

# The Pragma Corporation

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August 10, 1998 2:41PM

## MEMORANDUM

**To:** Aldas Kriauciunas  
USAID - Vilnius, Lithuania

**From:** Nijole Maskaliuniene,  
The Pragma Corporation, Vilnius

**Re:** STATUS REPORT FOR THE MONTH OF JULY, 1998  
Lithuania Capital Markets Development Project  
CONTRACT EPE-I-95-00040-00, Task Order 05

**CC:** Beverly Loew: USAID - Washington, D. C.  
Kevin O'Hara: Pragma Corporation - Falls Church, Virginia  
The Pragma Corporation: Vilnius Office File (Diana Sokolova)  
The LSC, the NSEL, the CSDL, the NAFB

### PROJECT DESCRIPTION

The Pragma Corporation ("Pragma") is implementing the Lithuanian Capital Markets Development Project ("Project") funded by the United States Agency for International Development ("USAID"). The Project is to provide legal and regulatory development assistance to the Lithuanian Securities Commission ("Commission") and organizational development assistance to the National Stock Exchange of Lithuania ("NSEL"), the Central Securities Depository, and the National Association of Finance Brokers of Lithuania ("Association"). In addition, the Project is providing assistance in the procurement of software and operations capabilities to support an order-driven, continuous trading stock exchange.

### PROFESSIONAL STAFFING

During July 1998, the "Pragma" team continued to provide expert legal assistance to the Project counterparties.

### PRIMARY AREAS OF FOCUS

The Pragma team continued working on the issues that have been a focus of attention for quite a long time. In July, the primary focus was on financial reporting of brokerage firms, further elaboration of disclosure requirements for securities issue prospectuses, placement and execution of clients' orders for securities transactions, problems of

investment funds and amendments to certain provisions of the Law on Value-Added Tax.

In July, Mr. Skirmantas Rimkus completed the rules of financial reporting and the forms of financial statements for brokerage firms he had been working on since the beginning of the year. The need to prepare them was dictated by the fact that financial statements that brokerage firms use today hardly reflect the operations of a financial institution. They were adopted long ago and suit manufacturing enterprises or commercial firms but it is impossible to show on them such operations as collateralised securities lending, marking securities to market, and many other operations that are characteristic of brokerage activities. When adopted, they will enable financial brokerage firms to disclose their financial status and performance in a more comprehensive internationally accepted way. The regulator of these companies, the LSC, will be better equipped to understand and analyse the specific operations of financial brokerage firms, follow their liquidity and capital adequacy. This is important as a preventive measure against market manipulation and ensures the soundness of financial brokerage firms.

For the last two months Ms. Jurga Dermontaite has been working on the Annexes to the Rules on Securities Registration and Public Offering, namely, on information disclosure in securities issue prospectuses. The effective Rules were passed in March, 1993. During the period of five years the market has changed dramatically: the NSEL listing requirements became more stringent, the number of companies seeking capital by way of issuing securities increased, investors gained experience and became more safety-conscious, etc. Therefore, a new draft of this rule is being prepared to answer the needs of the changed situation. The annexes shall deal with disclosure requirements when offering securities publicly and privately. The disclosure requirements are set separately for equity, debt securities, and securities represented by certificates.

In July, Ms. Dermontaite's main concern was the proposal for the requirements for offering tranches. They will be incorporated into the Rules on Registration and Offering of Securities. The requirements that are being established will comply with those set forth by the EU legislation, which will make them more stringent for the companies but will diminish the risks involved in investment for the investors. That will enable them to make a correct assessment of such risks and take investment decisions in full knowledge of the facts. The new Rules on Registration and Offering of Securities are to be brought into effect by October 1, 1998.

The financial part of these disclosure requirements for the issuers offering shares, bonds, shares representing certificates, and tranches and their conformity with International Accounting Standards was reviewed by the financial advisor Skirmantas Rimkus.

Mr. Gediminas Reciunas prepared the final draft of the Rules on Placement and Execution of Clients' Orders. The said rules fill in the gap which existed in Lithuanian securities legal framework as there were no uniform requirements for the documentation of orders, their execution and confirmation. See Attachment "A".

During the month of July, Mr. Reciuнас continued working on the draft of the Rule on Contracts between Financial Brokerage Firms and their Clients, namely, general requirements for contracts between the financial brokerage firm and its clients and special requirements for the contracts on custody of clients' securities, contracts on placement and execution of clients' orders and contracts on discretionary accounts. The rule aims at protecting investor rights against possible abuse from the side of financial brokerage firms. It also contains client asset protection provisions covering both clients' monies and securities. Mr. Reciuнас completed the first draft of the rule which will undergo coordination with the officials of the Securities Commission in August.

Dr. Arvydas Paskevicius was working on the problems of the Law on Value-Added Tax (VAT). The Law provides that securities trading is not subject to VAT. The State Tax Inspectorate, however, requested to list the services that securities trading consists of. The explanation was prepared by the Commissioner Arvydas Jalinskas. Yet, the State Tax Inspectorate did not agree with the list of services as presented by the Commissioner and insisted on treating some of them (like securities accounting and the like) as subject to taxation. In the event the explanation of the securities trading prepared by the State Tax Inspectorate was approved, the services of the Central Depository and some of broker house services would be subject to VAT. Moreover, the draft Law on Pension Funds has been prepared during this time, the participants of which were not mentioned in said explanation. For this reason the new explanation was needed, which was prepared by Dr. Paskevicius. The document was discussed with representatives of the Central Depository, the Stock Exchange, the National Association of Finance Brokers, a number of brokerage firms, investment holding companies and investment management enterprises. Finally, a meeting with the officials of the State Tax Inspectorate, Ms. Tautkeviciute and Mr. Sulija, was held in order to find a compromise in the treatment of services related to securities trading. This work will be continued after the holidays, in September.

Mr. Evaldas Valciukas was working on two main issues. First, he wrote a memorandum to the Securities Commission concerning the possibility of establishing an investment fund without registering it as a stock company. According to some representatives of private companies, the provisions of the effective Law on Investment Companies permitting the establishment of an investment fund only as a stock company are one of the reasons hindering their appearance in Lithuania. It creates a lot of additional expenses, and the management structure becomes very complicated. Visiting foreign consultants also criticised the effective form of investment funds in Lithuania. Some of them are of the opinion that in reality their establishment in such a form is impossible. The Memorandum explains the main legal provisions and conditions of how an investment fund could function as a non-legal entity, i.e. when it is not a stock company. The Memorandum will allow the Securities Commission to make a decision concerning their policy upon resolving the problem of whether relevant amendments to the Law that would make it possible to establish an investment fund without registering it as a legal entity should be proposed to the Seimas. In the event such amendments are proposed and adopted, that would mean one more step toward establishment of national investment funds in Lithuania. The re-

organised system of collective investment undertakings would comply with the standards of the European Union. See Attachment "B"

Second, he prepared amendments to the Investment Company Law regulating public offering of securities of foreign investment funds in Lithuania. Mr. Valciukas started working on this issue last month. A memorandum was prepared answering the legal aspects of an offering of a foreign fund's securities in Lithuania and containing proposals of making such an offering possible without the fund's registration with the LSC, which is required according to the current rules and which is actually impossible. On the basis of that memorandum Mr. Valciukas prepared proposals for amendments to the Law on Investment Companies that would create the legal basis for such an offering without the fund's registration with the LSC if the offering is registered in the home state. If accepted, the amendments would create a broader market for Lithuanian investors as currently there are no Lithuanian funds, and it is not clear when they may be established. Furthermore, the proposed amendments contain provisions that would guarantee the protection of rights of Lithuanian investors who would acquire securities of a foreign fund. See Attachment "C".

## MAJOR ACHIEVEMENTS

### **1. Completion of Financial Reporting Requirements**

One of the major achievements in the work of the Pragma team is the completion of the rules on accounting methods and the new forms of financial statements for financial brokerage firms that were prepared by Mr. Rimkus. The requirements are based on the International Accounting Standards and the EU directives on accounting of financial institutions. The final version was approved by the Securities Commission and presented for the approval of the Ministry of Finance. The further procedure is that the Ministry of Finance will coordinate the documents with other state institutions (e.g. tax inspection) and then send them to the Government. It is intended that these acts will be approved by the Government by the end of this year. The new forms of financial statements of brokerage firms may come into effect in 1999 (which is doubtful) or from 2000. The following documents were submitted to the Ministry of Finance:

- (a) financial statements - Balance Sheet, Off-Balance Account, Profit (Loss) Account, Cash Flow Statement, and requirements for the Notes on Financial Accounts;
- (b) new model Chart of Accounts and a detailed description of this Chart of Accounts;
- (c) description of accounting methods, recommendations for financial accounting of investment in securities.

## 2. Adoption of the Rule on Placement and Execution of Clients' Orders

On July 10, 1998, the Securities Commission adopted the Rule on Placement and Execution of Clients' Orders prepared by Mr. Reciuonas. The newly adopted rule is intended to protect clients' interest in connection to their orders placed with financial brokerage firms. The most important goal reached by the rule is that it provides for mechanisms which ensure that a client's order be executed in the same turn as it is presented to the financial brokerage firm. It also prevents the financial brokerage firm from executing its own trades prior to those of their clients. Another very important issue covered in the rule is segregation of the financial brokerage firm's "front office" and "back office", i.e. the rule provides for a safe way to execute a client's trades through a broker that does not hold a relevant securities account of the client. The rule further deals with the ways in which clients' orders can be placed with a financial brokerage firm, cancellation and alteration of the order, aggregation and division of orders as well as the firm's reporting to its clients about the executed transactions.

### WORKSHOPS/SEMINARS

There were no workshops or seminars held in July, 1998 in which the Pragma team participated in any way.

### UPDATE ON PREVIOUS REPORT

#### COMPLETED:

- ☆ Rule on the Procedure of Placement and Execution of Clients' Orders
- ☆ Draft Amendments to the Law on Investment Companies Concerning Foreign Fund's Offerings in Lithuania
- ☆ Forms of Financial Statements for Brokerage Firms:
  - (a) Balance Sheet,
  - (b) Off-Balance Account,
  - (c) Profit (Loss) Account,
  - (d) Cash Flow Statement,
  - (e) requirements for the Notes on Financial Accounts;

(f) new model Chart of Accounts and a detailed description of this Chart of Accounts;

(g) description of accounting methods, recommendations for financial accounting of investment in securities.

- ☆ Drafts for the Requirements for the Prospectus of Public Share Offering and for the Prospectus of Public Debt Securities Offering for the companies with the authorised capital of more than 50 million litas that have more than 1000 shareholders;
- ☆ Drafts for the Requirements for the Prospectus of Public Share Offering and for the Prospectus of Public Debt Securities Offering for the companies with the authorised capital of less than 50 million litas that have less than 1000 shareholders;
- ☆ Drafts for the Requirements for the Memorandums of Share and Debt Securities Offering (in case of private offerings)
- ☆ Drafts for the Requirements for the Prospectus Offering Shares Representing Certificates
- ☆ Memorandum on Establishment of an Investment Fund as a Non-Legal Entity in Lithuania

**IN PROGRESS:**

- ☆ Rule on Contracts between Financial Brokerage Firms and their Clients
- ☆ Further Amendments to the Law on Investment Companies with Regard to Establishment of an Investment Fund as a Non-Legal Entity
- ☆ Guidelines to the Securities Market Analysis

**PLANS FOR NEXT MONTH AND ANTICIPATED ISSUES**

August is a slack season at the Securities Commission, the same as at the Government and in the Parliament, as most staff members are on holiday. The Pragma team continues working on the issues that have been in the focus of attention recently. Mr. Reciuonas is still working on the Rule on Contracts. Mr. Rimkus is given an assignment to start working on financial statements for investment companies. Mr. Valciukas is working on the amendments to the Law on Investment Companies concerning foreign fund's securities offering. Ms. Dermontaite is to review the draft rule on registration and offering of securities. Dr. Paskevicius will follow on the capital market analysis in macro economic terms.

**ATTACHMENTS:**

- A. RULE ON THE PLACEMENT AND EXECUTION OF CLIENT ORDERS FOR BROKERAGE FIRMS**
- B. MEMORANDUM ON SOME LEGAL ASPECTS OF ESTABLISHMENT OF INVESTMENT FUNDS**
- C. PROPOSED AMENDMENTS TO THE LAW ON INVESTMENT COMPANIES**

**THE LITHUANIAN SECURITIES COMMISSION**

Resolution No.25

Vilnius, July 10, 1997

**On Procedure of Placement and Execution of Clients' Orders**

The Lithuanian Securities Commission hereby resolves:

1. To approve the Rule on the Procedure of Placement and Execution of Clients' Orders.
2. To obligate the National Lithuanian Stock Exchange and the Central Securities Depository of Lithuania to coordinate their legal acts with this Rule and submit the amendments and supplements for approval to the Lithuanian Securities Commission by November 1, 1998.
3. To determine that the Rule on the Procedure of Placement and Execution of Clients' Orders shall come into effect on January 1, 1999.

Chairman of the Securities Commission

Virgilijus Poderys

## **THE PROCEDURE OF PLACEMENT AND EXECUTION OF CLIENTS' ORDERS**

### **1. General Part**

- 1.1. This Rule regulates the procedure of placement of orders to financial brokerage firms and commercial banks, entitled to carry out operations in securities (further - financial brokerage firms), and peculiarities of their execution, as well as duties of the operators of personal securities accounts (intermediaries of public trading in securities) in executing clients' orders in the manner provided for in part 10 of this Rule.
- 1.2. The legal basis for this Rule is part 4 of Article 11 and part 6 of Article 13 of the Law on Public Trading in Securities of the Republic of Lithuania.

### **2. General Requirements**

- 2.1. Prior to accepting the clients' orders to execute operations in securities, the financial brokerage firms shall conclude agreements with clients on acceptance and execution of clients' orders in accordance with the requirements of the Rules on concluding the agreements between the clients and the financial brokerage firms.
- 2.2. Financial brokerage firms may execute operations in securities only according to individual order containing all the necessary requisites of the client and placed in the manner established in this Rule. The client's order may contain the instruction to execute only one operation with securities of one particular issue.
- 2.3. The financial brokerage firms shall, based on the clients' orders, conclude transactions in the clients' name and on his account (agency), or in its own name, on the accounts of the client (commission). Clients' orders to execute transactions in stock exchanges, when a financial brokerage firm executes a transaction in its own name on the client's account, also in other cases set forth in this Rule, may be placed only on commission basis.

### **3. Requisites of the Client's Order**

- 3.1. The client's orders placed with the financial brokerage firm shall contain the following information:
  - 3.1.1. the full name, company code and address of the financial brokerage firm to which the order is placed;
  - 3.1.2. the date and time (hour and minutes) of placing the order;
  - 3.1.3. the name of the client, or the title and the client identification code, assigned pursuant to the Rule on Identification of Clients of Intermediaries of Public Trading in Securities;

- 3.1.4. requisites of securities with which the operation will be performed (the name of securities (name of the issuer, the type and class of securities and their par value) and the securities code assigned by the Central Securities Depository.
  - 3.1.5. the number of securities with which the operation will be performed;
  - 3.1.6. the type of the operation (buy, sell - for orders executed in the Stock Exchange; buy, sell, exchange - for orders executed off-exchange, the order to transfer the securities to another account operator).
  - 3.1.7. the signature of the client or that of the financial broker in cases established by this Rule;
  - 3.1.8. other special requisites of the client's order, required in cases established by this Rule.
- 3.2. The client has a right to specify the conditions of executing the order (price, validity of the order, method of execution, etc.), provided the conditions do not contradict the laws of the Republic of Lithuania. In the event the client does not specify the conditions of executing the order, standard conditions provided for in his agreement with the brokerage firm shall be applied. In the event conditions of executing the order have not been specified either in the order or in the agreement, the financial brokerage firm shall execute the order at the conditions known to the firm as most beneficial to the client.
- 3.3. The financial brokerage firm shall have a standard order form (or several order forms for individual types of operations) to be submitted to the client upon his request. The order form shall be made in a way convenient for comprising all the information required by this Rule. The order form shall provide for the possibility to the client to choose among several alternative executions of the order and for the possibility to include the specific conditions of executing the order.

#### **4. The Client's Orders: the Form and Manner of Placement to the Financial Brokerage Firm.**

- 4.1. The client's orders to financial brokerage firms shall be placed in writing, by filling in the client's order form, except the cases containing the provision set forth in item 4.3.
- 4.2. Upon filling in the order form, the client shall hand it to the financial brokerage firm in person, via a representative, or by recommended mail, or other ways of submitting the filled client's orders established in the agreement with the financial brokerage firm.
- 4.3. In cases when the client has no possibilities to place orders to the financial brokerage firm in the manner provided for under item 4.1., he may furnish the information set forth under item 3.1. in the non-written form established in the agreement with the financial brokerage firm (by phone, fax message, or computer channels). Upon receipt of the above information the broker in charge of the said client's orders submitted in a non-written form shall immediately fill in the order form based on the received oral information, specifying the date and time the information was received (contrary to the date and time of filling in the order form). The broker shall then sign the order, indicating his name and surname, register it in the order journal or instruct the officer of the financial brokerage firm in charge of registration of orders to perform the registration. In the case specified

under this item the order form shall necessarily contain an indication that the order was received in a non-written form.

