



REPUBLIC OF ALBANIA

**THE FINANCIAL SUPERVISORY AUTHORITY
THE BOARD**

REGULATION

**ON THE LICENSING OF THE BROKERAGE/ADVISORY COMPANIES, BROKER
AND INVESTMENT ADVISOR**

*Approved by Board Decision No. 165, dated 23 December, 2008
Amended by Board Decision No. 152, dated 30 November, 2017
Amended by Board Decision No. 218, dated 31 October, 2018*

**CHAPTER I
General Provisions**

**Article 1
Scope of Application**

This regulation determines:

- Documentation, accompanying the application and the criteria for licensing activities in the securities trading and investment advice;
- Content and the procedure of dealing with the licensing application;
- Procedure of approving the statute of a company, which shall be established to carry out securities trading and securities advice, as well as amendments of these acts;
- Documentation to grant approval to the members of the Board of Directors and the executive directors of the brokerage and advisory company.

**Article 1/1
Legal basis**

This regulation is drafted on the basis and pursuant to Article 14, paragraph 2 of Law no. 9572, dated 03.07.2006 on "Financial Supervisory Authority", as amended, and Article 48, 58 and Article 59 of Law No. 9879, dated 21.02.2008.

**Article 2
Definitions**

For the purpose of this Regulation the followings terms shall have the meaning as follows:

- a) **“Brokerage Company”** has the same meaning as the term brokerage company in Law No. 9879, dated 21.02.2008 “On Securities”. The brokerage company carries out trading activity of securities, purchase and selling of securities upon the client’s (broker) order, as well as purchase and selling of securities for its own account (dealer).

- b) **“Investment advisors”** means the brokerage company, which carries out only investment advisory services for investing in securities.
- c) **“Broker”** has the same meaning as stock exchange broker.
- d) **“Capital stock identity”** means data on the broker and the origin or the source of the capital.
- e) **“Authority”** means the Financial Supervisory Authority.
- f) **“Applicant”** means the company or the individual who applies to the Authority to acquire a license.

Article 3 **Securities trading activity**

Securities trading activity shall include:

- a) Purchasing and selling of securities upon the client’s order and through receiving and execution of orders (broker).
- b) Purchasing and selling of securities on for its own account (dealer).
- c) Occasional advising of clients in terms of purchasing and selling of securities as a part of its activity.

Article 4 **Advising Activity**

Advising activity shall include constant advice with profit making purposes or the offer to provide such a service. This activity shall include the following services:

- a) Advising on securities and their trading, public offering, taking control, setting up of portfolios, as well as, other similar operations.
- b) Organization of purchasing, selling or exchanging of securities through Brokerage Company.
- c) Study, preparation, supervision and implementation of an investment plan in securities.
- ç) Preparation of documentation as required by the law on securities and the relevant legalization.

Article 5 **Requirements concerning the documentation for licensing application**

- a) All declarations and copies of documents required under this regulation shall be in the original language. In the event the original language of document is not in Albanian, the notarized translation in Albanian and the relevant certification from the relevant institutions, as set forth in the effective legislation, shall be attached to this document.
- b) Documentation shall not be older than three months preceding the filing of the application, except for the financial reports.
- c) The license applicant shall be responsible for the authenticity and accuracy of the documentation delivered to the Authority.
- d) If deemed necessary, the Authority may ask for additional documents or information in relation to the applicant.
- e) The Authority has the right to check the authenticity of the delivered documentation.

CHAPTER II
LICENSING REQUIREMENTS

PART I
Adoption of the draft statute

Article 6
Requirements to adopt the draft statute

- a) The draft statute of a company, which is not a bank and the scope of which activity incorporates carrying out of the transactions operation with securities, shall be delivered to the Authority prior to delivering it to the National Business Center.
- b) The draft statute shall be accompanied by an official application to acquire the Authority approval.
- c) The name of the company shall represent the activity to be carried out and the scope shall stipulate the activity/activities defined in Article 42 of Law No. 9879, date 21 February 2008 “On Securities”.
 - 1. [The application accompanying the draft statute by the documentation provided in point II, Article 9 of this Regulation.](#)
- d) In cases when a bank applies to carry out an activity, which is linked with securities transactions, the article of the statute defining the scope of work of the company shall stipulate the activity, for which the license is requested.

