

Pursuant to Article 470, paragraph 1 of the Capital Market Act (Official Gazette 88/08, 146/08), the Croatian Financial Services Supervisory Agency issued on its session on 07 January 2009

ORDINANCE

ON ACCEPTED MARKET PRACTICES

Article 1

This Ordinance stipulates the procedures of passing the accepted market practices according to the Article 470 of the Capital Market Act.

Article 2

In the case of possible changes in national legislation, the Agency shall start the procedures of consultations with market participants.

Procedure of consultations shall be organised in the way that the representatives of all market participants are included in the widest possible scope.

Article 3

Factors to be taken into account when considering market practices

(1) For the purposes of applying Articles 455 and 466, paragraph 1 point 1 of the Capital Market Act, the Agency shall ensure that the following non exhaustive factors are taken into account, without prejudice to collaboration with other authorities, when assessing whether they can accept a particular market practice:

- (a) the level of transparency of the relevant market practice to the whole market;
- (b) the need to safeguard the operation of market forces and the proper interplay of the forces of supply and demand;
- (c) the degree to which the relevant market practice has an impact on market liquidity and efficiency;
- (d) the degree to which the relevant practice takes into account the trading mechanism of the relevant market and enables market participants to react properly and in a timely manner to the new market situation created by that practice;

(e) the risk inherent in the relevant practice for the integrity of, directly or indirectly, related markets, whether regulated or not, in the relevant financial instrument within the whole European Union;

(f) the outcome of any investigation of the relevant market practice by the Agency or other competent authority in the Member States, in particular whether the relevant market practice breached rules or regulations designed to prevent market abuse, or codes of conduct, be it on the market in question or on directly or indirectly related markets within the European Union;

(g) the structural characteristics of the relevant market including whether it is regulated or not, the types of financial instruments traded and the type of market participants, including the extent of retail investors participation in the relevant market.

The Agency shall, when considering the need for safeguard referred to in paragraph 1 of the point (b) of this Article, in particular analyze the impact of the relevant market practice against the main market parameters, such as the specific market conditions before carrying out the relevant market practice, the weighted average price of a single trade or the daily closing price.

(2) The Agency shall not assume that those practices, in particular new or emerging market practices are not acceptable because they have not been previously accepted.

(3) The Agency shall review regularly the market practices it has accepted, in particular taking into account significant changes to the relevant market environment, such as changes to trading rules or to market infrastructure.

Article 4

Consultation procedures and disclosure of decisions

(1) For the purposes of applying the Articles 455 and 466, paragraph 1, point 1 of the Capital Market Act, the Agency shall ensure that the procedures set out in paragraphs 2 and 3 of this Article are observed by the Agency when considering whether to accept or continue to accept a particular market practice.

(2) The Agency shall consult, before of accepting or non-accepting relevant market practice, appropriate relevant bodies such as representatives of issuers, financial services providers, consumers, the authorities and market operators. Procedures of consultation include consultation of other appropriate relevant bodies, in particular where there exist comparable markets, i.e. in structures, volume, type of transactions.

(3) The Agency shall publicly disclose its decisions regarding the acceptability of the market practice concerned, including appropriate descriptions of such practice. The Agency shall transmit its decision as soon as possible to the Committee of European Securities Regulators which shall make them immediately available on its website. The disclosure shall include a description of the factors taken into account in determining whether the relevant practice is regarded as acceptable, in particular where different conclusions have been reached regarding the acceptability of the same practice on different Member States markets.

(4) When the supervision or investigatory actions on specific cases have already started, the consultation procedures set out in paragraphs 1 to 3 of this Article may be delayed until the end of such investigation and possible related sanctions.

(5) A market practice which was accepted following the consultation procedures set out in paragraphs 1 to 3 of this Article shall not be changed without using the same consultation procedures.

Article 4

This Ordinance shall come into force on the eighth day after its publication in The Official Gazzette.

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President of the Board

Ante Samodol