- 4.4. The client's orders may be submitted to the financial brokerage firm in the manner provided for under item 4.3., where:
  - 4.4.1. other provisions of the Rule do not contain a requirement that in specific cases the client's orders must be submitted in writing;
  - 4.4.2. the financial brokerage firm shall in the manner set forth by the law register the evidence of the client's order submitted in a non-written form, including the time and date;
  - 4.4.3. the client's agreement with the firm provides for the formal procedure of client's personal identification, as well as the obligation of the parties to keep it in secret or immediately notify one another in case the personality might have become known to third persons.
  - 4.4.4. the financial brokerage firm has appointed a broker in charge of the reception of orders of the specific client submitted in other than a written form, and has indicated the broker's name in the client's agreement with the firm, or has notified the client thereof by a separate note.
  - 4.4.5. prior to signing the agreement, the financial brokerage firm has informed the client, which is confirmed by signing, that upon reception of orders in the manner provided for under item 4.3 of this Rule, the client identification bears a purely formal character, and in certain instances third persons, having taken advantage of the situation may place an order in the client's name absent of the client's knowledge, which the financial brokerage firm may not refuse to execute, although undertakes an obligation to personally or in writing inform the client on any doubtful order placed in the name of the client.
- 4.5. The financial brokerage firm has a right to accept only those clients' orders which fully comply with the requirements of the form and manner of placement the clients' orders set forth in this Rule and the agreement between the client and the firm.

## **5. Registration and Confirmation of the Client's Orders**

- 5.1. All the client's orders as per order form and placed to the financial brokerage firm shall immediately be registered in the order Journal of the financial brokerage firm (further - Order Journal). The client's orders shall be registered in the same Order Journal, in which the investment decisions by the firm to execute orders in the name and on the account of the financial brokerage firm, are registered in the same manner as the client's orders. The investment decision regulated under this item shall be registered in writing and shall contain the information specified under items 3.1.1., 3.1.2., 3.1.4.-3.1.7. and 3.2, and marked that it has been adopted regarding the transaction to be performed in the name and on the account of the financial brokerage firm.
- 5.2. The financial brokerage firm may have only one Order Journal, except the cases when the client's orders are accepted in several branches of the financial brokerage firm (departments, affiliated offices) which are entitled to independently execute the client's orders. Each branch of the financial brokerage firm entitled to independently execute the clients' orders shall have its own Order Journal and execute clients' orders in succession. In cases when the clients' orders are accepted simultaneously in several branches of the financial brokerage firm but executed in

a centralized manner, the financial brokerage firm shall have a general Order Journal in which the orders shall be registered by the time the order was submitted to any of the branches of the financial brokerage firm.

5.3. The Order Journal may be conducted in paper or in a computer file.

5.4. The Order Journal shall contain the following information on the registered order of the client, the investment decision to perform an operation with the securities portfolio of the client or the investment decision to perform an operation in the name and on the account of the financial brokerage firm:

5.4.1. serial number;

5.4.2. date and time of placement of the order (hours and minutes);

5.4.3. date and time of registration of the order in the Order Journal (hours and minutes);

5.4.4. the client's identification code and remark that the investment decision to perform the operation in the name and on the account of the financial brokerage firm is registered;

5.4.5. the code of the securities with which the operation is to be performed.

5.5. Upon registration of the client's order the serial number and the date and time (date and time) of registration of the client's order shall be noted on the order'

5.6. The employee of the financial brokerage firm who has registered the order shall indicate his name and sign on the Order form and in the Order Journal next to the entry made. In cases when the Order Journal is conducted by computer, printouts of the entries shall be made on daily basis and the employee who has registered the order shall sign next to the entries. Where the financial brokerage firm has appointed an employee in charge of order registration, the employee shall every day sign on the printed Order Journal.

5.7. The financial broker who accepts the client's orders must be assured that the order is placed by the client himself or other person authorized by the client and ensure that the client's orders comply with the requirements set forth to the contents of the order.

5.8. Upon registration of the order in the Order Journal, the employee of the financial brokerage firm shall immediately return a copy of the order (further - order confirmation) to the client as a confirmation that the client's order has been accepted. The order confirmation shall be handed over to the client in person or to the client's representative, or mailed to the client by recommended mail. The agreement between the client and the financial brokerage firm may provide for a different procedure of order confirmation, the original copy of the registered order, however, must be handed over in the above described manner.

## **6. Peculiarities of the Clients' Order Placement Under the Clients' Securities Portfolio Management**

6.1. In cases when the client's securities portfolio is managed by an investment management and consulting enterprise or a financial brokerage firm, which does not perform operations with the client's securities portfolio, the client's orders shall be placed by a broker of the investment management and consulting enterprise or the financial brokerage firm with which the client has concluded the securities portfolio management agreement.

- 6.2. In cases provided for under item 6.1. of this Rule orders to perform operations with the securities of the client's portfolio shall be placed in a written form exclusively.
- 6.3. Upon registration of the order placed with the investment management and consulting enterprise to perform an operation with the client's portfolio securities, the financial brokerage firm shall verify the compliance of the order to the management agreement.
- 6.4. In cases when a financial brokerage firm which accepts and executes the client's orders at the same time also manages his securities portfolio, the financial brokerage firm shall, instead of the client's order register the investment decision to perform a specific operation with the client's securities portfolio indicating the information required for the client's orders and register the investment decision in the Order Journal. The investment decision regulated by this item shall contain an indication that it has been passed under the securities portfolio management.
- 6.5. Financial brokerage firm may perform an operation with the client's securities portfolio only on the basis of the investment decision referred to under item 6.4. Investment decisions shall be registered in the Order Journal together with the clients' orders and shall be executed in succession. All requirements set forth for the clients' orders shall be applied to the investment decisions.

## **7. Changing the Conditions of the Client's Order and Annulment of the Order**

- 7.1. The client has a right to annul the order placed with the financial brokerage firm by the time the broker starts executing the order or by any other moment specified in the agreement between the client and the financial brokerage firm.
- 7.2. The client's order shall be annulled after a notice is submitted with the financial brokerage firm which contains the following information:
- 7.2.1. the date and time of the submission of the notice;
  - 7.2.2. the name of the client or the client's identification code;
  - 7.2.3. the serial number of the order to be annulled and the date and time (hour and minutes) of registration thereof in the Order Journal;
  - 7.2.4. requisites of the securities with which the operation is to be performed.
  - 7.2.5. the statement that the order is being annulled.
  - 7.2.6. the client's signature, where the client submits the written notice, or the signature of the broker managing the client's securities portfolio.
- 7.3. Notices on annulment of the client's orders shall be placed in writing or in some other form, pursuant to the requirements of items 4.3. and 4.4. of this Rule. The notice on revocation of the client's order upon the securities portfolio management agreement, shall be handed in writing. The written notices shall be submitted pursuant to the requirements set forth under item 4.2 of this Rule.
- 7.4. The client's order shall be deemed annulled from the moment the annulment notice is received at the financial brokerage firm provided the notice has been received prior to the moment set forth under item 7.1.
- 7.5. Where the client is willing to change the conditions of the order, he shall annul the previous order and place a new order in the manner established by this Rule.

7.6. Immediately after the financial brokerage firm receives a client's order annulment notice, respective entries shall be made in the Order Journal and the clients must be handed over a confirmation on annulment of their order in the manner provided for by this Rule.

## **8. Safekeeping of the Client's Orders and Related Documents and Data**

8.1. The financial brokerage firm shall guarantee the safekeeping the evidence recorded pursuant to items 4.4.2 and 9.5. for no less than 10 years since the date the client submits the non-written order.

8.2. The financial brokerage firms shall guarantee the safekeeping the client's orders and notices on client's orders annulment for a period of 10 years from the day of their registration in the Order Journal. Financial brokerage firms shall safekeep the Order Journal for a period of 10 years since the day the last entry was made in the Journal and other documents related to the client's orders for the periods and in the manner provided for by the laws and other legal acts of the Republic of Lithuania.

## **9. General Requirements for the Execution of Client's Orders**

9.1. Financial brokerage firms must commence executing the client's orders immediately after the orders have been registered in the Order Journal, unless otherwise specified in the client's order.

9.2. The financial brokerage firm shall execute the client's orders in the sequence of their registration in the Order Journal, except the cases when the execution of the client's order is postponed.

9.3. The execution of the client's order may be postponed until the client submits necessary securities or cash funds, necessary to execute the order or until the securities or cash loan agreement is signed between the financial brokerage firm and the client. In other cases the financial brokerage firm may unilaterally change the time of the execution of the client's order only pursuant to the requirements laid down under item 9.5.

9.4. In cases when due to some reasons the broker cannot start executing the order of the client, he shall immediately notify the client (or the investment management and consulting enterprise where the order has been submitted by the latter under the portfolio management agreement) in writing specifying:

9.4.1. full name of the financial brokerage firm, the company code and the address of the registered office;

9.4.2. time (hour and minute) and date of notification about impediments to execute the client's order;

9.4.3. name or title of the client, the client order serial number, date and time of registration of the order in the Order Journal;

9.4.4. description of the impediments and consequences of failure to remove them;

9.4.5. the name and signature of the financial broker;

9.5. The financial brokerage firm shall execute the client's orders exactly following the conditions specified in the order. The financial brokerage firm has a right to

deviate from the conditions indicated, if, under the conditions, it is necessary in the interests of the client and the financial brokerage firm could not inquire the client in advance or did not receive a timely response to its inquiry. In this case the financial brokerage firm must collect and safekeep, together with the order, the documents proving the necessity to change the conditions of the execution of the client's order (which will be submitted to the client upon his request), and immediately inform the client on the execution of the order under the conditions different from those indicated in the order.

9.6. The financial brokerage firm shall execute every order individually, except for the cases provided for in part 10 of this Rule.

9.7. Requirements set forth in the Regulations of the stock exchange through which the client's orders are executed and other legal acts shall be applied to the execution of the client's orders.

## **10. Aggregated and Split Execution of the Client's Orders**

10.1. The execution of several orders submitted by the same client to perform operations with the same securities under the same conditions may be aggregated or it may be split, provided one of the following conditions is satisfied:

10.1.1. The client has in advance expressed his consent regarding the execution of the order in parts or aggregation of execution of several of his orders, or

10.1.2. The client has not expressed his consent regarding the execution of the order in parts or aggregation of execution of several of his orders, but with the condition laid down under 9.5. present.

10.2. The execution of orders placed at the same time to perform operations with the same securities under the same conditions placed by several clients may be aggregated provided the following conditions are met:

10.2.1. conditions set forth under items 10.1.1. or 10.1.2.

10.2.2. the aggregation of the execution of the client's orders is not prejudicial to the client's interests, i.e. all requirements of the clients arising from the aggregated order are satisfied equally, and upon failure to execute the order completely, financial brokerage firm shall exert every effort to the extent possible to equally satisfy the interests of all clients (the procedure of meeting the requirements of each client shall be set forth in the agreements concluded with the clients or in Rules. The clients shall be familiarized with the Rules and confirm the fact by signing).

10.3. In all other cases not provided for in this part of the Rule the aggregation of the execution of the clients' orders is prohibited.

## **11. Peculiarities of the Execution of the Client's Orders, when the Financial Brokerage Firm Accepting and Executing the Client's Orders (further - the Trader FBF) is not an Operator of the Securities Account (further - Account Operator).**

11.1. Requirements set forth in this part of the Rule are applicable in cases when the client intends to perform an operation through the financial brokerage firm, which

is not an operator of the securities account (account operator). In this case the clients' orders shall be placed only on commission basis.

- 11.2. In the order placed to the trader FBF, the client shall indicate the account operator, holding the securities, with which the transaction is to be executed, and shall assume an obligation not to use the indicated amount of securities in the way other than specified in the order until the order is executed or until a separate notice to the trader FBF, submitted in the manner of notification of annulment of the orders established by this Rule.
- 11.3. The prohibition to use securities indicated in item 10.3. of this Rule shall not be applied in cases when the client's securities are transferred by a non-payment transfer to another account manager, who will assume all the obligations related to the confirmations issued by the former account manager to the trader FBF regarding the client's securities being transferred into his custody.
- 11.4. Upon granting the copy of the client's order to the account manager where the client has not indicated the conditions of the execution of the order, or any other document made out by the trader FBF, which contains all the information inherent in the order except the conditions of execution of the order, the trader FBF has a right to immediately receive information on the presence of the said securities in the personal securities account of the client and the legal status of the securities. In cases when the client's order is submitted in the manner prescribed under item 4.3 of this Rule or a document made out by the trader FBF is submitted to the account manager, the account manager has a right to require an additional confirmation of the client's intention to conclude the transaction indicated in the order.
- 11.5. Where the order is signed by the client himself, or upon receipt of additional confirmation about the client's intention to conclude the transaction indicated in the order, where the order is submitted in the manner prescribed under 4.3 of this Rule or the document made out by the trader FBF is submitted to the account operator, also upon verifying the compliance of the order to the management agreement, where the order has been placed by the investment consulting and management enterprise under the securities portfolio management, the account operator shall ensure that no other transactions are executed with the securities indicated in the client's order (i.e. the account operator shall refuse to make an entry in the personal account of the client on the basis of the client's obligation expressed in the order not to use the securities in any other way than indicated in the order) by transferring the relevant securities into a special personal client's securities account, and assume an obligation, upon the request of the trader FBF, to immediately submit the securities to execute the transaction indicated in the order.
- 11.6. The confirmation of the account manager may be written in the same order form used by the trader FBF or filed in a separate letter. In each case the confirmation of the account manager shall contain:
  - 11.6.1. confirmation that the account manager holds the amount of specific securities specified in the client's order in the client's personal securities account.
  - 11.6.2. statement that at the moment of issuance of the confirmation the account manager has not received any orders to perform transactions with the said securities, where the account manager is an intermediary of public trading in

securities, or the statement that no transactions are being carried out with the securities where the account manager is the issuer.

11.6.3. statement that the account manager has not received a request from other financial broker firms to issue a confirmation with respect to the same securities.

11.6.4. confirmation that the account operator has transferred the amount of securities indicated in the client's order to the client's special personal securities account

11.6.5. obligation upon the request of the trader FBF, to immediately submit the securities specified in the client's order for the execution of the order.

11.6.6. the legal status of the securities specified in the client's order (pledging, attachment, liens, or other encumbrances).

11.7. Where prior to the receipt of the confirmation of the account manager the trader FBF executes the client's order with respect to securities, which it does not hold, the trader FBF shall bear the liability for failure to execute the client's order or inappropriate execution of the client's order with respect to the third persons (bona fide acquirer, stock exchange, etc.) in the manner prescribed by law. In the event the account manager, upon issuance of the confirmation as prescribed under item 11.6, fails to submit the securities for execution of the transaction, he shall compensate for damages to all the parties related to the transaction.

11.8. In cases when the FBF receives an order to perform the transaction with the client's securities which it does not hold, and the client has not indicated where the securities owned by him by the ownership right are held, or he has not assumed any other obligations specified under part 11 of this Rule, the financial brokerage firm may execute such orders only upon the official registration of lending of securities to the client.

## **12. Peculiarities of Execution of the Client's Orders in Cases When the Client Has not supplied the Funds to Pay for the Securities Acquired Under the Order.**

12.1. Financial brokerage firm may execute the client's orders when the funds to pay for the order are held not in the financial brokerage firm, provided the procedure of execution of such orders is equivalent to the procedure set forth under part 11 of this Rule, which regulates the execution of the client's orders in cases when the financial brokerage firm does not hold the client's securities.

12.2. In the event the client has placed an order to pay for which the client has not supplied any funds and the procedure set forth under 12.1. is not applied to the payment of the orders, financial brokerage firm may perform such an order only upon official registration of lending of funds to the client.

### **13. Peculiarities of Execution of Orders, upon Management of Assets of Investment Companies and Pension Funds**

- 13.1. Having received an order from the investment company or pension funds management enterprise, the financial brokerage firm shall execute the order in the manner prescribed under pars 11 and 12 of this Rule, assigning respective obligations to account operators of the custodians of the investment companies and pension funds.
- 13.2. Financial brokerage firm performing operations with the assets of the investment company or a pension fund without being the custodian of the investment company or the investment fund shall not be responsible for verification of the compliance of the order to the management agreement.

### **14. Confirmation of the Execution of the Order**

14.1. Upon execution of the transaction according to the client's order, the financial brokerage firm shall immediately inform the client about it, by handing over to him a written notice on the execution of the order, which shall contain the following information:

- 14.1.1. the title, the code in the Register of Enterprises, the registered office address;
- 14.1.2. the date and time of submission the notice about execution of the order;
- 14.1.3. the name or the title of the client, the serial number of the client's order, date and time of registration of the order in the Order Journal and requisites of securities with which the operation is to be performed.
- 14.1.4. the date and the results of execution of the client's order;
- 14.1.5. the name and signature of the financial broker.

14.2. Instead of the notice referred to in item 11.1, the financial brokerage firm may produce to the client statements of his cash account and securities account, provided the following conditions are met:

- 14.2.1. statements of cash accounts and securities accounts are produced immediately (no later than on the following business day) after the execution of the client's order;
- 14.2.2. statements of cash accounts and securities accounts contain all the information, requested in the notice about the execution of the client's order (item 14.1).

14.3. Upon execution of the client's order, the financial brokerage firm shall immediately submit to the client the acquired securities and the proceeds received for the sales of securities, by crediting the client's cash accounts or securities accounts in the financial brokerage firms and shall confirm that by producing a cash account statement and a statement of the personal securities account .

14.4. In cases when the financial brokerage firm which does not hold the client's securities and does not provide custody for the client's funds designated for operations with securities, the notice on the execution of the order shall indicate

the name of the financial brokerage firm and (or) the credit institution, to which the securities and (or) funds were transferred.

14.5. Upon execution of the order in the case regulated pursuant to par. 11 of this Rule, the financial brokerage firm (the trader FBF) shall submit to the client the notice on execution of the order, and the securities account operator shall submit the statement of the client's personal securities account. The client's cash account statement shall be submitted by the financial brokerage firm or the credit institution in which the client had the cash account to be used for settlements regarding the executed order.

14.6. The cash account statements and statements of the client's personal securities account shall be handed over to the client immediately after necessary entries are made in respective accounts or in other terms agreed upon with the client.

14.7. The cash account statements and statements of the client's personal securities account, as well as notices to the client about the transactions executed according to the client's orders shall be handed over to the client in the manner prescribed under item 5.8. of this Rule.