Article 7
Reviewing of the application to adopt the draft statute

- a) The Authority, within 30 days after the delivery of the complete documentation, shall review the accepted draft, the compliance of the content of the statute with the activity for which an application for licensing is requested and shall therefore make a decision to adopt it or, recommend amendments of the data included in the draft.
- b) The decision shall be forwarded to the applicant within 5 working days and it shall be part of the practice, which is delivered to the National Business Center.
- c) Adoption of the draft statute shall not affect the Authority to take later decisions with regard to licensing the same entity as a brokerage company.

PART II
THE LICENSING APPLICATION FOR THE BROKERAGE/ADVISING COMPANY

Article 8
Application form

- a) The application of the brokerage company to operate in the capacity of a broker or investment adviser shall be made based on the application form attached to this regulation.
- b) The application form, notarized, shall be signed and sealed by the founders of the company and the executive director.

Article 9

Documentation accompanying the application form

I. a) Documentation on the applying company:

1. Notarized copy of the statute and the founding act;
2. Extract of the registration in the National Business Center;
3. Organizational chart of the brokerage company;
4. Document which confirms the payment of the initial capital according to Article 44 of the Law on securities, a document, which remains blocked in one of the second tier banks operating in the territory of the Republic of Albania, until the receiving of the license;
5. The decision of the supervisory/administrative board referring to the type of activity to be carried out by the company;
6. A document, which confirms that the brokerage/intermediary company has hired a broker and/or an investment advisor;
7. A description on the infrastructure and software to be used by the brokerage company in the course of securities trading;
8. Data about the name, address and the number in the commercial register of the company, for which the applicant of a brokerage company is a principal shareholder/partner or exercises control over it;
9. If the company has exercised another activity prior to the application to operate as a brokerage company or investment advisor, then, besides the aforementioned documents, it shall also submit the following information:
 - copy of the most recent balance sheet and financial statement, profit-losses, such copy shall be certified by the accounting officers of the company, including every document as required by law;
 - extract from the National Business Center confirming that this entity has not been subject to bankruptcy proceedings;
10. certificate issued by the tax administration confirming payment of taxes;
11. Document proving payment of the duties to the Authority.

b) When the applying company is a bank, apart from the aforementioned documents of paragraph I/a/6, I/a/7, I/a.11 of this Article, shall also submit the following documents:

- License to carry out the bank activity issued by the Bank of Albania besides the attached annex, which shall include also the activity for which the license application is required.
- Decision of the management board to carry out the activity in the area of securities and/or advising.
- The unit that will carry out the brokerage/advising service

II. Documentation on the identity of the shareholding capital:

a) Every shareholder of the applying company shall declare that he/she has no other shares or interests in other brokerage companies.

b) when the shareholder is a legal person, the applying company shall submit the following documentation:

1. Extract of its registration in the National Business Center;
2. Financial reports for the two recent years,
3. Document certifying that this person has unpaid duties to the state;

4. Document about the origin of the capital to show that the capital is not composed of public loans, bank loans or advance payments from entities and third parties;
5. Document certifying the financial capacity of the applying company;
6. Document issued by the competent bodies, certifying that:
 - i. The company is not under criminal proceeding
 - ii. The company is not under a process for any criminal offence
 - iii. The company has never been convicted for any criminal offence
7. List of natural persons who are the final shareholders of the applying company; Including the name, surname, residence address and other identifying data, total number of the shares they own and the share in the shareholding capital;
8. List of persons that manage the applying the company;
9. Declaration/documentation which certifies that the bankruptcy procedures for the assets of the applying company have not started yet;
10. Opinion from the respective foreign authorities, if deemed necessary.

c) when the shareholder is an individual, he/she shall provide the following documentation:

1. Identity document (ID, passport);
2. Information where he/she is employed, member of the Board of Directors/ Supervisory board, as well as shareholder (write the complete list of companies and their address);
3. Documents certifying its financial situation (document relating to the ownership of movable and immovable property, bank account certificates, documents proving the debt, etc.);
4. Declaration on the origin of capital indicating that the capital is not made up of public loans, bank loans or advanced payments from entities and third parties;
5. Documentation issued by the competent authorities, proving that:
 - i. The person does not have any criminal proceeding;
 - ii. The person has not been prosecuted for criminal offenses;
 - iii. The person has never been convicted;
 - iv. The person does not have unpaid duties.

