

935**REGULATION OF THE COUNCIL OF MINISTERS**

dated 17 July 2007

concerning the method of calculation of the turnover of undertakings participating in the concentration

Pursuant to article 17 of the act dated 16 February 2007 on competition and consumer protection (Journal of Laws No. 50 item 331 and No. 99 item 660) the following is ordered:

§ 1. The regulation defines the method of calculation of turnover of undertakings participating in a concentration, referred to in art. 13 and art. 14 point 1 of the act dated 16 February 2007 on competition and consumer protection, hereinafter referred to as the "act", for the purposes of definition of the obligation of notification of the intention to concentrate to the President of the Office of Competition and Consumer Protection.

§ 2. Each time the regulation refers to the preceding year, this shall mean:

- 1) financial year preceding the year of notification referred to in art. 13 item 1 of the act;
- 2) each of the two financial years preceding the notification referred to in art. 13 item 2 point 4 and art. 14 point 1 of the act.

§ 3. Subject to provisions of § 4-12, the turnover of undertakings participating in the concentration, hereinafter referred to as the "turnover", is calculated as the sum of revenues obtained in the preceding year from sales of products and sales of goods and materials, combined into the operational activity of the undertakings, after deduction of granted rebates, discounts and other decreases and value added tax, as well as other taxes related to turnover, if they were not deducted, shown in the profit and loss account prepared on the basis of accountancy regulations. The sum of revenues is increased by the value of obtained specific subsidies.

§ 4. In case of banks, the turnover is calculated as the sum of amounts shown in the following items of the profit and loss account of the bank for the preceding year:

- 1) revenue from interest,
 - 2) revenue from commissions,
 - 3) revenue from stock, shares and other securities,
 - 4) sum of result on financial operations and result from the item of exchange, if positive,
- elaborated pursuant to accountancy regulations referring to banks, after deduction of any value added tax related to those items, if it was not deducted.

§ 5. In case of insurers, the turnover is calculated as

the sum of gross premiums written in the financial year shown on the technical insurance account for the preceding year, elaborated pursuant to accountancy regulations referring to insurance companies.

§ 6. In case of national investment funds, the turnover is calculated as the revenues from investments, excluding the share in net financial result, shown in the profit and loss account for the preceding year, elaborated pursuant to accountancy regulations referring to national investment funds.

§ 7. In case of investment funds, the turnover is calculated as the amount equal to the value of net assets of the fund defined as of the end of the preceding years, pursuant to accountancy regulations referring to investment funds.

§ 8. In case of pension funds, the turnover is calculated as the amount equal to the value of net assets of the fund defined as of the end of the preceding years, pursuant to regulations governing the organisation and operation of pension funds and accountancy regulations referring to pension funds.

§ 9. In case of brokerage houses, the turnover is calculated as the sum of revenues from brokerage activities shown in the profit and loss account for the preceding year, elaborated pursuant to accountancy regulations referring to brokerage houses.

§ 10. 1. In case of an undertaking which is a natural person referred to in art. 4 point 1 of the act, who does not prepare a profit and loss account based on accountancy regulations, the turnover is calculated as the sum of revenues obtained in the preceding year from sales of products and sales of goods and materials, after deduction of granted rebates, discounts and other decreases and value added tax, as well as other taxes related to turnover, if they were not deducted, subject to item 2. The sum of revenues is increased by the value of obtained specific subsidies.

2. In case of an undertaking which is a natural person referred to in art. 4 point 1c of the act, the turnover is considered to be the turnover obtained by undertakings controlled by this person in the meaning of art. 4 point 4 of the act.

§ 11. In case of communes, povyats and voivodships, the turnover is calculated as the revenues obtained by budget units of the communes, povyats and voivodships and payments from the budget units and auxiliary

undertakings of budget units of the communes, povyats and voivodships.

§ 12. 1. In case of undertakings belonging to a capital group, the turnover excludes the turnover executed with other undertakings belonging to this group.

2. If the concentration consists in purchasing a part of the assets, when calculating the turnover, only the turnover executed by this part is taken into consideration. It is assumed that the turnover of undertakings belonging to the capital group including the undertaking, whose part of assets or business is bought, amounts to zero.

3. The provisions of items 1 and 2 are applied as appropriate to communes, povyats and voivodships.

4. If the concentration referred to in art. 13 item 2 point 2 of the act consists in taking over the management of an investment fund or a pension fund:

- 1) the turnover referred to in art. 13 item 1 of the act is assumed to consist of the sum of revenues of investment fund companies or pension companies and amounts of net assets of the funds they manage;
- 2) the turnover referred to in art. 14 point 1 of the act excludes the revenue of investment fund company or pension company from which the management is taken over.

§ 13. The regulation of the Council of Ministers dated 23 May 2001 concerning the method of calculation of the turnover of undertakings participating in a concentration (Journal of Laws No. 60, item 611) becomes ineffective.

§ 14. The regulation comes into force 14 days from the day of publication.

President of the Council of Ministers: *J. Kaczyński*