## MEMORANDUM

To: Virgilijus Poderys, Chairman of the Securities Commission  
Irmina Judickaite, Commissioner  
Irma Lazickiene, Head of the Investment Companies Department

From: Evaldas Valčiukas, for Pragma Corporation

Subject: Some Legal Aspects of Establishment of Investment Funds

Date: July 17, 1998

The purpose of this Memorandum is to generally analyse the possibility of establishing an investment fund in Lithuania that would not be a joint stock company, i.e. that would not have the status of a legal entity, and compare the merits and drawbacks of investment funds that would act as a joint stock company and investment funds that would not have the rights of a legal entity in the context of the legal system of the Republic of Lithuania.

The effective Law on Investment Companies ("the Law") provides for an investment fund to be established as a joint stock company, with the asset management of an open-end investment company (an investment fund) being transferred to a management enterprise of investment companies.

A similar form of investment companies can be found in other countries, e.g. in Luxembourg. The Luxembourg law sets forth that one of the possible legal forms of an investment fund is that of a joint stock company, the by-laws of which stipulate that its authorised capital is always equal to the amount of its net (own) assets. Moreover, shares may be issued at any time (i.e. without a resolution of the general shareholders meeting), unless the by-laws provide otherwise. Shares are redeemed all the time without the procedure of decreasing the authorised capital, because the authorised capital is not registered and is always equal to its net (own) assets.

On the basis of the Luxembourg example, it is possible to retain the currently existing legal form of a joint stock company for investment funds in Lithuania. Yet, many provisions should be reorganised, e.g. management, shareholders' rights, composition of the capital (the requirement for mandatory reserve does not comply with the requirements for the composition of an investment fund's assets), etc. Actually many principle provisions would contradict the Company Act of Lithuania. The powers of the general meeting should be limited (e.g. new shares should be issued without the consent of the general meeting because in the latter case it is not clear what procedure of capital registration should be introduced; also, according to current requirements, each time shares are redeemed the authorized capital should be decreased, which is not always possible), rights and obligations of shareholders should also be changed (e.g. it should be resolved whether the general meeting may exercise influence on the management enterprise if one is used and on the Board which should be comprised of the people of the required qualification). Furthermore, the establishment of a joint stock company is a more costly and longer procedure than establishing an investment fund on the basis of an investment fund agreement, which seems to be another option in founding an investment fund (see below).

It should be taken into consideration that in the world practice (as much as I could discover) there is no mandatory requirement to transfer the management of assets of an investment fund acting as a joint stock company to a management enterprise of investment companies. The laws of some countries provide for the option of the management enterprise instead of the Board. Our Law provides for two options with regard to the Board, namely, it may be formed or may be not formed, but an investment fund is required to have the management enterprise. That is illogical, the more so that it is not clear how the responsibilities can be divided between the two. To completely abandon the idea of having management enterprises is not reasonable either as a management enterprise is liable for the harm inflicted upon the investment fund to the extent of its own assets, while members of the Board are liable for the same jointly to the extent of their personal assets only. There is a possibility that in certain cases the amount of assets of the members of the Board will not be sufficient to cover the losses of the investment fund (a management enterprise may be controlled by issuing capital adequacy requirements while that measure is impossible in case of an individual member of the Board). Therefore, as long as there is no experience in managing investment funds and in an attempt to avoid unrecovered losses for the shareholders of an investment fund, the management enterprise of investment companies is a logical solution. The Law, however, should be amended adding a provision that **in the event the management of an investment fund's assets is transferred to the management enterprise, the Board shall not be formed.**

The drawbacks of this type of investment funds are as follows: the management structure is not clear, the procedure of capital registration and changes in its amount are not defined either, a number of provisions of the Law are contradictory to the provisions of the Company Act. As in this case an investment fund is called a joint stock company, such a contradiction is undesirable, because joint stock companies should comply with the laws regulating them, the more so that an investment fund as a joint stock company is not a new type of a legal entity. In principle, it differs from regular joint stock companies only in the objective of its activities and requirements for the composition of assets. At the same time, an investment fund is characterised by many features that make it different from joint stock companies (especially in the powers of management bodies and the rights that shareholders are entitled to). When formed as such, an investment fund would actually be an essentially new type of a company, which could not be called a joint stock company.

The merits are the following: the effective provisions of the law and the concept of investment funds would remain in principle unchanged.

When establishing an investment fund which would not have the status of a legal entity, the following situation is possible: the investment fund itself shall not be deemed an entity, i.e. only cash and securities and other assets which belong to the holders of the investment fund's securities by the right of partial ownership or to the management enterprise by the right of ownership and which, under the agreement or under the rules of the investment fund, is managed by the management enterprise. If the investment fund, i.e. its net (own) assets belong to the management enterprise by the right of ownership, the holders of the investment fund's shares are the creditors of the management enterprise, i.e. they lend money to the management enterprise.

In the situation where the holder of the investment fund is the management enterprise, there would be no legal basis to segregate the assets of the investment fund from the assets of the management enterprise. In case of bankruptcy of the management enterprise, the shareholders of the investment fund would be entitled to get their money refunded in the same order as other creditors of the management enterprise. A better situation is when the assets of an investment fund belong to the shareholders of the investment fund by the right of partial ownership. In the situation the investment fund would belong to its shareholders by the right of partial ownership, and the creditors of the management enterprise would not have a lien on these assets. The investment fund itself would not be registered as an enterprise. It would be founded on the basis of the agreement between the management enterprise and the holders of the investment fund's securities. The agreement would be registered by the Securities Commission.

The provisions of the Civil Code that regulate certain issues of partial ownership are not helpful for the investment funds. For instance, the co-owners are provided for the preemptive right in acquisition of assets being transferred in the **joint partial ownership**. As the amended Law on Investment Companies would regulate a new legal institution, i.e. a collective investment undertaking, it would be possible to include the provision that **its co-owners shall not be entitled to acquire the part of the transferred assets**, i.e. it would be possible to establish provisions contradictory to the Civil Code, which actually should not be treated as a contradiction because in principle this Law would be a special norm to the Civil Code. Moreover, it would regulate a qualitatively new form of the joint partial ownership, namely, the investment fund, which has concrete objectives and acts on the basis of some agreement. It would be possible to foresee the requirements providing that the co-owners of the investment fund waive the preemptive right of ownership to acquire the transferrable part of another co-owners assets in the agreement between the management enterprise and the holders of the investment fund's securities. The provisions of the agreement would be mandatory for the signing persons, which will also facilitate solving the problem.

The laws regulating the activities of investment funds in other states which allow the form of investment funds where the investment fund belongs to the holders of the investment fund's units by the right of joint partial ownership also provide for some special norms which restrict certain rights of the co-owners of the investment fund that are natural to the co-owners of some other type of assets pursuant to the common norms. For instance, Art.10 of Chapter 2 of Part I of the Law Relating to Undertakings For Collective Investment in Luxembourg provides that neither the holders of the investment fund nor its creditors shall be entitled to demand the distribution or dissolution of the investment fund. Usually, the co-owners and their creditors have the right to demand that the share of the joint property belonging to them be dissolved and given to them in kind. But the special norm in the law prohibits that.

Furthermore, it should be born in mind that in the event the type of an investment fund which is not a legal entity is allowed, other amendments to the Law would be necessary. The Law on Enterprises also provides that an investment company is a legal entity, which would require the amendment. The Law on Public Trading in Securities sets forth that an issuer may issue its securities only in its own name, while in the

situation under discussion the investment fund's securities would be issued by its management enterprise in the name of the investment fund. This provision of the law, however, would not be violated if the management enterprise and the investment fund (i.e. the co-owners of the investment fund) be related by the commission relationship. That means that, pursuant to Article 408 of the Civil Code, the management enterprise of investment companies would issue securities in its own name specifying the co-owner of which investment fund the person who acquires these securities will become. But all the rights and obligations arising from such a transaction (the right to demand payment, the obligation to invest the proceeds according to the rules of the fund or the agreement, etc.) will be binding to the management enterprise, therefore, such a provision should not be changed. The right of ownership will be with the person who has acquired the securities of the investment fund. For the purposes of compliance with the definition of securities provided in the Law on Public Trading in Securities, the Law on Investment Companies should contain a provision that the investment fund's own assets that belong to the co-owners of the investment fund by the right of joint partial ownership form the capital of the investment fund. In such a case, the investment fund's securities become securities certifying participation in the capital.

The main shortcoming of such amendments is that the whole concept of the investment company changes absolutely, and no investment fund can be established before the amendments are passed into law. Then, there are problems of certain provisions of this new law being contradictory to the Civil Code. Although these, as I mentioned, with regard to the Civil Code should be treated as special norms regulating qualitatively new relations and a new form of joint partial ownership.

The merits of such amendments are as follows: this type of collective investment into transferrable securities is the most widely used in the world practice. Therefore, practical advice is available. Among other merits would be lower costs of establishment and management, a simpler structure, no contradiction with the Company Act, a simpler establishment procedure because there is no need to establish an additional stock company, i.e. an investment fund, problems due to the capital fluctuation and their regulation are eliminated, misunderstanding with regard to the differences in the treatment of shareholders' rights in the Company Act and in the Law on Investment Companies is escaped (as in the case of an investment company it is not appropriate that shares may be issued only by the decision of shareholders), problems of the management of the investment fund as a stock company are resolved (double management - the Board and the management enterprise; the role of the general meeting; how much can it affect the actions of the management enterprise, etc.).

It is also necessary to decide whether it is appropriate to register the concrete number of the investment fund's securities with the Securities Commission. It would suffice that the Securities Commission issue a permit to offer the investment fund's securities. The registration of the concrete number of securities is not reasonable because the actual number of outstanding securities will not coincide with the number registered with the Commission (as they are constantly sold and redeemed). Therefore, the registration does not fulfil any preventive measure: the number of securities registered with the Commission will not be helpful in calculating either the redemption or sales price of securities, because this price must be calculated on the basis of the number of

actually outstanding securities. For this reason, the management enterprise or the custodian (usually the custodian) will have to carry out additional accounting (registration) of the fund's securities being sold or redeemed. It would not be appropriate to watch the fact that the investment fund did not violate the limit established for it concerning the number of securities to be issued (no use doing that) but rather monitor the accounting of securities being issued and redeemed and the method of establishing their price. The more so that in the event the investment fund is treated as a stock company and a concrete number of shares is registered, each time shareholders request to have their shares redeemed they would have to be deregistered at the Commission, because the investment fund would not be able to account these shares as its own, which would have an effect on its net (own) assets.

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## MEMORANDUM

July 25, 1998

**To: Securities Commission, Investment Companies Department**

**From: Evaldas Valčiukas**

**Company: the Pragma Corporation**

**Phone: 72 47 03**

**Re: Offering of Securities in the Republic of Lithuania of Investment Companies  
(Funds) Founded and Registered in Foreign Countries**

1. According to the Law on Investment Companies the foreign investment fund means the entity for collective investment in transferable securities, founded and registered in a foreign country which has its permanent registered office therein and complies with the requirements of Article 3 of the Law on Investment Companies, which has issued the redeemable shares and its portfolio is in conformity with requirements of the diversified securities portfolio. (also undertakings for collective investment in transferable securities which complies with the requirements set forth in the EU Directive 85/611EEC). These foreign investment funds may be also founded as public companies, trust funds which do not have the rights of a legal person nor a separate account.
2. Securities of foreign investment funds may be distributed in the Republic of Lithuania only having obtained the permission of the Lithuanian Securities Commission.
3. Having obtained the permit of the Lithuanian Securities Commission to offer the securities in the Republic of Lithuania, the foreign investment fund is exempted from the obligation to register its securities in the manner provided for by the Law on Public Trading in Securities of the Republic of Lithuania.
4. Seeking to obtain the permit to offer its securities the foreign investment fund shall submit to the Securities Commission:
  - 1) the application of the form and contents established by the Securities Commission;
  - 2) the license or other documents confirming the right of the funds to engage in the activity of the investment fund, issued by the competent body of the country in which the fund is registered; in case the fund is registered in the EU member state, the fund shall submit a

document issued by the competent body of the state in which the fund is founded and registered, confirming that the fund complies with the requirements to investment funds valid in the European Union set forth in the European Council Directive 85/611 EEC.

- 3) where the fund is a trust fund, the by-laws, statute and other documents of incorporation or the agreement underlying the operation of the fund;
  - 4) where the fund is managed by the management enterprise, - the by-laws of the management enterprise and the most recent audited annual financial statement;
  - 5) the prospectus of the fund, on the basis of which the fund has issued the securities, which contains a clear indication that the Securities Commission bears no responsibility for the supervision if the said fund.
  - 6) the agreement with the intermediary of public trading in securities which is registered and has its head office in the Republic of Lithuania regarding the representation of the fund in offering and redeeming the securities of the foreign investment fund; the agreement shall be drawn up pursuant to the rules approved by the Securities Commission (the rules are necessary to establish the form of representation of the fund deemed as most beneficial to the Lithuanian investors seeking to ensure the possibility to defend their interests in the court proceedings conducted in Lithuania)..
  - 7) the document confirming that the foreign fund has opened an account in the Bank operating in the territory of the Republic of Lithuania which may be used to accept payments for the offered securities of the investment fund and into which the funds may be transferred to be used for cash payments for the redeemed shares of the fund, which may drawn from the account and paid by the intermediary of public trading in securities referred to in item 6.
  - 8) the most recent annual statement of the fund and the semi-annual and quarterly financial statements where such statements are drawn up in the origin country of the fund and where such are already available.
  - 9) the legal provisions of the origin country of the foreign fund which provide for the difference between the rights and duties of the shareholders from the origin country of the foreign fund and those from other countries, including an explanation of the possible impact thereof upon the rights of persons who have acquired the shares of the fund in the territory of the Republic of Lithuania and implementation thereof also upon the activities of the investment fund and its management fund and the responsibility of the intermediary of the public trading in securities who provides intermediary services in selling and redeeming the securities of the fund.
  - 10) the written commitment, signed by persons responsible for the accuracy of data presented in the prospectus and regular statements and the activity of the foreign fund or the management enterprise where the management has been transferred to the management enterprise, that the fund and the management enterprise shall abide by the laws of the Republic of Lithuania regulating the public offering of securities and public trading thereof and other legal acts of the Republic of Lithuania and shall furnish the regular information concerning its activities pursuant to the requirements of the laws of the origin country of the fund, moreover, shall in the same manner furnish the information requested by the Securities Commission seeking to protect the interests of the shareholders.
  - 11) the documents confirming the conditions referred to in items 4, 5, 6 and 7 of Part 8.
5. The documents and data specified in Part 3 may also be furnished to the Securities Commission by the management enterprise where the management of property is transferred to the management enterprise.
  6. The Securities Commission has a right to request additional information including the legal acts of the origin country of the fund, regulating the activities and obligations of such funds, the

management enterprises an depositories.

7. Upon obtaining the permit to publicly offer its securities in the territory of the Republic of Lithuania, the foreign fund or the management enterprise of the fund shall notify the Securities Commission of the changes of the documents referred to in Part 3 of this Article and any information related thereof no later than within 15 days after such changes occurred.
8. All the documents shall be submitted to the Securities Commission in the Lithuanian language or translated into Lithuanian. The copies of the documents shall be notarized or certified by the competent authorities of the countries issuing the documents and legalized, unless otherwise provided by the by-lateral agreements to which the Republic of Lithuania is a party or by the international agreements and conventions and the provisions thereof have been enacted in the territory of Lithuania.
9. The Securities Commission shall issue response concerning the permit to publicly offer the securities of the foreign investment fund in the territory of the Republic of Lithuania no later than within 2 months since all the requested documents have been filed. In the event the Securities Commission refuses to issue the permit it shall lay down the grounds for the decision not to issue the permit<sup>1</sup>
10. The refusal of the Securities Commission to issue the permit may be appealed against to court within 14 days since the refusal to issue the permit in the manner provided by the Code of Civil Procedure.
11. *The intermediary of public trading in securities with which the agreement referred to in item 6 of part 4 has been concluded and the foreign fund (or the management enterprise where the property management has been transferred to the management enterprise) shall bear a joint responsibility to the investors of Lithuania which have acquired the securities of the foreign fund through the intermediary. In the event the losses which are fully or partially made up by one of the joint debtors referred to in this part have been incurred by another joint debtor, the joint debtors who makes up for the losses has a right to claim the total amount from the debtor responsible for the losses<sup>2</sup>.*

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<sup>1</sup> The EU Directive provides that in the event the Commission fails to present a motivated response concerning refusal to issue the permit, the foreign investment fund is justified to start offering its securities within the country free of any impediments (Article 46). In Lithuania, however, due to the lack of administering the law in question the enactment of this provision is premature.