III. Documentation on the activity to be carried out and its organization:

- a. Business plan for the three previous years of the activity, including financial statements;
- b. A copy of the template contract with the client;
- c. Internal rules/procedures regulating:
 - i) Criteria for recognizing the client (KYC);
 - ii) Actions for distinguishing and identifying clients' equipment;
 - iii) Preserving data confidentiality;
 - iv) Exercising of internal control to ensure compliance of the broker's/investment advisor's activity with the laws and regulations in force;
 - v) Reviewing the clients' complaints and take measures regarding these complaints;
 - vi) Methods of assuring and maintaining of sufficient financial resources to fulfill responsibilities and assurances in the trading of securities and investment advising in addition to measures to cope with the risk of losing them;
 - vii) keeping of appropriate records;
 - viii) Measures for the prevention of the money laundering and countering the financing of terrorism.

Part III
LICENCING APPLICATION BY THE BROKER AND INVESTMENT ADVISOR

Article 10
Application form

- a) Application to acquire a license to operate, as a broker or investments advisor shall follow the application form attached to this regulation.
- b) The application shall be signed by the natural person who is submitting a license application in the presence of a notary.
- c) The application form shall be sealed and signed by persons authorized to represent the company where the applicant is employed and will carry out securities transactions with the securities. In doing so, the company shall authentically confirm in this application the employment data.

Article 11
Documentation

- a) Documentation accompanying the application form shall be the following:
 - 1. Application on the type of the activity to be carried out and the company it represents signed by the applicant;
 - 2. Identity document;
 - 3. Document which determines and regulates the relations between the company and the applicant;
 - 4. Document certifying that this person has never been convicted for any criminal offence, as well as a document issued from the Court or Prosecution proving criminal records;
 - 5. Document certifying the temporary or permanent address of the Albanian national, as well as, the certificate of residence in the territory of the Republic of Albania in the event of foreign nationality;
 - 6. Notarized copy of the university diploma;
 - 7. CV accompanying the relevant certificates/documentation, which determines the relevant qualification and experience of at least one year in positions based on work experiences regarding the actions, analysis, advising, investment in securities or managers in these positions as well as instructors in this sector;
 - 8. Positive references about the professional reputation;
 - 9. Document certifying that the broker/advisor has passed the test of professional knowledge if the Authority has decided its enforcement;
 - 10. Document proving payment of the relevant fees to the Authority;
 - 11. Document proving completion of a professional training in the area of operating with securities;
- b) When submitting a licensing application as an investment advisor, the applicant, besides the aforementioned documents, the application form shall be followed also by a document which certifies the fulfillment of one of the following conditions:
 - i. Completion of a postgraduate training in the area of financial investments or, in the area of financial analysis for a period not shorter than 1 (one) year;
 - ii. Professional experience inside or outside the country for a period not less than 3 (three) years in the area of providing advice in the area of securities advice.

Article 12
Reliability requirements for the advisor and the broker

The investment advisor and the broker shall:

- a) shall not have any past criminal records or any criminal proceeding filed with the court;
- b) shall not be an administrator, manager or controller of the companies towards which the bankruptcy proceedings have started or, which have gone bankrupt;
- c) shall not be concurrently an employee, member of the Supervisory board or Board of Directors in another brokerage or advisors company;
- ç) shall be resident in the Republic of Albania or, have a valid permit of residence issued by the competent bodies;
- d) shall have a sound financial condition to meet his responsibilities;
- dh) shall have a good reputation.

Part IV
APPROVAL BY GOVERNING BODIES

Article 13
Submission of the application

- a) The application to obtain the approval of the Authority for the candidate members of the management board and the executive directors of the brokerage company shall be submitted by the supervisory board/board of directors of the company. Requirements for the candidatures in function of the member of the supervisory board/board of directors submitted by the General Assembly of the company.
- b) In the case of a bank, the application to obtain an approval from the Authority regarding the candidature for the manager's position in connection with securities transactions carried out by the bank, shall be submitted by the board of directors of the bank.

Article 14
Requirements for the members of the governing bodies of the brokerage company

The member of the management bodies of the brokerage/advisor company:

- a) shall not be a person subject to any criminal offence or have any criminal proceedings;
- b) shall not be an administrator, manager or controller of the companies, to which the bankruptcy procedures have started or which have gone bankrupt;
- c) shall not be simultaneously a staff member and a member of the supervisory board or of the board of directors in another brokerage company;
- d) shall be resident in the Republic of Albania or, have a valid permit of residence issued by the competent bodies;
- e) shall have a sufficiently sound financial condition to meet the responsibilities;
- f) at least, one of the members of the board of directors must know Albanian language in the event all the candidates for members of the management board shall be foreign citizens;
- g) shall have a good reputation.

