

**ORDINANCE No. 37**  
**from 29 November, 2006**

**on the recognition of the accepted market practices**

*Adopted by Decision No. 71-H from 29 Nov., 2006 of the Financial Supervision Commission,  
prom. SG, iss. 101 from 15 Dec., 2005, in effect as of 1<sup>st</sup> January, 2007*

**Art. 1.** This Ordinance settles:

1. The factors, which are taken into account by the Financial Supervision Commission, hereinafter referred to as the "Commission" in the recognition of the adopted market practices;
2. the consultation procedure in the recognition of the adopted market practices;
3. the disclosure of the decisions for recognition of the adopted market practices.

**Art. 2.** Adopted market practices shall be practices which are reasonably expected on one or more markets of financial instruments and have been recognized by the Commission under this Ordinance.

**Art. 3.** In the recognition of an accepted market practice, the Commission shall take into account at least the following factors:

1. the level of transparency of the relevant market practice to the whole market;
2. the need to safeguard the efficient operation of the market mechanisms and the proper interplay of the supply and demand;
3. the degree to which the relevant market practice has an impact on the market liquidity and efficiency;
4. the degree to which the relevant market practice takes into account the trading mechanisms 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;
5. the inherent in the market practice risk, direct or indirect, for the integrity of the relevant markets in the Republic of Bulgaria or the other Member States, where the financial instruments have been admitted to trading, irrespective of whether regulated markets or not;
6. the outcome of the investigation of the market practice by the Commission or other competent authorities from Member States, in particular whether the relevant market practice breaches provisions designed to prevent the market abuse on the market in question, or on others, directly or indirectly related markets in the Member States;
7. structural characteristics of the relevant market, including whether it is regulated or not, the types of financial instruments traded on it and the types of market participants, including the extent of retail investors participation in the relevant market.

(2) In the cases under para 1 item 2, the Commission shall analyze the impact of the relevant market practice against the main market parameters, such as specific market conditions before the establishment of the relevant market practice, the weighted average price of a single session or the daily closing price.

**Art. 4.** The Commission may not assume practices, in particular new or emerging market practices, to be unacceptable simply because they have not been previously accepted by it.

**Art. 5.** The Commission shall review regularly the accepted by it market practices and take into account the significant changes to the relevant market environment, such as changes to trading rules or to market infrastructure.

**Art. 6.** (1) The Commission shall consult the draft of decision for recognition of the accepted market practices with:

1. the representative organizations of the issuers, investment intermediaries and investors, the regulated market and other participants on the market of financial instruments;

2. the competent authorities of the other Member States, in particular with those of them where markets exist with comparable characteristics with regard to the structure, volume and types of transactions.

(2) The Commission shall notify the persons under para 1 prior to the recognition of the market practice. The notification shall be made by sending the draft to the persons under para 1, through its publishing in internet or through its disclosure in another appropriate manner.

(3) The persons under para 1 may present proposals and objections to the Commission within the set by the Commission term, which may not be shorter than 1 month.

(4) Paragraphs 1 – 3 shall also apply in case of any amendments and supplements to the accepted market practices, recognized by the Commission under this Ordinance.

**Art. 7.** (1) The Commission shall publish the decision for recognition of the accepted market practice in the Commission's Official Bulletin and on its web page.

(2) The decision shall include a detailed description of the accepted market practice and the factors, taken into account for its recognition, in particular where a different decision has been taken regarding its acceptance on the markets of the other Member States.

(3) The Commission shall send without delay the decision under para 1 to the Committee of the European Securities Regulators.

**Art. 8.** When an inspection has started for establishment of violation in relation to a conduct, which is subject of consultation according Art. 6 para 1, the Commission may delay the consultation of the market practice until the end of such inspection and the eventual imposition of a fine or sanction or applying of a coercive administrative measure.

#### TRANSITIONAL AND FINAL PROVISION

§ 1. This Ordinance is issued on the grounds of § 4 of the Final Provisions, in relation to Art. 6 para 4 of the Law on Measures against Market Abuse with Financial Instruments, and was adopted by Decision No. 71-H from 29 Nov., 2006 of the Financial Supervision Commission.

§ 2. This Ordinance shall come into effect from 1<sup>st</sup> of January, 2007.