<sup>2</sup> The objective of this provision is to protect the Lithuanian investors. Where the foreign fund and the Lithuanian intermediary bears a joint responsibility to the investors, the Lithuanian investors will be able to bring suit against the Lithuanian intermediary which in its own turn will involve the fund into the proceedings as third person. Where the Lithuanian intermediary and the foreign fund do not bear a joint responsibility in case of a dispute the Lithuanian investor will be able to exercise his right pursuant to Code of Civil Proceedings of Lithuania to appeal to court according to the legal residence of the defendant, i.e. a court in a foreign country. In most cases this may pose a number of difficulties. Therefore this provision has been designed to facilitate the protection of the interests of investors. Moreover, the intermediary recognizing his joint responsibility with the fund or its management enterprise, will be made to carry out the due diligence of the fund and will be very careful in selecting the fund, acting exclusively through very reliable funds. On the other hand, in the event a Lithuanian investor exacts the funds from the Lithuanian intermediary, and the foreign fund or the management enterprise declares insolvency the Lithuanian intermediary may find itself in a position when there is nobody to claim the losses from. This, however, would encourage the intermediaries to supply intermediary services to reliable funds only. The alternative is potentially more favourable to the Lithuanian intermediaries. It includes the requirement that the agreement with the investor regarding the purchase of securities of the foreign fund includes a provision that all the disputes between the foreign fund and the investor shall be settled in courts

12. The Commission shall issue the permit to the foreign fund to offer the its securities in the territory of the Republic of Lithuania when the following conditions have been met:

- 1) the fund is registered and has its head office in a EU member State and complies with all the requirements set forth to such funds in the European Union, or the fund is registered and has its head office in one of non-member State, the list of which shall be approved by the Securities Commission and the fund complies with the requirements set forth by the Securities Commission to the foreign funds seeking to offer their securities in the Republic of Lithuania.
- 2) the fund and its management enterprise, where the management of the property has been transferred to a management enterprise, are recognized and have a right to engage in the activities of the fund or the management enterprise in their origin state.
- 3) the agreement referred to in Part 6, Article 3 has been concluded;
- 4) the guarantees are provided that the securities shall be immediately transferred to the account of the buyer after securities are fully paid up or immediately after paying up for the securities the buyer shall be issued the certificate of the fund;
- 5) the guarantees are provided that upon redemption of the fund's securities, the cash funds owed to the person who submits the securities for redemption will be immediately paid to the person or transferred to the account specified by him.
- 6) the guarantees are provided that upon request of the shareholder the fund shall immediately redeem its securities except the cases when redemption of the fund's securities has been suspended pursuant to the laws effective in the state of the fund.
- 7) the evidence is present that upon passing a material decision concerning the activities of the fund (revocation of the license, suspension of sale and redemption of securities, etc.) the competent authorities of the origin state of the fund shall immediately inform the Securities Commission of the Republic of Lithuania.
- 8) the guarantees are present that shareholders of the fund will be provided the information which is equivalent or more detailed than the the information investment companies are obliged to furnish to their shareholders in accordance with the provisions of this Law; the guarantees are present that the said information will be available to the shareholders of the fund in the Lithuanian language without any restrictions.

13. The Securities Commission may refuse to issue the permit to a foreign investment funds to offer their securities, if:

- 1) the foreign investment fund or the management enterprise refuses to file all the documents required pursuant to the provisions of this Law and/or refuses to submit to the Commission the required additional information;
- 2) the foreign investment fund fails to meet the requirements set forth by the Securities Commission or the European Union, where the fund is founded and registered in the EU Member State.
- 3) the documents submitted fail to meet the requirement of the Law and the information contain fraudulent or erroneous information;
- 4) at lest one of the conditions referred to in Part 7 is missing.

14. In the event the foreign fund, the management enterprise or the intermediary of public trading in securities offering the securities of a foreign fund in Lithuania violate the laws of the Republic of

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of the Republic of Lithuania in the manner provided for the laws of the Republic of Lithuania. In this case prior to issuing the permit the Securities Commission should request the intermediary to submit the draft agreement. The Law must include a provision that the permit is granted only when Lithuanian investors are guaranteed a possibility to defend their rights in court. However, in this case, the intermediary offering the securities of a foreign fund would be relieved from any responsibility as well as the motivation to cautiously select the funds, the barriers for unreliable funds to penetrate the market would be eliminated. The optimal solution would be to introduce the concept of joint responsibility, the boundaries of which will have to be individually discussed and subsequently included as a provision of the Law.

Lithuania and seeking to ensure the rights and legitimate interests of investors who have acquired securities of the fund in the territory of the Republic of Lithuania, the Commission has a right to suspend the offering of securities of the foreign fund. In this case the Commission shall identify the actions or the circumstances on the basis of which the Securities Commission concludes that the rights and the legitimate interests of the shareholders who have acquired the securities of the fund on the territory of Lithuania are or might be violated in the event the permit is not suspended and instructs to eliminate the violations or the relevant circumstances. In the event of failure to timely eliminate the violations of the law, the Commission has a right to prevent the further offering of the securities of the fund.

15. The intermediary of the public trading in securities offering and redeeming the securities of the foreign investment fund in the Lithuania shall notify on the suspension of the permit and the grounds thereof at least one national daily and at least one national information agency.

16. The Securities Commission has a right to revoke the issued permit and forbid the Fund to offer its securities, if:

- 1) the fund has grossly violated the laws of the Republic of Lithuania;
- 2) the fund no longer meets the requirements on the basis whereof the license has been issued or no longer meets the new requirements set forth by the Commission;
- 3) it turned out that the fund had submitted the Commission the erroneous or misleading information on the basis whereof the permit has been issued;
- 4) the fund misleads the investors by submitting erroneous information in its regular statements or has failed to present the statement for at least one accountable period after the Commission requested the statement to be filed upon expiry of the term for submission of the statement, as prescribed by the relevant legal acts.
- 5) the bankruptcy proceedings has been initiated against the fund.

17. In the event the permit of the foreign fund to offer its securities in the Republic of Lithuania has been revoked, the intermediary of public trading in securities offering and redeeming the securities of the fund in Lithuania shall make an announcement thereof no less than three times at a week's intervals in at least one national daily and at least one national information agency.

18. The Securities Commission shall make an announcement on the suspension and revocation of the permit of the foreign fund to offer the securities in the Republic of Lithuania in the official gazette "Valstybės žinios" and notifies the supervisory institution of the foreign fund or the management enterprise in the country of origin of the fund as well as the intermediary of public trading in securities which provides intermediary services in offering and redeeming the securities of the foreign fund in the Republic of Lithuania.

19. The foreign fund may commence offering its securities on the following day after the permit has been obtained. In the event the fund fails to commence its activities or fails to sell at least one security in the territory of Lithuania within six months since the day the permit has been obtained, the permit shall be deemed ineffective and the fund seeking for permit to offer its securities shall apply for a new permit in the manner prescribed by this Law. The intermediary of public trading in securities, appointed the representative of the foreign fund in Lithuania shall be responsible for notifying the Securities Commission on the presence of conditions set forth in this Part of the Law. The public announcement on invalidation of the permit shall be made in the same manner as the notification on the revocation of the permit.

20. The Securities Commission has a right to require additional information on the offering and

redemption of securities of the foreign fund be included in the prospectus and regular statements of the fund in the event it considers that the information contained in the prospectus is not sufficient for the purpose of protection of the Lithuanian investor's interests.

# The Pragma Corporation

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Development Project  
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September 10, 1998 10:01AM

## MEMORANDUM

**To:** Aldas Kriauciunas  
USAID - Vilnius, Lithuania

**From:** Nijole Maskaliuniene,  
The Pragma Corporation, Vilnius

**Re:** **STATUS REPORT FOR THE MONTH OF AUGUST, 1998**  
Lithuania Capital Markets Development Project  
CONTRACT EPE-I-95-00040-00, Task Order 05

**CC:** Beverly Loew: USAID - Washington, D. C.  
Kevin O'Hara: Pragma Corporation - Falls Church, Virginia  
The Pragma Corporation: Vilnius Office File (Diana Sokolova)  
The LSC, the NSEL, the CSDL, the NAFB

### PROJECT DESCRIPTION

The Pragma Corporation ("Pragma") is implementing the Lithuanian Capital Markets Development Project ("Project") funded by the United States Agency for International Development ("USAID"). The Project is to provide legal and regulatory development assistance to the Lithuanian Securities Commission ("Commission") and organizational development assistance to the National Stock Exchange of Lithuania ("NSEL"), the Central Securities Depository, and the National Association of Finance Brokers of Lithuania ("Association"). In addition, the Project is providing assistance in the procurement of software and operations capabilities to support an order-driven, continuous trading stock exchange.

### PROFESSIONAL STAFFING

During August 1998, the "Pragma" team continued to provide expert legal assistance to the Project counterparties. No short-term technical advisers from the USA worked with the "Project" during the summer months of July and August.

### PRIMARY AREAS OF FOCUS

The work of the Pragma team was concentrated on the issues that have been in the focus for a long time, namely, rule writing for the Departments of Market Regulation (Gediminas Reciuonas) and Securities Registration (Jurga Dermontaite) of the Securities Commission, further amendments to the Law on Investment Companies (Evaldas

Valciukas) and market analysis (Arvydas Paskevicius) as well as on a new long-term assignment to prepare requirements for financial statements (forms of financial statements) for investment funds and principles of accounting to be used by said funds (Skirmantas Rimkus).

The preparation of the legal and regulatory basis for investment funds is one of the pressing issues for the Securities Commission. As it was mentioned in the Status Report for the Month of July, the provisions of the effective Law on Investment Companies permitting the establishment of an investment fund only as a stock company hinder their appearance in Lithuania as that incurs a lot of additional expenses and the management structure becomes very complicated. The legal adviser Evaldas Valciukas continues working on the amendments to the Law on Investment Companies which would make it possible to establish an investment fund as a non-legal entity. ("A non-legal entity" means a fund without the rights of a legal person.) If accepted, the amendments would facilitate faster appearance of investment funds in Lithuania. The management of the funds would become clearer in comparison to the model that is set forth in the effective Law as the functions of the investment fund and its management bodies duplicate the functions of the management enterprise of the investment fund. The division of liabilities and competence would become more definite too. Another possibility is to include provisions concerning investment funds as non-legal entities as an option together with investment funds as stock companies.

Mr. Evaldas Valciukas has prepared a memorandum in which the main provisions to be included into the Law are set forth and discussed. If the decision to propose these amendments to the Seimas is taken by the Securities Commission and they are adopted, there would be a great variety of legal forms of undertakings for collective investment into transferable securities. Maybe, that would facilitate their appearance. See Attachment "A".

Mr. Evaldas Valciukas also assisted in preparation of supplements to the Code of Administrative Violations regulating violations of the Law on Pension Funds. The purpose of these proposals is to create the legal basis for the prevention of the possible violations of the Law on Pension Funds prior to the appearance of these funds. Therefore, when these funds are established, it will be safer to entrust assets to them.

The financial statements and principles of accounting for investment funds that Mr. Skirmantas Rimkus started working on represent another aspect of the investment fund regulations, namely, the financial accounting of its activities. Although the forms of financial statements for investment holding companies, the only type of investment companies functioning in Lithuania, have been prepared<sup>1</sup>, they have not been approved by the Ministry of Finance yet. These companies still complete the same forms of financial statements as manufacturing companies. In the event an investment fund were established in Lithuania today, it would be impossible to control its financial and operational activities as there are no forms of financial statements prepared for them.

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<sup>1</sup> Forms of financial statements for investment holding companies were prepared by the "Project" adviser Arvydas Paskevicius

The financial adviser Skirmantas Rimkus is working to fill in the existing gap. He will prepare the requirements for financial reporting for both open-end and closed-end investment funds. The financial statements for investment funds have to be made in compliance with the EU Directive 611/85/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investments in transferable securities (UCITS) and International Accounting Standards. When working on these documents the experience of the USA will be also taken into consideration as the industry of investment funds is most advanced in that country.

The main problem the adviser is facing today concerns the very approach toward investment funds. This autumn, the Securities Commission intends to submit to the Seimas (the Parliament) amendments to the Law on Investment Companies. Many envisaged amendments concern open-end investment funds. So far they have been treated as special type public companies which may redeem their shares. The Securities Commission is discussing the possibility to offer another option as to the type of open-end investment funds, i.e. an investment fund which is not a legal entity. In that situation an investment fund will be established by investment management and consulting firms. The latter will manage the fund's assets and conduct its accounting. However, the Securities Commission has not decided whether the accounting standards should be prepared for investment management and consulting firms and the investment funds that they will establish together or only for investment funds. The decision will determine the way the financial requirements will be prepared.

By August 1, The Securities Commission prepared a new draft of the Rules on Securities Registration and Public Offering and sent out to the market participants for review. Ms. Jurga Dermontaite has prepared the Annexes to these Rules, namely, on information disclosure in securities issue prospectuses. The discussion of the Rules is planned in September. Ms. Jurga Dermontaite's task was to prepare the comments on these Rules and on the comments received from the Ministry of Finance concerning the content of the securities and bond issue prospectuses, which she did. Ms. Dermontaite also reviewed the Draft Rules on Registration and Offering of Investment Company Units. These Rules are only the first draft and still require much refinement and consideration. Attachment "B".

Mr. Reciunas completed the fourth draft of the Rules on Agreements between Financial Brokerage Firms and their Clients. The draft underwent coordination and discussions with the officials of the Securities Commission all through the August. When adopted, it will set forth the general requirements for agreements between the financial brokerage firm and its clients and special requirements for the agreements on custody of clients' securities, contracts on placement and execution of clients' orders and contracts on discretionary accounts. The rule aims at protecting investor rights against possible abuse from the side of financial brokerage firms. It also contains client asset protection provisions covering both clients' monies and securities. The financial part of the draft rule on the agreements concluded between the financial brokerage firm and its clients was reviewed by the financial adviser Skirmantas Rimkus.

Dr. Arvydas Paskevicius is working on the problems of capital market analysis. The purpose of this research is to give a tool to the Securities Commission to enhance the effectiveness of the capital market regulation. So far the capital market analysis has been limited to data collection at the department level. Usually analytical surveys for one year were carried out concentrating on a very narrow scope of subjects. A systematic analysis for the whole period of five years has never been performed. The difficulty in dealing with this task is that the existing databases do not meet the needs of the Securities Commission and are scattered in all departments of the Commission as well as the Stock Exchange.

During the month of August, Dr. Paskevicius carried out inventorisation of a number of the Stock Exchange databases, reviewed the analytical surveys prepared by the Market Regulation Department, accumulated materials for the analysis. As a result, a memorandum was prepared for the Securities Commission to furnish the discussions and determine further steps in this long-term project. The memorandum discloses the content of the capital market analysis and makes proposals concerning the priorities in the long list of issues to be addressed. Attachments "C" and "D".

#### MAJOR ACHIEVEMENTS

No major achievements can be singled out as the work was focused on the development of the previously commenced issues.

#### WORKSHOPS/SEMINARS

There were no workshops or seminars held in August, 1998 in which the Pragma team participated in any way.

#### UPDATE ON PREVIOUS REPORT

##### COMPLETED:

- ☆ Memorandum on the Amendments to the Law on Investment Companies
- ☆ Draft Rules on Agreements between Financial Brokerage Firms and their Clients (draft four)
- ☆ Guidelines to the Securities Market Analysis

All documents were passed to the Securities Commission.

##### IN PROGRESS:

- Memorandum on Financial Accounting of Investment Funds
- Memorandum on Compatibility of the Law on Investment Companies, Company Law, and the Law on Public Trading of Securities as regards the Establishment of Investment Funds as Non-Legal Entities
- Market analysis (continued project)
- Memorandum on Financial Statements for Investment

#### PLANS FOR NEXT MONTH AND ANTICIPATED ISSUES

In September, Mr. Reciunas will be finalising the Rules on Agreements. Mr. Rimkus has an assignment to start working on financial statements for investment companies. Mr. Valciukas is working on the provisions concerning investment funds in the Law on Investment Companies. Dr. Paskevicius will continue with the capital market analysis.

#### ATTACHMENTS:

- A. MEMORANDUM ON THE AMENDMENTS TO THE LAW ON INVESTMENT COMPANIES
- B. DRAFT RULE ON REGISTRATION AND OFFERING OF SECURITIES ISSUED BY INVESTMENT COMPANIES
- C. MEMORANDUM REGARDING LITHUANIAN CAPITAL MARKETS ANALYSIS
- D. MEMORANDUM ON THE SECURITIES COMMISSION'S PARTICIPATION IN CAPITAL MARKET ANALYSIS

4. Units of the investment fund shall be redeemable.
5. Units of the investment fund shall be issued and redeemed in the name of the management enterprise for the account of the investment fund (it means that the management enterprise, while issuing units of the investment fund in its name, shall enter the proceeds from the issue into the investment fund's account. A person who acquires units of the investment fund shall become a joint owner of the investment fund. All operations shall be performed for the account of the investment fund with the right of the joint partial ownership of the property that appears due to operations with the investment fund's assets being held by the co-owners of the investment fund. Units shall be issued in the name of the management enterprise because all other rights (except property rights) and obligations that appear from the transaction of sale of units fall on the management enterprise, namely, the obligation to manage the proceeds and the investment portfolio formed from them, the obligation to implement the rights and obligations from the acquired securities, etc.). The management enterprise of the investment fund may delegate the issue of the units to the custodian. In such a case the custodian shall act as an agent. Moreover, the custodian shall monitor that the unit's issue price be established pursuant to legal acts. The investor who has acquired units of the investment fund shall transfer the payment for them into the account of the investment fund. Such a custodian, for the purposes of convenience, may act as an agent of the management enterprise in the issuance of units of the investment fund.
6. When issuing units of the investment fund in its own name, the management enterprise shall specify the co-owner of which investment fund the investor purchasing the units will become.
7. The name of each investment fund must include the words "investicinis fondas" ("investment fund") or their acronym "IF". The name shall be registered in the patent bureau of the Republic of Lithuania.
8. The management enterprise shall have the right to open an account with the cash and/or securities custodian. The cash and securities account opened in the name of the investment fund shall belong to the unit holders of the investment fund by the right of the joint partial ownership.
9. Unit holders of the investment fund shall not be entitled to claim distribution of the investment fund or segregation of their share from the investment fund in kind. The unit holders of the investment fund shall be entitled to request the redemption of the units they hold.
10. Creditors of the investment fund's holders shall not be entitled to any lien on the share of the investment fund's holders who are their debtors in kind. They shall not be entitled to any lien on the capital of the investment fund. They may only hold lien on the units of the investment fund.
11. The unit holder of the investment fund shall be entitled to transfer the units of the investment fund he holds by the right of ownership without any restrictions.