Article 15

Documentation

Documentation accompanying the application regarding the candidacy for member of the governing bodies shall include the following:

1. Identity document;
2. CV accompanying the relevant certificates, which prove the relevant qualification and experience, particularly in the area of securities transactions;
3. a notarized copy of the diploma;
4. Document certifying the temporary or permanent address of the Albanian national, the certificate of residence in the territory of the Republic of Albania in the case of a foreign nationality;
5. the employment contract with the brokerage company/decision of the board of directors in the event of the member of the supervisory board/board of directors;
6. Proficiency certificate in Albanian language of at least one of the members of the governing board when it is consisted by foreign citizens;
7. Document issued by the relevant state body, proving that this person has not been subject to any conviction that will constitute a reason for refusing the license;
8. Data on the possession of property in other companies by specifying the names, the addresses and the size of the capital;
9. Certificate on outstanding financial duties ;
10. Reference about his professional reputation;
11. Document on the fulfillment of the requirements provided in Article 14, items a), b) and c) of this regulation.

CHAPTER III

LICENSING PROCEDURE

Article 16

Licensing test

- a) The applicant applying for a broker's or investment advisor's license depending on the judgment of the Capital Market Supervision and Funds Department, may become subject to a professional test organized by the Authority.
- b) The professional test shall be organized by the Authority, in compliance with the requirements provided in the relevant act for such a purpose.

Article 17

Granting the license

- a) The Authority shall take a decision on the application and inform the applicant within 60 days after the registration the date of the application.
- b) The applicant within 30 days after submitting the application, shall complete all documentation as required under this regulation.

- c) The Capital Market Supervision and Funds Department/Licensing Office shall inform the General Executive Director 20 days prior to the deadline about the completion of the final deadline of reviewing the application.
- d) The Authority shall take a decision or refuse the application or it may ask the fulfillment of a number of specific conditions before granting the license, by setting also deadlines. If the applicant who has submitted the application fails to eliminate the shortcomings specified in the notice sent by the Authority within the time period decided by the latter, then it shall be deemed that the applicant has given up the application.
- e) The Authority shall specify the type of transactions, for which the license is issued, in its decision of issuing the license to carry out transactions in securities.

Article 18

License characteristics

- a) The form and the content of the license shall be approved by the Authority's Board. It shall contain the following necessary elements:
 - 1. The legal basis for issuing the license;
 - 2. The name and address of the licensed person;
 - 3. The type of activity to be carried out. The license shall be issued for the following types of activities:
 - a. Trading Activity;
 - b. Advising activity;
 - c. Broker;
 - d. Investment advisor;
 - 4. Type of securities to be traded according to the license. The license shall be issued for one or several securities;
 - 5. Specifically the stock exchange or the regulated market and territory, within which the activity specified in the license shall be carried out;
 - 6. License number;
 - 7. [Signature of the General Executive Director](#);
 - 8. Authority's seal;
- b) The license shall be issued for an indefinite term;
- c) The license shall be drafted in two copies in Albanian language. One copy shall be delivered to the licensee and one copy shall be stored in the archive of the Authority.
- d) The license is nontransferable.
- e) The license shall be always displayed in the places where the licensee carries out the activity described in the license or whenever such a thing shall be requested. This request shall be deemed unfulfilled when the license is not displayed in a visible way.
- f) The license shall inform the Authority in writing about the commencement, suspension, recommencement of the activity, for which he has been licensed, as well as, for every proposed change or, about the occurrence of any event, which may significantly affect his activity or any change on the data on which the license has been issued.

Article 18/1

1. The brokerage/advisory company is obliged to meet during the whole period the requirements of this regulation, as well as the laws and by-laws in force.
2. Control over compliance with the laws and by-laws requirements is carried out through periodic company reports and on-site inspections.
3. The brokerage/advisory company is obliged to notify in writing the Authority of any change in the members of the governing bodies and of the shareholders, as well as any changes related to the incompliance with the requirements of this regulation regarding the members of the governing bodies and shareholders for whom it is given prior approval.
4. Nevertheless, paragraph 3 of this regulation, the brokerage/advisory company is obliged to notify in writing the Authority of any other change.
5. Any amendment shall be approved by the Authority.

**CHAPTER IV
PAYMENTS TO THE AUTHORITY**

Article 19

(Abolished)

**CHAPTER V
ENTRY INTO FORCE**

Article 20

Entry into Force

This regulation shall enter into force on the date of its approval.

**CHAIRPERSON
Elisabeta Gjoni**