **COMPETENCIES E AUTHORITY PER ZBATIMIN E MASAVE ADMINISTRATIVE**

#### **Article 32**

#### **Utilization of administrative measures**

The Board in order to prevent or suspend the violations of the law and the by-laws, to prevent or stop severe consequences of the violations of the law, and in case of hindrances in the exercise of the supervisory activity of the Authority may take decisions for the supervised subject. The orders shall contain the method that needs to be pursued by the supervised subject to correct the situation or to prevent the damage. The order contains the deadlines for these changes to take place or for the correction of actions as well as may put the obligation of changing of the administrators or managers when are cases of breaching of the law.

The Authority may inform the public regarding the measures it has taken in implementation of the first paragraph of this article.

## **CHAPTER XIII**

### **TEMPORARY PROVISIONS**

#### **Article 33**

#### **Termination and transfer of the Competencies**

On the date of effectiveness of this law, the decision-making competencies of the following terminate:

1. the Albanian Securities Commission established by Law no. 8080 dated 01.03.1996 “On securities”, amended;
2. the Insurance Supervisory Authority established by Law no. 9268 “On the organization and functioning of the Insurance Supervisory Authority”, amended.
3. the Inspectorate for the Supervision of Supplementary Private Pensions’ Institutions established by Law no. 7943, dated 1.6.1995 “On supplementary pensions and private pensions institutions”, amended.

The means, income sources, archives, liabilities and other competencies of the Albanian Securities Commission, Insurance Supervisory Authority, and Inspectorate of the Supervision of Supplementary Private Pension’s Institutions are included in the assets, archives, liabilities, and the competencies of the Financial Supervisory Authority. This process is closed at the moment of the merger of the administration of the Albanian Securities Commission, Insurance Supervisory Authority, and Inspectorate of Supervision of Supplementary Private Pensions’ Institutions.

The tariffs exercised from the three authorities remain in power and are implemented by the Authority until the approval of tariffs according to article 27 of this Law.

## **Article 34**

### **Appointment of the first members of the Board**

Within 5 days from entering into power of this Law, the institutions submit to the Parliament proposals for the members of the Board.

Within 10 days from receiving proposals, the parliament appoints members of the Board,

First time appointment of the members of the Board takes place according to the following deadlines:

1. the chairman – 5 years
2. One of the Vice Chairmen – 5 years, and the other 4 years according to the definition in the appointment decisions;
3. the other members respectively; the first – 5 years; the second – 4 years, and the other two – 3 years, in line with the definition in the decisions for their appointments.

The chairman of the Board convenes the first meeting of the Board within 7 days from this law’s effectiveness. The first meeting of the Board is organized with the call of the Chairman in a defined place.

## **Article 35**

### **Termination of functions and merges of administrations of the Albanian Securities Commission, Insurance Supervisory Authority, and of the Inspectorate of the Supplementary Private Pensions' Institutions**

With the effectiveness of this Law cease to exist the decision-making bodies of the Albanian Securities Commission, Insurance Supervisory Authority, and Inspectorate of Supplementary Private Pensions' Institutions. With the effectiveness of this Law terminates the mandate of the selected or appointed members in the decision-making bodies of these institutions.

Licenses and other individual administrative orders issued until this Law has entered into force from the institutions mentioned in the paragraph 1 of this article, remains into force.

Within 2 (two) months from the entering into force of this law are merged the administrations of the Albanian Securities Commission, Insurance Supervisory Authority, and Inspectorate of Supplementary Private Pensions' Institutions. In the course of this period, the chairman, according to the procedures approved by the Board starts recruitment of staff and other employees of the Authority, giving priority to the individuals already employed in these institutions. During this period, the persons that in these administrations exercise Executive functions have no decision-making competencies. They are responsibly for the delivery to the chairman of the Authority, the means, income sources, archives and other liabilities spelled out in the last paragraph of article 33 of this law.

The staff employed in the administration of the Albanian Securities Commission, Insurance Supervisory Authority, and Inspectorate of Supplementary Private Pensions' Institutions, who are not recruited by the Authority, are eligible to benefit from the rights spelled out in the Law "On the status of the civil servants".

## **Article 36**

### **Establishment of salaries, remuneration and structure for the first financial year**

For the first year of the activity, the structure of the Authority, the salary of the chairman, vice chairmen and remuneration of the other members of the board for the year 2006 shall be decided by the Council of Ministers, within 7 days from entering into power of this Law.

## **Article 37**

### **The budget of the Authority for the first financial year**



The budget of the Authority for 2006 is drafted based on the budgets of the Albanian Securities Commission, Insurance Supervisory Authority, and Inspectorate of Supplementary Private Pensions' Institutions.

The Minister of Finance is in charge of making the changes regarding the preparation of the budget of the Financial Supervisory Authority for 2006.

## **CHAPTER XIV**

### **FINAL PROVISIONS**

#### **Article 38**

##### **Terminology**

In this law the terms have the same meaning as the laws that regulate each of the non-banking financial markets, which are the subject of supervision by the Authority.

In this law titles means securities.

#### **Article 39**

##### **Drafting of the regulations of the Authority**

The Board within two months from the date of the beginning of its first meeting, drafts and approves the rule anticipated in the fourth paragraph of article 9 of this Law.

The Board within 6 months from the date of the beginning of the work drafts and approves other rules regarding the daily running of the institution.

#### **Article 40**

##### **Cancellation**

Law no. 9268 dated 29.07.2004 "On the organization and functioning of the Insurance Supervisory Authority" is cancelled.

The by-laws in line with Law no. 8080 dated 01.03.1996 "On securities", amended; Law no. 9267 dated 29.07.2004 "On activities of insurance, re-insurance and intermediaries in insurance and re-insurance", amended; and Law no. 7943, dated 01.06.1995 "On supplementary pensions and private pensions' institutions", amended by the Council of Ministers and which fall against this law are canceled.

The by-laws approved by the authorities regulated by the laws spelled out in the paragraph 2, within 6 months from entering into force of this Law are cancelled.

The Board of the Authority, within 6 months from entering into force of this law, review and approves all by laws which were approved before from the regulatory authorities of the laws mentioned in paragraph 2 of this article.

#### **Article 41**

##### **Changes to Law no. 8080 dated 1.03.1996 “On securities”**

In the law 8080, dated 1.3.1996 “On Securities” should make the following changes:

1. All over the law the word “Commission” is substitute with “Authority”
2. Chapter II and X are canceled
3. Points 2, 3 and 4 of article 64 are canceled.
4. Article 67 is cancelled.

#### **Article 42**

##### **Changes to Law no. 7943, dated 1.6.1995 “On Supplementary Pensions and Private Pensions’ Institutions”**

In the Law no. 7943, dated 1.6.1995 “On Supplementary Pensions and Private Pensions Institutions” should be made the following changes:

1. Points 4 and 5 of article 1 are cancelled.
2. In point 10 of article 1 of Law no. 7943, dated 1.6.1995 “On supplementary pensions and private pensions’ institutions”, and anywhere used, the term receiving deposits shall be replaced with depository.
3. In article 19 the word inspectors is replaced with the appointed staff.
4. In Law no. 7943, the word permit is used shall be replaced with the word license.
5. The word Inspectorate to be replaced by the Authority.
6. Chapter XI is cancelled.

#### **Article 43**

##### **Effectiveness**

This law enters into force 15 days after it is published in the Official Gazette.

**CHAIRMAN**

**Jozefina Topalli (Coba)**