12. When transferring the units of the investment fund, the share of the capital in the joint ownership shall be transferred too.
13. Other holders of the investment fund shall not hold the pre-emptive right to acquire the units of the investment fund being transferred.
14. The investment fund shall act on the basis of the agreement (or rules). The agreement shall be made between the management enterprise of the investment fund and the persons acquiring units of the investment fund (each separately). The agreement cannot be subject to any amendments which shall be signed by each person upon acquisition of the units of the investment fund. The agreement shall provide that the management enterprise act in its own name for the account of the investment fund (i.e. for the joint account of the holders of the investment fund). The typical forms of these agreements shall be approved by the Securities Commission upon the issuance of the license to engage in the activities of the management enterprise.
15. The agreement on the basis of which the investment fund functions shall be registered by the Securities Commission. The investment fund shall be deemed established from the moment the agreement is registered by the Securities Commission. The management enterprise that will be acting as the manager of the investment fund may start operations for the account of the investment fund.
16. The agreement may be changed only in the cases and pursuant to the procedure set forth in that agreement. Upon signing the agreement the investor will get acquainted with the possibilities to make amendments to it. Moreover, it will be only with the investor's consent that the agreement may be amended in the manner set forth in it.
17. Holders of the investment fund's units shall be entitled to apply to the Securities Commission in order to replace the management enterprise or the custodian. The Commission shall check the facts specified in the application and, upon finding that they are correct, authorise the transfer of the management of the investment fund or/and the custody of the assets to another management enterprise or/and the custodian. In the event the management enterprise is changed, management shall temporarily be transferred to the custodian. During the period to be set forth by the law the custodian shall transfer the management of the investment fund to another management enterprise. During that transitional period no issuance or redemption may take place. It may also be provided that the management enterprise selected by the custodian and the agreement with it be subject to the approval of the general meeting of the unit holders of the investment fund. In such a case the law should provide for the procedure of convening and conducting the general meeting of the unit holders as the provisions of the Company Act shall not be binding in case of an investment fund. In the event the custodian is to be changed, the management enterprise shall transfer the custody of the investment fund's assets to another custodian chosen at the management enterprise's discretion. Both the selected custodian and the management enterprise shall be approved by the Securities Commission. The Securities Commission may refuse to approve of the selected

custodian or the management enterprise if the selection is contradictory to the interests of the unit holders of the fund.

18. In the event the Securities Commission authorises to select a new custodian and the management enterprise, the new custodian and the management enterprise shall be elected at the general meeting of the unit holders. The procedure of convening the meeting and decision making shall be established in the Law on Investment Companies. As these issues require speedy solution, this procedure would be probably very hard to implement in reality. Alternative: to temporarily, for a definite period, transfer the investment fund to the Central Securities Depository of Lithuania, which would transfer it to a new management enterprise and custodian.
19. The problem: upon changing the management enterprise the agreement shall also be changed. Actually in said situation the agreement is changed disregarding the will of the investors, unless the Law provided that the change of the management enterprise be approved by all unit holders of the investment fund, which is not realistic. In the cases the agreement is terminated due to various legal factors, e.g. bankruptcy of the management enterprise, revocation of its license, etc., such a change is necessary because the agreement is simply terminated. However, in the situation when the order is issued to change the management enterprise, for instance, due to the insolvency of the management enterprise, or it is violating the rules, or the inspection finds that the management enterprise is on the verge of bankruptcy, etc., that order actually means the order to change the management agreement. Therefore, the agreement should be very brief, i.e. it should only contain a general obligation to comply with the rules of the investment fund (for the management enterprise) and the remuneration of the management enterprise. The main issues concerning the relationships between the fund and the management enterprise shall be established in the rules of the fund which could be changed only in exceptional cases upon the approval of the Securities Commission.
20. Upon registration of the investment fund with the Securities Commission, the rules which provide for the strategy of the fund and the principles of investing shall be registered too. Upon the change of the management enterprise and the management agreement, the rules of the fund shall not be changed. The management enterprise which takes over the management of the investment fund under its own agreement approved by the Securities Commission shall take over the rules of the fund. The fact of acquisition of the investment fund's units by the investor shall mean that the investor agrees with the rules of the investment fund and takes the obligation to follow them. Such a provision shall be entered into the agreement. The agreement shall also provide that the investor get acquainted with the rules of the fund and agree with them. These statements shall be confirmed by the investor by signing the agreement. (A possible option is that the management agreement is not made at all. The relationship between the management enterprise and the investment fund would be regulated only by the rules of the fund which would also specify the remuneration of the management enterprise. In such a case the rules should provide for everything that needs to be covered by the agreement. The rules can be changed only upon the initiative of the management enterprise upon the approval of the Securities Commission. The same concerns the management enterprise: its rules can be changed only upon the approval of the Securities Commission. Moreover, it

can be provided that certain items of the rules should not be changed at all, for instance, the investment policy, strategy, restrictions, etc. Such a model would help avoid misunderstandings due to mandatory change of the agreement with regard to investors. The rules would set forth the possibility to amend the rules, obligations of the management enterprise and the rights of the investors. In such a way these rules would replace the agreement. In that event only the unit subscription agreement would be signed between the investor and the management enterprise which would establish mutual rights and obligations, the rights of the investor attaching to the units and the investor's agreement with the rules of the investment fund as well as the possibility to change them. While all relations between the investment fund and the management enterprise would be regulated by the rules and there would be no difficulty in changing them. In such a case the fund would be deemed established from its registration by the Securities Commission and accumulation of the minimum initial capital).

21. If during a certain fixed period the management of the fund or custody of the assets is not transferred to a new management enterprise and/or custodian (when that is mandatory), the fund shall be liquidated. The order of liquidation shall be established in the law.
22. The rules of the investment fund's asset management and transfer shall be valid in the cases when the management enterprise or the custodian are changed on the basis of other facts, such as suspension or revocation of the license, bankruptcy, etc.

The management enterprise:

1. The management enterprise shall act in its own name for the account of the investment fund. The management enterprise shall be liable for the obligations that appear from transactions concluded by the management enterprise in its own name for the account of the investment fund to the extent of the fund's account. Creditors shall not be entitled to hold a lien on the property of the unit holders of the investment fund. Their requirements may be satisfied only from the capital of the investment fund.
2. While acting in its own name for the account of the investment fund, the management enterprise shall not be entitled to use the funds of the investment fund for its own needs, i.e. the management enterprise may use the funds of the investment fund in its own name only as prescribed by the rules of the investment fund and the agreement.
3. The management enterprise, in its name for account of the investment fund, may take only such obligations and carry out only such transactions that do not contradict the rules of the investment fund and the law on investment companies. The possibility to take the obligations must be strictly restricted. The effective law also provides for limited possibilities for the management enterprise to take obligations, for instance, it may not issue bonds; credit taking is limited to some specific cases; when acquiring securities on the exchange deferral of charges is actually impossible because transactions must be settled at once. The restriction is necessary in order to make it complicated to transfer the management of the

investment fund in case of effective liabilities. According to Paragraph 1 of Article 242 of the Civil Code of the Republic of Lithuania, a debtor may transfer a liability to another person only upon the approval of the creditor. In the situation when the management enterprise is changed, all rights and obligations arising from transactions concluded on the account of the investment fund should pass onto the new management enterprise. During the transitional period when the management is temporarily passed to the custodian, these rights and obligations shall be taken over by the custodian. Therefore, in the event of any liability to third parties, the said third party being a creditor shall issue an agreement as to the change of the management enterprise. A possible solution when changing the management enterprise is to ask the creditor to agree as to the temporary transfer of the debt to the custodian and, later, to a new management enterprise. If the creditor agrees, all liabilities shall be transferred to the management enterprise. If not, when changing the management enterprise, the management of the investment fund shall be transferred to the new management enterprise together with all rights arising from transactions concluded on behalf of the investment fund. All liabilities shall remain with the former management enterprise until they are met. The fulfilment of the liabilities shall be overseen by the custodian in order to ensure the interests of the unit holders of the investment fund. Another possibility is to set forth a requirement that the management enterprise, while accepting the liability, shall make an agreement with the creditor concerning the transfer of the liabilities to another management enterprise in cases provided in the law or the rules of the investment fund. If such an agreement is not received, the management enterprise may not take over the liabilities for the account of the investment fund. It may only take these liabilities over on its own account.)

4. The management enterprise shall be directly accountable to unit holders of the investment fund for the harm inflicted upon them by its illegal actions. Legal actions shall mean actions related to conclusion of transactions for the account of the investment fund that do not contradict the rules of the fund. In case of harm infliction the unit holders of the investment fund shall be joint creditors.
5. The management enterprise may acquire units of the investment fund. In such a case it shall become a co-owner of the investment fund and shall have the same rights and obligations as other unit holders. The problem is that the management enterprise, upon acquiring units of the investment fund, may not sign agreements with itself. That means that either the management enterprise is forbidden to acquire units of the fund (except at the moment of founding when a one-party founding act may be signed) or provide for the management enterprise to acquire units of the fund without signing any agreement (the legal basis for that could be the fact that the management enterprise, acting for the account of the fund in its own name, being a holder of the investment fund's units, would also manage its own participating interest of the fund that belongs to it by the right of ownership; that does not require any agreement because the management enterprise can dispose of its own assets at its own discretion anyway. In the latter case there may be necessary to enter a provision concerning the obligation of the management enterprise that it will fulfil all its responsibilities arising to it as to a unit holder of the investment fund; the supervision of the fulfilment of said obligation shall be carried out by the custodian).

6. All rights and obligations arising from transactions concluded for the account of the investment fund concerns the management enterprise only. The management enterprise may cover liabilities arising from said transactions for the account of the fund only when these transactions comply with the rules of the fund and the agreement. Otherwise, the management enterprise must fulfil its liabilities for its own account.
7. The management enterprise shall not be entitled to transfer liabilities and rights to the unit holders of the investment fund. Unit holders of the investment fund shall not be entitled to request that the rights and obligations from transactions carried out for the account of the investment fund by the management enterprise be transferred to them or any of them. Only in the event that there is some basis to think that the management enterprise abuses the rights and responsibilities granted to it or that the fulfilment of these obligations will be contradictory to the interests of the unit holders of the investment fund, the unit holders or the custodian may appeal to the Securities Commission that the management enterprise be changed.
8. When the management enterprise is changed, the new management enterprise takes over all rights and obligations from the former management enterprise on the basis of the transactions concluded for the account of the investment fund. At the time when management of the investment fund is temporarily given to the custodian, all rights and obligations for the account of the investment fund shall pass to the custodian. (Problems related to that are discussed above, see paragraph 3.)

**RULE ON REGISTRATION AND OFFERING OF SECURITIES ISSUED  
BY INVESTMENT COMPANIES**

**1. General Part**

- 1.1. The present Rule on Registration and Offering of Securities Issued by Investment Companies (further - the Rule) establishes the procedure of registration, reregistration and revocation of registration of securities with the Securities Commission, as well as offering of securities issued by investment companies.
- 1.2. The legal basis for this Rule is Articles 4 and 7 of the Law on Public Trading in Securities, Article 7 and pars 1, 3, 4 and 6 of Article 11 of the Law on Investment Companies, part 5 of Article 5, pars 4 and 10 of Article 32 and part 1 of Article 39 of the Company Law.
- 1.3. Where requirements set forth by this Rule are applied to all investment companies of all types, the concept "investment company" is used. All other concepts used in this Rule and Annexes thereof shall have the same meaning as in the Law on Investment Companies, Law on Public Trading in Securities and other legal documents approved by the Lithuanian Securities Commission.
- 1.4. The issue of investment companies shall be registered with the Lithuanian Securities Commission (further - the Commission). It shall be prohibited to advertise and offer securities which have not been registered with the Commission.
- 1.5. Securities issued by foreign investment companies shall be offered following the provisions of individual Rules approved by the Commission.

**2. Submitting of Documents**

- 2.1. Seeking registration of securities the investment company shall submit:
  - 2.1.1. application (Annexes 1 and 2);
  - 2.1.2. prospectus (Annexes 3 and 4);
  - 2.1.3. the notarized copies of the documents of incorporation in case the company is registered for the first time, or notarized copies of amendments to the documents of incorporation which appeared following the most recent registration of securities;
  - 2.1.4. the notarized copies of the protocol of the general meeting of shareholders (which has passed the decision to issue the securities or decrease the authorized capital);
  - 2.1.5. the draft reorganization plan, where securities are registered due to the reorganization of the issuer;
  - 2.1.6. the document certifying the payment of stamp duty;
- 2.2. In the prospectus the issuer shall submit the data of financial accounting, disclose the information on its activities, investment strategy and investment risk factors, securities issued and to-be issued, management bodies and deals of the members of the management bodies with the issuer, associated persons and business partners thereof, as well as other information requested by Annexes 3 and 4 to this Rule.

- 2.3. The prospectus shall also contain the opinion of the independent auditor, acting in accordance with the provisions of the Regulations on Audit of the Republic of Lithuania (approved by the Government of Lithuania, Resolution No.9, of January 4, 1995), and holding the permit to carry out the audit, issued by the Institute of Audit and Financial Accounting of the Republic of Lithuania, on the compliance of the accounting and financial statements of the issuer with the laws of the Republic of Lithuania and the general principles of accounting.
- 2.4. Investment company may at its own discretion submit other information not referred to in Annexes 3 and 4 to this Rule.
- 2.5. The by-laws of the investment company are deemed an inseparable part of the prospectus and shall be enclosed in its Annexes;
- 2.6. The application regarding the registration of securities and the issue prospectus shall be signed by the Chairman of the Board of the Investment Company and the Chief Financier (the Head of the Management Enterprise and the Chairman of the Supervisory Board where the management has been transferred to the Management Enterprise).
- 2.7. The prospectus of the investment fund shall be regularly updated. The material data presented in the prospectus having changed, the prospectus shall be amended within 10 days since the occurrence of the change. This may also be accomplished through preparing a new prospectus or annexes thereof.

*?? Prior to presenting the prospectus or annexes (amendments) thereof to the potential investors, the Securities Commission shall be familiarized with the prospectus. Only upon approval of the Commission that the prospectus contains all the information required by this Rule or other information which may be essential to the investment decision the prospectus may be presented to shareholders or potential investors.*

### 3. Examination of the Documents and Registration of Securities

- 3.1. The Commission must examine the documents on securities registration, reregistration or revocation of registration within 30 days.
- 3.2. The Commission has a right to request the issuer to submit additional information essential for the protection of the rights of investors or explain or specify the submitted data. In this case the period of 30 days shall be deemed to have started from the day of submission of additional information, explanations and amendments.
- 3.3. The Commission has a right to refuse to register, reregister the securities or revoke the registration thereof, if:
  - 3.3.1 The data submitted by the issuer do not comply with the regulations established by the Securities Commission;
  - 3.3.2 the issuer refuses to submit the documents, data or explanation, requested pursuant to this Rule;
  - 3.3.3 the securities are issued, their type, class or nominal value are changed or securities are cancelled in derogation of the laws of the Republic of Lithuania and the rules of the Commission;
- 3.4. The decision of the Commission to refuse to register, reregister the securities, or revoke registration thereof must be well-grounded.
- 3.5. Having made up the specified deficiencies, the issuer may repeatedly submit the documents which will be examined following the regular procedure.
- 3.6. The decision to refuse registration, reregistration or revocation of registration of securities may be appealed in court.

- 3.7. Upon registration of the securities with the Commission, the procedure and terms of offering the securities may be changed only upon obtaining the Commission's permission.
- 3.8. The registration of securities with the Securities Commission is a confirmation that the information provided by the issuer complies with the rules on disclosure of information set forth by laws and other legal acts. Registration of securities with the Securities Commission is not a confirmation that the information presented is correct, neither it may be considered recommendation of the Commission to the investors.
- 3.9. Having registered the securities the Securities Commission shall issue the securities registration certificate (Annexes 5 and 6).

#### **4. Offering of securities of the closed-end investment fund and the investment holding company**

- 4.1. Securities issued by a closed-end investment fund or an investment holding company and registered with the Securities Commission may be offered only publicly (except in the case of incorporation) by the company itself or pursuant to the securities offering agreement concluded with the intermediaries of public trading in securities.
- 4.2. The primary public trading of securities shall be carried out subject to the following rules:
  - 4.2.1. It shall be prohibited to advertise the securities or make any announcements regarding subscription therefor unless the securities have been registered with the Securities Commission. The issuer or an intermediary of public trading in securities acting in the issuer's name or in its own name but on the issuer's account has a right prior to registration of the securities with the Securities Commission to carry out the market research enabling the potential investors to familiarize themselves with the draft prospectus submitted to the Securities Commission;
  - 4.2.2. The issuer shall provide conditions to every potential investor to familiarize himself with the prospectus and other documents on the basis of which the securities have been registered.
  - 4.2.3. The advertising of the offered securities may contain only the material previously published in the prospectus, annual or regular statements;
  - 4.2.4. Every advertisement shall contain a reference to the place and time to get familiar with the prospectus and the issuer's statements;
  - 4.2.5. when increasing the authorized capital of the company the shareholders shall have no preemptive right to the shares of the new issue;
  - 4.2.6. everybody shall be ensured equal rights with regard to acquisition of securities.
- 4.3. Shares of the first issue of the newly established investment company may be acquired by the incorporators of the company only. The shares shall be fully paid up prior to registration of the investment company with the Enterprises Register.
- 4.4. Shares of the closed-end investment company or investment holding company shall be fully paid up prior to registration of its capital or the increase of its capital in the manner prescribed by the Law on Enterprise Register.
- 4.5. The securities shall be offered pursuant to agreement concluded between the issuer (or an authorized intermediary of public trading in securities) and a natural or legal person, according to which one party assumes an obligation to submit an established number of newly issued securities and the other party undertakes an obligation to fully pay up the price of the subscribed issues.

- 4.6. The agreement on the subscription for the company's securities shall indicate:
- 4.6.1. The name of the investment company;
  - 4.6.2. The amount of the increase of the authorized capital and the amount of the authorized capital of the company under foundation;
  - 4.6.3. The date of the general meeting of shareholders which has passed the decision to increase or to decrease the authorized capital;
  - 4.6.4. the dates and registration numbers of the investment company share issue and the by-laws;
  - 4.6.5. The nominal values of shares and issue prices, rights attaching to the issued shares;
  - 4.6.6. The terms for subscription for shares;
  - 4.6.7. The procedure and manner of payment for shares;
  - 4.6.8. The procedure of the allotment of shares to the subscribers;
  - 4.6.9. The name of the subscriber (the name of the legal person), personal code and address (residence).
  - 4.6.10. The number of shares subscribed for.
- 4.7. The draft agreement on subscription for securities shall be filed with the Securities Commission together with the draft prospectus.
- 4.8. In the event that in the course of primary public trading of securities of the closed-end investment fund or an investment holding company the data indicated in the prospectus change or a material event take place, the issuer shall announce thereof in the manner prescribed for in Article 6 of the Law on Public Trading in Securities. In which case persons who have already subscribed for the securities have a right to relinquish the shares within 5 days since the disclosure of the new information, and the issuer shall within 10 days shall return his contributions without any deductions.
- 4.9. In the event the closed-end investment company or an investment holding company, or an intermediary of public trading in securities violates the established procedure of offering the securities, or it becomes known that fraudulent or incomplete information has been presented upon registration of the securities, the Securities Commission has a right to suspend offering of the issuer's securities and establish the period of time, within which the deficiencies shall be eliminated. In the event of failure to eliminate the infringements within the established period of time, the Securities Commission has a right to revoke the registration of securities.
- 4.10. In the course of primary trading in offered securities the price of the securities may not be less than their nominal value, except in cases provided for by the laws of the Republic of Lithuania.
- 4.11. Having completed the offering of securities registered with the Securities Commission or upon expiry of the term for offering the securities, the closed-end investment fund and the investment holding company shall within one month file the offering report to the Securities Commission (Annex 7).
- 4.12. The secondary public trading of securities issued by an investment holding company or the closed-end investment company may be conducted in the Stock Exchange pursuant to the Regulations of the Stock Exchange.

## **5. Offering of Securities of an Investment Fund**

- 5.1. The redemption and sale of shares of an investment company may be organized and performed by the investment fund itself or by an intermediary of public trading in securities (financial brokerage firm or a bank), which, pursuant to the agreement with the investment fund redeems and sells the issued securities for an established fee (further - **agent**).

- 5.2. The agreement with the intermediary shall indicate the types of services the intermediary will provide to the investment fund and its shareholders, the amount and procedure of payment for the services, and cases when the fee for the redeemed or sold shares is not charged, etc.,
- 5.3. The agent shall assume an obligation to maintain the accounting of securities of the investment fund in accordance with the effective rules.
- 5.4. The agreement with the agent shall be signed by the Chairman of the Supervisory Board of the investment company or the manager of the management enterprise;
- 5.5. The distributor, its managers and employees shall be precluded from acquiring the offered shares of the investment fund (*to avoid the conflict of interests*);
- 5.6. In its relations to the shareholders of the investment company and potential investors the distributor shall be represented by an employee holding the license of the broker-consultant or the general license of the financial broker;
- 5.7. While offering or selling shares of an investment company the agent shall deliver to every investor an issue prospectus free of charge and provide with the reliable information about the fund;
- 5.8. While selling or redeeming the shares of an investment fund, an agreement shall be concluded, the parties being the investment fund or the agent acting in the name of the investment fund and the investor (shareholder). The agreement shall indicate the name and the personal code of the shareholder, the name of the fund, the subscription date, the number of shares, the price of a share, the shareholder account No, the shareholder telephone number and other information. The agreement may also set forth the procedure for distribution of appreciation of the value of the investment company shares, and the following procedures for allocation of dividends:
  - 5.8.1. additional shares of the fund assigned to the shareholder;
  - 5.8.2. payment in cash or to the account specified by the shareholder;
  - 5.8.3. transferred to the specified pension fund
  - 5.8.4. other established ways.

The share subscription agreement shall indicate the way of dividend allocation chosen by the shareholder. If the shareholder fails to specify the way, the transfer of cash to the specified bank account will be automatically effected (*or additional shares of the fund are automatically assigned, if provided by the agreement*).

Where the agreement is made regarding securities of an investment fund, the total value of which exceeds XXX litas, additionally shall be filed the proxy statements to persons ..., the document certifying the declaration of income, ....

- 5.9. Settlement for the investment fund shares shall be effected no later than within 3 days after execution of the transaction. In the event the investor fails to settle accounts within the period established, the transaction shall be deemed not to have been effected. Shares of an investment company may be paid up in cash or pecuniary contributions.
- 5.10. The investment fund may establish the minimum amount to be paid by the investor immediately upon signing the agreement on purchase of the investment fund shares. In the event the investor fails to effect the payment within 3 days, the agent has a right to deduct the actual expenses relating to the transaction that failed to take place to its own advantage (???)
- 5.11. Upon request of the shareholder the investment fund shall redeem its own shares in the manner provided by the law and effect payment for the shares in cash. The payment may also be made in other property if this is provided for in the by-laws of the fund.

- 5.12. The share redemption price shall be calculated in accordance with the rules included in the by-laws on establishing the value of the net (own) assets. The price shall be equal to the value of the investment fund net (own) assets per share less the costs of redemption of one share.
- 5.13. The share selling price shall be calculated in accordance with the rules included in the by-laws on establishing the value of the net (own) assets. The price shall be equal to the sum of the value of the investment fund net (own) assets per share and the costs of redemption of one share, which are calculated .... *(or better a fixed rate?)*.
- 5.14. The investment fund shall publicly announce the share selling or redemption price each time shares are issued, sold or redeemed, but not less frequently than twice a month. The Securities Commission may reduce the frequency of announcements up to one time per months provided that such reduction may cause no harm to the investment fund shareholders and other investors. The public announcement of prices means that prices may be announced on the bill-boards of the banks (where agents are banks), announcement boards in the premises of distribution, and information shall be made available to anybody at his request with no restrictions, and other methods. The announcement of prices in the press is not mandatory.
- 5.15. The investment fund may, on the basis of the procedures provided for in its by-laws or other rules, temporarily (but for no longer than 3 months in a business year) suspend the redemption of its shares, if;
- 5.15.1. the suspension is performed seeking to protect the shareholders from a possible insolvency or possible decline of the share prices due to the unfavourable securities market situation and the related reduction of value of the investment portfolio held by the investment fund.
- 5.15.2. the own capital becomes less than LTL 1 million;
- 5.15.3. this is requested by the Securities Commission;
- 5.16. In the event of suspension of share redemption the investment fund shall within 5 days notify the Securities Commission and make a public announcement thereof in the mass media (national dailies, radio and television) in such a manner and at such time as to provide a real possibility for the investment fund shareholders and potential investors to find out about the event.
- 5.17. The investment fund share redeemed by the investment fund agent shall be canceled (???). At the end of the working day the agent shall calculate the sold and redeemed shares and adjust the own capital amount accordingly. It shall be prohibited to sell more shares than the largest number of shares permitted for offering registered with the Securities Commission.
- 5.18. The agent of the investment fund has a right to establish the minimum amount of the sold securities.
- 5.19.

## **6. Reregistration of securities issued by an investment company**

- 6.1. Securities of the investment fund registered with the Securities Commission shall be reregistered when:
- 6.1.1. the general meeting of shareholders passes the decision to liquidate the company;
- 6.1.2.

- 6.2. Upon liquidation of the investment company within 10 days after the meeting which passed the decision to liquidate the company the following documents shall be presented to the Securities Commission:
  - 6.2.1. the request to reregister the securities to the securities of a company under liquidation;
  - 6.2.2. the minutes or the notarized copy thereof of the meeting which passed the decision to liquidate the company;
  - 6.2.3. the procedure of liquidation of the company's authorized bodies, specifying the number of shareholders, the procedure and terms of liquidation, the manner of informing the shareholders and creditors, the composition of the company assets;
  - 6.2.4. the rules of appropriation of assets among shareholders and creditors;
  - 6.2.5. documents of registration of securities (originals);
  - 6.2.6. financial statements of the beginning of the liquidation period (liquidation balance-sheet)
  - 6.2.7. the detailed statement of the changes of assets;
- 6.3. Within 30 days of filing the request to reregister the securities into securities of a company under liquidation the Securities Commission shall consider the submitted documents and pass the decision;
- 6.4. In the event the procedure for liquidation of the investment company or settling the accounts with shareholders as specified in the documents submitted by the investment company contradicts the effective laws or is prejudicial to the interests of at least one shareholder, or the information submitted is incomplete or fraudulent, the Commission has a right to refuse to reregister the securities. The decision to refuse to reregister the securities must be well grounded.
- 6.5. Upon rectifying the specified deficiencies or submitting the additional information or explanations, may repeatedly submit the documents. In this case the time limit for the consideration of documents shall be calculated from the date the last document have been filed.
- 6.6. Upon reregistration of the securities of the investment company to securities of an investment company under liquidation, the Commission shall issue the securities reregistration statement and add the word "under liquidation" next to the name of the company.

## **7. Revocation of registration of securities issued by an investment company**

- 7.1. Upon reorganization of the company in the manner provided for by the Law on Investment Companies or after the liquidator of the investment company has fulfilled all his assignments, the registration of investment company securities with the Securities Commission shall be revoked.
- 7.2. Seeking to revoke the investment company securities registration with the Securities Commission due to reorganization of the company, the following documents shall be submitted to the Securities Commission:
  - 7.2.1. The minutes or the notarized copy of the minutes of the general meeting of shareholders which has passed the decision to reorganize the company;
  - 7.2.2. the company reorganization plan approved by the bodies of management of the company;
  - 7.2.3.

7.3. Seeking to revoke the investment company securities registration with the Securities Commission due to liquidation of the company, the liquidator shall file the following documents with the Securities Commission:

7.3.1. the application to revoke the registration of securities of the company under liquidation

7.3.2. the company liquidation report or a notarized copy thereof;

7.3.3. the original registration certificate of the company in liquidation

7.3.4. copies of the documents certifying to the settlements with the shareholders and creditors;

7.3.5. The Commission, having considered the submitted documents, shall within 15 days issue the extract from the minutes of the meeting of the Securities Commission, certifying the revocation of registration of the company securities and shall notify the Central Securities Depository of Lithuania.

7.3.6. The documents of the liquidated company shall be passed over to the custody of the archive in the manner prescribed by the Government of the Republic of Lithuania.

## 8. Final Provisions

8.1. Persons who have signed the application and the prospectus shall be responsible for the correctness of the information in the manner provided for in the Lithuanian Laws. In the event due to the inaccurate data submitted or failure to specify the risk factors, related to the activity of the issuer, material losses are incurred to the investors, the latter has a right to require to compensate for the losses in the manner provided for by the Law.

8.2. The Securities Commission shall announce the data of the type of the registered securities, the amount and the price of the issue in the official gazette "Valstybės Žinios", and create conditions for the investors to familiarize themselves with the prospectus. The issuer shall create conditions for anyone willing to familiarize himself with the documents submitted for registration.

8.3. In the event the company fails to timely submit the annual or semi-annual statements to the Securities Commission, the Securities Commission has a right to refuse to consider the documents submitted for the registration, reregistration or revocation of registration of securities.

Annex 3

**The Content of the Issue Prospectus of the  
Closed-end Investment Fund and the Investment Holding Company**

**Part I. The basic information on Issued Shares**

**1. Basic data on the issuer**

The name, address, the telephone and fax number of the issuer, the number of the permit to engage in investment activities, the date and place of registration of the investment company, the Enterprise Register Code.

**2. The type of the investment company, peculiarities of the type of the company, the legal basis** (the standard legal acts underlying the activities of the issuer).

**3. The duration of activity of the issuer provided for in the by-laws if the company.**

**4. The principal data of the issued shares** (the class of the securities, number, nominal value, the issue price, the total nominal value of the issued securities, the offering costs, the beginning and the end of the offering period, the principal objective of the issue, the income appropriation policy, the term of distribution of the assets upon termination of activities of the investment company, etc).

**5. The date and place of preparation of the prospectus**

**6. Information on the place and time to get familiar with the prospectus, annual and semi-annual statements and documents on the basis of which they were drawn.**

**7. Consultants whose services have been used in preparation of the prospectus** (FBF, IHC, ME, etc.): names, (legal persons - names), addresses, the names and numbers of licenses to engage in specific activities.

**8. Information on persons who have prepared the prospectus** (names, positions and work places of persons who have prepared the prospectus (where the prospectus was prepared by other than the company employees).

**9. Information related to audit**

The name and address of the audit company, telephone numbers, the type of the audit company, the number and the date of the permit to engage in the audit activity (the auditor's opinion is enclosed in Annexes to the Prospectus).

10. **The statement by the head of administration and the chief financier (the head of the management enterprise and the chairman of the Supervisory Board, where management of the company has been transferred to the management enterprise), persons who have prepared the prospectus and consultants confirming that the information provided in the prospectus is true and fair and there are no hidden facts which might have a significant impact upon the decisions of the investors.**

## **Part II. Data on the Investment Company and Its Capital**

11. **The Issuer** (the name and address, the telephone and fax numbers, the date of registration of the company in the Register of Enterprises, the date and number of permit to engage in investment activities).
12. **The short history of the company's investment and financial activities**
13. **Associated membership** (issuer's membership in associations, consortiums, description of the group, the legal basis for incorporation, position of the investment company in the group);
14. **The founders of the issuer** (where securities are registered at the moment of incorporation), names of incorporators, names of legal persons;
15. **The authorized capital of the investment company** (the amount and structure of the authorized capital, changes in the course of the last three years, dividends paid in every year of payment, the total amount of dividends per one share (paid in every year of payment)
16. **Changes of the authorized capital and its structure** in the course of the last three years (the tabulated changes of the authorized capital and its structure in the course of the last three years, and dates of registration of the corresponding amendments to the by-laws).
17. **The anticipated changes of the authorized capital and its structure**, in relation to the said issue (the procedure of changing the authorized capital, the procedure of passing decisions to change the authorized capital, rights attaching to shares upon changing the authorized capital (the estimated authorized capital after the issue, the increase of the authorized capital, changes of the structure of the authorized capital);
18. **Own (net) assets** (amount, the proportion of net(own) assets per share, (data of the last three years, presented in a comparative table).
19. **Borrowed capital** (percentage of borrowed capital of own (net) assets, the objective of borrowing, the period of borrowing, the interest rate, specifying debts to credit institutions, tax authorities, wages and social security funds);
20. **The number of shares** issued by a closed-end investment fund or a investment holding company, as accounted for 10 days prior to the meeting of shareholders, the nominal value of shares, rights attaching to shares, number of shares for which the payment was made in property contributions, their share in the authorized capital, definition of property contributions, number and nominal value of shares issued through reinvestment of dividends.
21. **Shareholders** (shareholders, holding more than 5 per cent of authorized capital or votes at the beginning and the end of the business year (names, personal codes, names of legal persons, codes, percentage of authorized capital and votes held, total number of shareholders (excluding connected persons) and share of the authorized capital held by them (per cent), number of shares held by the executives of the investment company, administration executives and other connected persons, share of the capital held by them.

22. **Methods and frequency of calculating the own (net) assets**, share of own (net) assets per one share, means of disclosing the values, place and frequency, rules on assessment of net (own) assets.
23. **Secondary trading in securities**. The secondary trading in securities issued by a closed-end investment fund and investment holding company (the name of the Stock Exchange listing the securities of the company, minimum, maximum and the closing price of the accountable year, average weighted price, maximum, minimum and closing volume of the trading session, the weighted average volume).
24. **Dividends paid**. Dividends paid or attributed in the course of the last five years, total dividends per one share).

### III. Data on Securities Issued by an Investment Company

25. **The legal basis for the issue** (extracts for the documents underlying the issue of securities, the date of the meeting which passed the decision, the number of shareholders which participated in the meeting, information on where and when information on the coming meeting was announced).
26. **The purpose of the issue** (formation or increase of the authorized capital, merger with another company, splitting of companies, take-over of another company, reorganization due to changing the type of the company).
27. **Characteristics of the issued securities** (number, nominal value, the issue price, the total nominal value of the issued securities, income appropriation policy, terms of distribution of assets in the event the company terminates its activities, etc.)
28. Rights and obligations attaching to the issued securities (rights and obligations attaching to issued securities, restrictions imposed upon the free circulation of the issued securities);
29. **The procedure of securities offering** (the beginning and completion of securities offering, , addresses of places of execution of the offering, the procedure of payment for the offered securities, restrictions imposed upon acquirers of the securities, impacts of oversubscription and undersubscription, procedure or repeated offering, factors which are likely to have impact upon offering of the issue), the procedure for repayment of contributions, and circumstances under which the offering of the issue may be terminated.
30. **The method of securities offering** (information on agreements with intermediaries of public trading in securities or agents, if any [names of the companies, addresses, telephone numbers], short description of agreements on offering, methods of participation of the intermediaries of primary trading (underwriting, guarantees of the issue, intermediary services only), the method of determining procedure for payment for intermediary services and its amount, names of the agents, addresses, telephone numbers, the method of determining procedure for payment for the services, and establishing the fees for the service.
31. **Trading in securities of the issuer on the Stock Exchange** (names of Stock Exchanges which trades in securities, name of the trading list, the minimum and the maximum trading price and volumes, the issuer's plans regarding including securities in the trading lists of the Stock Exchange ).
32. **Trading in securities of the issuer off-exchange** (the highest and the lowest trading price and volume of the year, where securities of the issuer are traded in an organized market, names of the markets, names of the trading lists, the lowest and

the highest trading price of the recent year and volumes, for each Stock Exchange individually).

33. **Factors likely to have an impact upon offering of the shares.**
34. **Risk factors, related to the acquisition of the offered shares** (the market risk, specific investment risk, inflation risk, counterparty and settlement risk, the issuers operational risk and other risk factors).
35. **The direction of the use of accumulated funds**

#### **IV. Investment Policy**

36. **Composition of the investment portfolio** (the break-down of securities listed under Part 2 Article 9 of the Law on Investment Companies, changes of the investment portfolio within the last three years (shown in a graph).
37. **Investment objectives of the company** (including the financial purposes), investment policy (indicating the directions of investments, showing investment into securities of connected and non-connected persons (specifying investment into controlled enterprises and other related persons, investment other than securities), any restrictions imposed upon the investment policy, total amount and part (in per cent) of revenues from investment and reinvestment of accrued funds, and operations in securities).
38. **Investment risk and its management.**
39. **Investment consultants** (names, names of legal persons, addresses, other information).

#### **V. Bodies of Management**

40. **Organizational chart of the structure of the bodies of management.**
41. **Responsibilities and duties of the bodies of management.**
42. **Members of the bodies of management** (names, personal codes of the members of the Board (or Supervisory Board, where the Board is not formed), information on remuneration and bonus paid to them, other payments out of the profit within the last three years, data on participation in the activity of other enterprises, companies and organizations (name and position therein) and the capital (name and part of the capital hold), transactions concluded between the managers of the company and other persons and the investment company. Regarding Chairman of the Board, the Head of Administration and the Chief Financier the following information shall be submitted: education, profession, places of work during the last 10 years and positions therein.
43. **Finance brokers.** Investment company managers and employees of administration holding qualification certificates recognized by the Securities Commission (names, personal codes, telephone numbers, educational background, name and number of the qualification certificates held).
44. **Employees of the investment company** (the average annual number of employees, changes within the last three years, educational background, average monthly wages, presented in a comparative table).
45. **Management report of the controlled company group** (the management structure of the group as a whole, changes accomplished and anticipated and most important events during the accountable period).
46. **Incorporators** (where the prospectus is submitted at the moment of incorporation of the company)

(for incorporators, - enterprises, firms and organisations, - names, official addresses, amount and structure of the authorized capital, information on issued securities, representing part of the authorized capital (name of the issued securities, number, nominal value, total nominal value), balance-sheet of the last year, profit/loss account, dividends allocated to the shareholders).

Names, dates of birth, educational background, work places in the course of the recent 10 years and positions, data on participation in the activities of other companies (names of companies, enterprises and organizations) and participation in the capital of other companies (names of companies and organizations, part of capital and votes held).

47. **Transactions with connected persons** (data on transactions unusual for the general activities of the issuer concluded in the course of the last year with enterprises, companies and organizations, in the activities and capital of which the members of the bodies have a participating interest: types of transactions (transfer of real estate, unusual sales contracts, loans granted, terms of transactions (price, terms of payment, terms, etc.), amounts of transactions.
48. **Management enterprise** (where management is transferred to the management enterprise). The name, address, code of the management enterprise, name, personal code of the manager, names, personal codes of employees, holding the certificates of financial brokers, number of the permit to engage in the activity of the management enterprise, principal provisions of the agreement with the management enterprise relevant to the shareholders, financial status, other important information.
49. **Financial brokerage firm.** Names and addresses of financial brokerage firms, with which the investment company has concluded the service agreement, nature of the agreements, other relevant information.
50. **Depository.** Full name, code, address of the selected depository (where the funds are in the custody of another depository, indicate both), managers, names and personal codes of employees, holding the financial broker's certificates (where selected depository is other than the Central Securities Depository of Lithuania), number of the permit to engage in the depository activity.
51. **The audit enterprise.** The full name, address, the enterprise code and the license number of the audit enterprise.

## VI. Financial Standing

52. **Background.** Description of legal acts regulating financial accounting of the issuer. and specific requirements set forth therein.
53. **Balance sheet** (the balance sheets of the last 3 years, presented in a comparative table, the interim 6 or 9 months balance, where more than 6 or 9 months have passed since the end of the last financial year).
54. **Expenses of the company.**  
Structure of expenses of the company, and their coverage. (specifically identifying expenses exceeding 5% of the total expenses, total amount paid to the investment consultants, bodies of management, expenses to the depository, shareholder services expenses, legal fees, payments to financial brokerage firms, payments for market research, audit, Supervisory Board expenses, marketing expenses, non-monetary expenses, fees to management enterprises, expenses to connected persons (specifically identifying expenses to every individual connected person, identifying the way in which the person is connected to the company, other expenses), (table???)

55. **The company's revenues.** The structure of revenues of the company and appropriation of the revenues (interest, dividends, (showing dividends paid in securities), revenues generated by securities of controlled enterprises and other connected persons, revenues from securities of non-connected persons, and investment into assets other than securities, revenues exceeding 5% of the total revenues, realized and unrealized capital gain and others.
56. **Profit/loss account.** Profit/loss accounts of the last three years, presented in a comparative table and interim 6 and 9 months profit/loss accounts, where more than 6 or 9 months have passed since the end of the last fiscal year.
57. **Cash flow statements** (cash flow statements of the last three years presented in a comparative table).
58. **Profit appropriation account** (profit appropriation accounts of the last three years, presented in a comparative table).
59. **The company's performance report.**
60. **Net (own) assets account.**
61. **Account of changes in net(own) assets** (accounts of the last three years, presented in a comparative table).
62. **Investment portfolio account.**
63. **Basic financial indicators.**
64. **Explanations of financial statements.**
65. **Types and amounts of taxes the company is paying.**
66. **Consolidated accounts.** (consolidated balance sheet, consolidated profit/loss account, and explanation of respective accounts (consolidated balance sheets presented in comparative tables).
67. **Payment to the management enterprise.** The total remuneration to the management enterprise, percentage of the average annual value of the net (own) assets of the investment company, percentage of the net annual profit of the company (data of the last three years, presented in comparative table).
68. **Auditor's opinion of the status of the investment company** (auditor's opinions of the last three years).
69. **Legal and arbitration proceedings** in the course of the last three accountable years (penalties imposed and enforced, grounds for them, legal and arbitration proceedings in process, their possible consequences).
70. **Financial forecasts** (*for three coming years at least???*)

## **VII. The most recent developments in the issuer's activities and prospects**

71. **The most recent developments in the activities of the issuer** (the most recent changes in the issuers activities and financial status, not reflected in financial statements included in the prospectus).
72. **The operation strategy of the investment company and anticipated changes in the current and the next fiscal year.**
73. **Other information in the opinion of the company's managers, likely to influence the investment decisions.**

The Rule on Registration and  
Distribution of Securities Issued by an  
Investment Companies  
Annex 4

**The Content of the Prospectus of Securities  
Issued by an Investment Fund**

**Part I. Principal Information on Issued Shares**

1. **The Main Data on the Issuer** (the name, office address of the investment fund, telephone, telefax number, the number of the permit to engage in the investment activities, date and place of registration of the company, the code in the Enterprise Register. Where the company has any representative offices, indicate their addresses)
2. Peculiarities of the activity of the investment fund.
3. The duration of the activity of the investment fund provided for in the by-laws.
4. Investment strategy of the fund (investment strategies provided in the by-laws of the fund).
- 5 Principal data of the issued shares.
6. The date and place of preparation of the prospectus.
7. Information on the time and place to get familiar with the prospectus, annexes thereto, annual and semiannual accounts, and documents underlying the accounts.
8. The name, addresses and telephone number of the distributor of shares of the investment fund.
9. Consultants the service of which have been used in the preparation of the prospectus (FBF, IHC, ME and others): names (names of the legal persons) and addresses, names and numbers of permits to engage in appropriate activities.
10. Information on persons who prepared the prospectus (names, positions and occupations of persons who prepared the prospectus)
11. Information on audit. (Name, address, telephone numbers of the audit company, type of the company, number and date of issue of the permit to carry out audit (the auditor's opinion is annexed to the prospectus).
12. Statement of the managers of the investment company management enterprise and the chairman of its supervisory board, persons who have prepared the prospectus, consultants confirming that the information provided in the prospectus is true and fair and that there are no hidden facts which might be crucial to the decisions of the investors.

**Part II. Data on the Investment Fund and Its Capital**

13. **The issuer** (name, the office address of the issuer, telephone, telefax numbers, the date and codes of the company registration in the Enterprise Register, the date and number of the permit to engage in investment activities)
14. **The short history of the investment fund and its financial activity.**

15. **The state tax policy with respect to investment funds and shareholders of the investment fund.**
16. **The membership of the associated undertakings** (the issuers' membership in the associations, consortiums, description of this group, the legal basis for incorporation, the position of the investment company in the group, etc.).
17. **The incorporators of the issue** (if prospectus is being submitted at the time of incorporation of the issuer). Names of the incorporators and names of incorporators legal persons.
18. **The own capital of the investment fund** (the amount of the own capital of the investment fund, and changes thereof during the last three years, dividends paid (allocated) in each year of payment, the amount of dividends per one share in every year of payment).
19. **Changes in the own capital related to this issue** (the procedure of changing the own capital, the shareholders' rights upon changing the own capital, the estimated maximum size of the own capital after the issue).
20. **Net (own) assets.** (the amount, the value of net (own) assets per share (the data of the last three years, presented in a comparative table).
21. **Borrowed capital.** (the ratio of the borrowed capital to the own capital, the objective and the period for borrowing, the interest rate, specifying indebtedness to credit institutions, taxes, wages and social insurance fees payable).
22. **The number of outstanding shares of the investment fund,** as of 10 days prior to the meeting of the shareholders, the nominal value of shares, rights attaching to shares, the number of shares for which the payment was made in property contributions, share of the authorized capital, description of property contributions, the number and nominal value of shares issued through reinvesting the dividends.
23. **Shareholders** (shareholders holding more than 5% of the own capital (or outstanding shares?) of the investment fund or votes at the beginning and the end of the business year (names, personal codes, names and codes of legal persons, share of own capital and votes held (in percent); the average number of shareholders (excluding related persons). Separately specifying the number of shares held by the managers of the investment fund, employees of the management enterprise, depository, or the agent or other connected persons, share of the own capital held).
24. **The methods and frequency of calculating the net (own) assets value per share,** place, methods and frequency of announcement of this value, rules on assessment of own assets.
25. **Shares of investment fund,** their characteristics, rights attaching, the largest and the smallest number of shares outstanding (per year), the highest and the lowest selling and redemption price, average weighted selling and redemption price, average weighted daily volume.
26. **Fixing of the investment fund shares selling and redemption price:** methods and frequency of the price calculation, methods of announcement of the price, terms and procedures of the share redemption and selling, terms and procedures of suspension of the share redemption and selling.
27. **Dividends paid** (dividends paid/attributed within the last five years, amount of dividends per share).

### III. Data on investment fund securities

28. **The legal basis of the issue** (extracts of documents, on the basis of which the securities are issued, date of the meeting which passed the decision, number of shareholders participating in the meeting, information on the time and place of announcement of the pending meeting).
29. **The purpose of the issue** (increase or decrease of the own capital, merger with another company, splitting, reorganization through changing the type of the company, etc.).
30. **Characteristics of the issued securities** (maximum number of outstanding securities, terms of selling and redemption of shares, terms, procedures and rules of suspension of share selling and redemption, rules of calculating the share selling and redemption price, types and calculation methods of taxes increasing the share selling price and decreasing the redemption price, place and frequency of announcement of the prices, methods of payment for shares of the investment fund, policy of income appropriation, terms of assets allocation in the event the company terminates its activities).
31. **Rights and obligations attaching to the issued securities.** (rights, obligations attaching to securities, and restrictions, imposed upon the free circulation of securities).
32. **The method of securities distribution** (information on agreements concluded with intermediaries of public trading in securities and agents, if any, (names, addresses and telephone numbers), short description of distribution agreements, the method of participation of the intermediaries in primary trading of securities (purchase of the issue with a subsequent distribution, underwriting, intermediation only), method of determining the method of payment for intermediary services and amount thereof, names, addresses and telephone numbers of the agents, method of determining the payment for the services/and amount thereof).
33. **Trading in the issuer's securities** (names of the distributors, the largest and the smallest amount of outstanding securities in the course of the previous year, the highest, the lowest and the average price of outstanding securities).
34. **Factors likely to influence the distribution of securities.**
35. **Risk factors related to the acquisition of offered securities** (market risk, specific investment risk, inflation risk, counterparty and settlement risk, the issuer's operation risk and other risk factors)
36. **Directions of the use of accrued funds.**

#### IV.

### V. Investment policy

37. **Composition of the securities portfolio held**, separately showing securities referred to in part 2 of Article 9 of the Law on Investment Companies, changes in the securities portfolio in the course of the last three years (presented in a graph).
38. **Investment objectives of the company** (including financial objectives), investment policy (indicating the investment directives, investment into securities of connected and non-connected persons, investment other than into securities), any restrictions imposed upon investment activities, methods and measures (methods of borrowing) which can be employed in pursuit of investment purposes.
39. **Investment risk and its management.**
40. **Investment consultants** (names, names of legal persons, addresses, other information).

## V. Bodies of Management

41. **The organizational chart of the bodies of management.**
42. **Rights and obligations of the bodies of management.**
43. **Members of the bodies of management.** (Names and personal codes of the Supervisory Board and heads of administration, information on the bonus paid to them, other payments out of the profit within the last three years, data on participation in the activities of other organizations (name and position therein), and capital (name of the company share of capital and votes held, in per cent), transactions of the head of the company and other persons with the investment company. Additional data about the head of administration, chief financier: education, profession, places of work during the last 10 years and positions therein).
44. **Financial brokers.** Managers and employees of administration holding qualification certificates recognized by the Securities Commission (names, personal codes, addresses, personal codes, education, name and number of the qualification certificate).
45. **Employees of the investment fund** (average annual number of employees, changes in the course of the last three years, education, average monthly wages of the three years presented in a comparative table).
46. **Incorporators** (when the prospectus is submitted at the moment of incorporation of the company) (for the incorporators, - companies, organizations and enterprises, - names, office addresses, amount and structure of the authorized capital, information on the issued securities representing the authorized capital (name and number of the issued securities, nominal value, total nominal value), the balance sheet of the previous year, profit/loss account, dividends attributed to the shareholders).  
  
Names and dates of birth of other incorporators, education, profession, places of work during the last 10 years, and positions thereof, data on participation in the activities of other enterprises or organizations (names of the companies and organizations), data on participation in the capital of other organizations and companies (names of the companies and organizations and share of the capital and votes held).
47. **Transactions with connected persons** (data on transactions uncharacteristic of the principal activity of the issuer executed in the course of the last three years with organizations, enterprises and companies in the activity and capital of which the members of its bodies of management hold a participating interest: types of the transactions - real estate, transfer of production means, unusual sale agreements, loans issued), terms of the transactions (price, terms of payment, etc.), value of the transaction.
48. **Information on the management enterprise:**
  - 48.1. full name, address, code, type of the company, number of the permit to engage in management activity.
  - 48.2. Names and personal codes of the managers of the enterprise, names and personal codes of employees holding licenses of financial brokers, numbers and types of the licenses.
  - 48.3. principal provisions of the agreement concluded with the management enterprise, which may be important to the shareholders;

- 48.4. where the management enterprise is at the same time the management enterprise for other investment companies, indicate the other investment companies and other important information.
- 48.5. names of persons connected with the management enterprise, names of legal persons, indicating the way in which they are connected.
49. **Financial brokerage firms.** Names and addresses of financial brokerage firms, with which the investment company has concluded the service agreement, types of principal activities, the nature of agreements with the investment fund or management enterprise, other important information.
50. **Depository.** Full name, code, address, names of the managers of the selected depository (where the cash funds are in the custody of other depositories, indicate both), names, and codes of employees holding financial broker's certificates, number of the permit to engage in depository activity, other important information.
51. **Audit company.** Name and address of the audit company, license number.
52. Name, address, company code, other important information of **the agent of the investment fund securities.**

## VI. Financial Status

53. **General information.** Description of legal acts underlying the financial accounting of the issuer and specific requirements set forth therein.
54. **Balance sheet** (the balance sheets of the last three years, presented in a comparative table and the interim balance-sheets for six or nine months, if more than six or nine months have passed since the end of the last fiscal year).
55. **Expenditures of the company.** The structure of the expenditure of the company for the last three years and their cover (separately indicating items of expenditure exceeding 5% of the total expenditure, total expenditure for the investment consultants, bodies of management, depository, shareholders servicing expenses, legal service fees, payments to financial brokerage firms, market research, audit, Supervisory Board, marketing expenses, non-pecuniary expenses, expenses related to the management enterprise, expenses to connected persons (separately indicating expenses to every connected person, indicating the way in which the person is related to the company, other expenses) (tabulated????))
56. **Revenues of the company.** The structure of the revenues for the three previous years and their appropriation (interest, dividends, (separately indicating dividends paid in securities), income from securities of connected persons, income from securities of non-connected persons, and investment other than in securities, income exceeding 5% of the total income, realized and unrealized capital gain, etc.).
57. **Profit/loss account.** (Profit/loss accounts of the last three years, presented in a comparative table, and interim accounts for six or nine months, if more than six or three months have passed since the end of the last fiscal year).
58. **Cash flow statements.** (Cash flow statements of the previous three years presented in a comparative table).
59. **Profit appropriation account** (Profit appropriation accounts for the last three years, presented in a comparative tables).
60. **Company's performance report.**
61. **Net (own) assets statement.**
62. **Statement of changes in the net (own) assets** (statements in the changes in the net (own) assets for the last three years, presented in a comparative table).
63. **Investment portfolio account.**

64. **Basic financial indicators.**

65. **Explanation to financial statements.**

66. **Types and amounts of taxes paid by the company.**

67. **Payments to management enterprise** (the total remuneration of the management enterprise for the service, percentage of the average annual value of the net (own) assets and annual net profit of the investment company (data of the last years, presented in comparative table).

# THE PRAGMA CORPORATION

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## MEMORANDUM

July 30, 1998

**To: Chairman of the Securities Commission V.Poderys  
Members of the Securities Commission**

**From: Arvydas Paškevičius, the Pragma Corporation**

**Re: The Lithuanian Securities Commission Participation in Capital Market Analysis**

### 1. The issue

In the course of the last five years the Lithuanian Securities Commission, the National Lithuanian Stock Exchange, the Lithuanian Securities Depository, the Central Department of Statistics and other agencies have accumulated a considerable amount of information on the Lithuanian Securities markets. This information, however, is scattered around the departments and is being accumulated in a variety of forms. At the same time it is very important to take a more generalizing approach towards the changes occurring in the Lithuanian capital markets and identify the factors producing the largest effect upon the development of the Lithuanian securities markets. For this reason the Chairman has requested to prepare the present Memorandum aimed at identifying the introductory tasks and further stages in systematizing the information relevant to securities markets. The other tasks of this Memorandum include identification of material information and indices, additional information necessary for the capital market analysis and supervision, defining of the principal needs of the Securities Commission and ways to meet those needs.

### 2. Anticipated tasks.

The task of immediate future is to prepare the survey of the status quo. This stage would include:

1). The survey of data and analytical statements prepared by departments of the Securities Commission (What information is accumulated in departments of the Securities Commission? In what form? (hard copies, computer files, data base?). What other data bases are used? What other data bases would be necessary for the Commission, and what are the possibilities to become the users of the bases? What analytical reports have been prepared lately?).

2). Information and analytical surveys related to the Lithuanian securities market accumulated and carried out by other companies. It is necessary to arrange meetings with officials from the Department of Statistics, the Bank of Lithuania, and State Tax Inspectorate, investigate the data bases

available therein, functions performed by them and analytical research carried out by them, also explore possibilities to exchange the data.

3). Proposals regarding improvement of exchange of the capital market information data bases and analytical surveys. Proposals could be submitted in the form of written recommendations, as well as electronic tables. Assistance could be provided in the initial stage of formation of databases.

In subsequent stages more generalizing topics of analytical surveys designed both for annual reports and specific trends of the capital market development could be offered.

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## MEMORANDUM

August 31, 1998

**To: Chairman of the Securities Commission V.Poderys  
Members of the Securities Commission**

**From: Arvydas Paškevičius, the Pragma Corporation**

**Re: Lithuanian capital market analysis**

At the meeting of the Lithuanian Securities Commission held on July 30, 1998, it was proposed to draw up a work plan which subsequently will constitute the basis for the Lithuanian securities market analysis. The Commission has jointly delivered its opinion as to the scope and subjects the analysis will cover.

The survey of theoretical sources and securities markets analysis in individual countries revealed the variety of legal and organizational frameworks specific for every country. Thus there is no uniform methods of securities market analysis applicable to all countries, only the principal constituents of the analysis have been established.

One of the constituents is the macroeconomic and global environment of the securities market development. Development tendencies of the national economy allows to asses whether the country possesses sufficient domestic resources to invest into the securities market, and the distribution of resources between the securities and the monetary markets. The constituent parts of the securities markets are the shares, bonds and other financial instruments markets which conventionally are considered individually. The capital market analysis from the point of view of market participants would cover stock exchange, securities depositories, financial intermediaries (financial brokerage firms, investment management and consulting enterprises, investment companies and pension funds), issuers and investors.

The principal sources for data analysis are the databases of the Central Lithuanian Securities Depository and the National Stock Exchange, publications of the Department of Statistics, data published in the Internet pages, national and foreign published matter and surveys. The analysis would significantly benefit from the use of the data base and surveys conducted by the Department of Statistics, the Bank of Lithuania, Ministry of Finance and the State Tax Inspectorate.

Departments of the Lithuanian Securities Commission, Stock Exchange and the Central Securities Depository have carried out a considerable number of analytical surveys.

Below is presented the draft capital market analysis content. The draft content should be refined on a continuous basis, thus individual items therein will be changed and specified in the course of the analysis. Besides, individual parts of the content may also be worked out independently, i.e in a sequence other than has been presented.

### Capital Markets Analysis Content

#### 1. Lithuanian capital market: macroeconomic and global environment.

- 1.1. Impact of world economies upon the Lithuanian capital markets.
- 1.2. The relationship between principal indicators of national economy and capital market development.

#### 2. Primary market

- 2.1. Share market (Development of the number and volume of issues, comparison of the issue and nominal values, the issue offering process, peculiarities of the companies offering new issues, peculiarities of investors, forms of payment for the new issues, the break down of new issues by the distribution procedure, number of decreases of authorized capital, volume and reasons for the decrease).
- 2.2. Bond market (Development of the number and volume of issues, maturities of bonds and their yield (interest rate), bond distribution process, the sectoral distribution of enterprises offering bonds, investor groups, forms of payment for bonds).
- 2.3. Government securities (Development of the number and volumes of issues, development of the GS interest rate, structure of investors).
- 2.4. Other financial instruments (The structure of other financial instruments, the number and volumes of issues, the structure of the issuers; the structure of investors).

#### 3. Secondary market.

##### 3.1. Share market

- 3.1.1. The size of the share market (the scope of capitalization, number of listed securities, structure of the share market).
- 3.1.2. The trading volume (trading volume, the number of concluded transactions, the number of buy and sell orders, number of securities intended for buying or selling, comparison of central market and block trading)
- 3.1.3. Share indices (the development of individual indices, variation of index changes, factors which caused changes of the indices).

##### 3.2. The bond market

- 3.2.1. The size of the debt market (size of capitalization, the number of issues securities, the structure of issued bonds by maturities, coupon size and yields);
- 3.2.2. The bond trading volumes (the volume of the trade, the number of concluded transactions);

##### 3.3. Government securities market

- 3.3.1. The size of the government securities market (volume of capitalization and number of issued securities, the break down by maturities, the interest rate and yield)
- 3.3.2. The volume of trading in GS (the trading volumes, the number of concluded securities)
- 3.3.3. GS indices (the development of the index, variations of the index changes, factors which caused changes of the indices).

3.4. Markets of other financial instruments (the size of the market, trading volume).

3.5. The size and trading volumes in secondary market (generalized indices of shares, bonds,

government securities and other financial instruments, the profitability analysis).

#### **4. Trading at the Stock Exchange and Off-Exchange**

- 4.1. Principal Stock Exchange indicators (trade volumes, change of prices, newly enlisted shares, change of names, merger and split up of the share issues, acquisition and disposal of the foreign securities, operation with securities abroad, block trading, acquisition of block of securities, etc.);
- 4.2. Trading off-exchange ;
- 4.3. Profit/loss account, balance-sheet, financial statement ratios of the Stock Exchange;

#### **5. Securities depositories**

- 5.1. The development of the volume of securities registered with the depositories;
- 5.2. Structure of securities registered with the depositories;
- 5.3. Profit(loss) account, balance sheet, financial statement ratios.
- 5.4. Other indicators of the depositories activities (number of depositories, number of employees, number of clients, etc.)

#### **6. Financial Intermediaries**

- 6.1. Financial brokers and financial brokers departments performance analysis
  - 6.1.1. Aggregated profit(loss) account, aggregated balance-sheet, aggregated financial statements ratios.
  - 6.1.2. FBF initial own capital analysis;
  - 6.1.3. FBF capital adequacy analysis;
  - 6.1.4. Other aggregated and individual FBF performance ratios (FBF's part in total volume, dealers' operations, number of FBFs, breakdown by categories, number of employees, number of clients, etc.)
- 6.2. Investment management and consulting enterprises performance analysis;
  - 6.2.1. Aggregated profit(loss) account, aggregated balance-sheet, aggregated financial statements ratios.
  - 6.2.2. Investment management and consulting enterprise initial own capital analysis;
  - 6.2.3. Other aggregated and individual ratios of investment management and consulting enterprise (number of investment management and consulting enterprises, number of employees, number of clients, etc.)
- 6.3. Investment companies management enterprise performance analysis
  - 6.3.1. Aggregated profit(loss) account, aggregated balance-sheet, aggregated financial statements ratios.
  - 6.3.2. Investment companies management enterprise initial own capital analysis;
  - 6.3.3. Other performance indicators of investment companies management enterprises (number of investment companies management enterprises, number of employees, number of clients, etc.);
- 6.4. Investment companies performance analysis
  - 6.4.1. Aggregated profit(loss) account, aggregated balance-sheet, aggregated financial statements ratios.
  - 6.4.2. Investment companies portfolio analysis;
  - 6.4.3. Investment companies shareholders analysis;
  - 6.4.4. Other aggregated and individual investment companies performance indicators (number of investment companies, number of employees, etc.);
- 6.5. Pension fund performance analysis
  - 6.5.1. Aggregated profit(loss) account, aggregated balance-sheet, aggregated financial statement ratios;
  - 6.5.2. Other performance ratios of pension funds (number of pensions funds and schemes, number of employees, etc);

**7. Equity analysis**

7.1. Profit(loss) accounts, balance-sheets, financial statement ratios,

7.1. Financial statement ratio analysis compared to the development of securities market value;

7.2. Classification of shares (slow-growth, fast-growth shares, cyclical shares, etc.).

7.3. Structure of shares (sectoral, by trading lists, issue size, etc.);

**8. Investor analysis**

8.1. Structure of investors and its development

8. 8.2. Directions of investment.

## THE PRAGMA CORPORATION

### MEMORANDUM

August 20, 1998

To: Securities Commission, Investment Companies Department

Company: USAID

From: Evaldas Valciukas

Phone: 72 47 03

The objective of this Memorandum is to set forth the main provisions regulating the establishment, functioning, structure, and relationship with the management enterprise of an investment fund which is organised as a pool of assets and holds no rights of a legal person. These provisions should be incorporated into the Law on Investment Companies.

1. An investment fund shall mean assets belonging to persons who have acquired units of the investment fund (hereinafter "units") by the right of the joint partial ownership subject to the requirements set forth in paragraph 2, the management of which is transferred to the management enterprise of the investment fund.
2. The assets of the investment fund shall be subject to the portfolio diversification requirement and other requirements provided in the effective Law on Investment Companies (pursuant to the EU Directive 85/611/EEC) and other requirements stipulated in this directive (e.g. concerning borrowing, etc.).
3. The assets belonging to the holders of the investment fund by the right of the joint partial ownership and being managed by the management enterprise of the investment fund shall be the capital of the investment fund. The capital of the investment fund is constantly changing due to issuance and redemption of the investment fund's units. The share of the investment fund's capital belonging to the holder of the investment fund's units shall be always equal to the share of the investment fund's units he holds.

# The Pragma Corporation

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October 14, 1998 1:14PM

## MEMORANDUM

**To:** Aldas Kriauciunas  
USAID - Vilnius, Lithuania

**From:** Nijole Maskaliuniene,  
The Pragma Corporation, Vilnius

**Re:** **STATUS REPORT FOR THE MONTH OF SEPTEMBER, 1998**  
Lithuania Capital Markets Development Project  
CONTRACT EPE-I-95-00040-00, Task Order 05

**CC:** Beverly Loew: USAID - Washington, D. C.  
Kevin O'Hara: Pragma Corporation - Falls Church, Virginia  
The Pragma Corporation: Vilnius Office File (Diana Sokolova)  
The LSC, the NSEL, the CSDL, the NAFB

### PROJECT DESCRIPTION

The Pragma Corporation ("Pragma") is implementing the Lithuanian Capital Markets Development Project ("Project") funded by the United States Agency for International Development ("USAID"). The Project is to provide legal and regulatory development assistance to the Lithuanian Securities Commission ("Commission") and organizational development assistance to the National Stock Exchange of Lithuania ("NSEL"), the Central Securities Depository, and the National Association of Finance Brokers of Lithuania ("Association"). In addition, the Project is providing assistance in the procurement of software and operations capabilities to support an order-driven, continuous trading stock exchange.

### PROFESSIONAL STAFFING

During September 1998, the "Pragma" team continued to provide expert legal assistance to the Project counterparties. Expat adviser, Mr. Kevin Salisbury, arrived on September 10 and worked until September 30, consulting on various issues of corporate finance. Mr. Jim Ryan started work on September 15. Mr. Donald Buddenbohn joined the team on September 28. They will be working for the Project until October 9 and November 3, respectively.

## PRIMARY AREAS OF FOCUS

The work of the Pragma team was concentrated on the most pressing for the Securities Commission issues. Mr. Kevin Salisbury was providing expert advice on the amendments to the Company Act, notification of shareholders, buying back of company shares, other issues of corporate finance. (See Appendix 1). Mr. James Ryan was working on the Rule on Hypothecation, the Rule on Lending and Borrowing, and on the Disciplinary Procedures for the Implementation of the Code of Ethics for Financial Brokers. The latter assignment was to assist the National Association of Financial Brokers in their efforts to enforce the Code of Ethics that was adopted last spring. Then Mr. James Ryan assisted in drafting its final version. Mr. Donald Buddenbohn started working on the reporting requirements for financial brokerage firms. Legal advisors Gediminas Reciunas and Evaldas Valciukas were working with the Departments of Market Regulation and Investment Companies of the Securities Commission. Dr. Arvydas Paskevicius continued doing market analysis while financial advisor Skirmantas Rimkus was further elaborating requirements for financial statements for mutual funds.

During the last three months much work was devoted to amendments of the Law on Investment Companies. The preparation of the legal and regulatory basis for these funds is one of the crucial issues as currently there are no local funds functioning in Lithuania. One of the controversial issues is the way of establishing an investment fund as a stock company (as the effective Law on Investment Companies provides) or as an entity without the rights of a legal person. Mr. Evaldas Valciukas carried out the research of the problem and prepared the proposals as to the possible changes in the current Law on Investment Companies. Consultations were kept with other members of the group for the development of investment funds and the expert of mutual funds from Germany, Mr. Rolf Geisler. Finally, the Securities Commission decided as to its strategy concerning these amendments in particular and the direction of mutual fund development in general.

It was decided that the amendments to the Law on Investment Companies would attempt at final harmonization with the requirements of the EU Directive 85/611/EEC as well as of the Law on Public Trading of Securities and the Company Act because after the latest amendments to these two acts there appeared contradictions among the three acts. After these contradictions are eliminated, there will be fewer hindrances for an investment fund to appear. Moreover, these amendments aim at setting forth a clearer structure of a fund's governance. As to the two possible ways of establishing an investment fund (a company or a non-legal entity), it was decided not to change the current provisions of the Law. The Commission is expecting a few applications for founding a fund in the very near future. These applications will have to be reviewed while the current act is still in effect. Therefore, it seems more reasonable to subject the current Law to the amendments providing for the actual functioning of an investment fund and maximum protection of the rights of shareholders. Other forms of investment funds may be allowed in the future.

Last month Mr. Gediminas Reciunas was working on the Rule on Agreements between Brokerage Firm and their Clients. In September, comments were received from the

Stock Exchange and the Central Securities Depository. However, no feedback reached the Commission or Pragma from the National Association of Finance Brokers, which is the main interested party in this Rule. The draft is to be finalized and submitted for adoption by the Commission as soon as their comments are received.

Mr. Reciunas was asked to assist in preparation of the Rule on Securities Registration and Public Offering drafted by the Department of Corporate Finance of the Securities Commission. At the request of the Commission, he also started investigation of Lithuanian legislation, which relates to securities lending and collateralization of such loans. This issue was also addressed by expat advisor, Mr. James Ryan, who prepared a draft rule on hypothecation. These are related issues. They will have to be addressed in the future, when the joint rule on lending and borrowing is drafted.

Financial advisor Skirmantas Rimkus continued work on the financial statements and principles of accounting for mutual funds. He prepared draft forms of financial statements (see Appendix 2) and submitted them for discussion at the Securities Commission. Although the forms of financial statements for investment holding companies, the only type of investment compaies functioning in Lithuania, have been prepared<sup>1</sup>, they have not been approved by the Ministry of Finance yet. These companies still complete the same forms of financial statements as manufacturing companies. In the event an investment fund were established in Lithuania today, it would be impossible to control its financial and operational activities as there are no forms of financial statements prepared for them. Therefore, preparation of these forms is essential for their supervision.

In September, Dr. Arvydas Paskevicius prepared the analysis of the secondary market. It includes the dynamics of capitalization of quoted and non-quoted shares in the period of 1993-1998. The data of the Lithuanian capital market were compared with analogous indicators in other countries. At the request of the Chairman of the Securities Commission, Dr. Paskevicius started analysing the impact of the Russian crisis on the Lithuanian capital market on the basis of databases of the Lithuanian National Stock Exchange indices. Graphs of turnover in LITIN, LITIN-A, and LITIN-G indices and shares in these categories were drawn and analysed. Analytical graphs were prepared on supply and demand of the Official and Current Lists of shares, in total 75 graphs. A memorandum on the results of the analysis was prepared giving brief comments on the work done. (see Appendix 3)

#### **MAJOR ACHIEVEMENTS**

No major achievements can be singled out as the work was focused on the development of the previously commenced issues.

#### **WORKSHOPS/SEMINARS**

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<sup>1</sup> Forms of financial statements for investment holding companies were prepared by the "Project" adviser Arvydas Paskevicius

On September 30 - October 1, 1998 a meeting of representatives of the Estonian, Latvian, and Lithuanian Securities Commissions took place. The meeting was devoted to further co-operation among the three Commissions. Specifically, issues of financial accounting and reporting by brokerage firms and investment funds were addressed as well as their harmonization with the EU Directives and International Accounting Standards. Mr. Rimkus from the Pragma Corporation was invited to represent the Lithuanian Securities Commission. In preparation for the meeting, he wrote a letter - questionnaire to the Estonian and Latvian Securities Commissions in order to find out about the financial accounting and reporting in these countries and the practical problems they face in this field. Based on the feedback he received to his letter, Mr. Rimkus made a report to that effect.

In October, a three-day seminar will be held on Internal Controls and Risk Management. The speakers are Mr. James Ryan and Mr. Donald Buddenbohn.

#### UPDATE ON PREVIOUS REPORT

##### COMPLETED:

- ☆ Memorandum on Financial Accounting of Investment Funds
- ☆ Market analysis (continued project)
- ☆ Financial Statements for Investment Funds

All documents were passed to the Securities Commssion.

##### IN PROGRESS:

- Rule on Securities Registration and Public Offering
- Rule on Agreements between Brokerage Firms and their Clients
- Amendments to the Law on Investment Companies
- Principles of Accounting of Open-End Investment Funds

#### PLANS FOR NEXT MONTH AND ANTICIPATED ISSUES

In October, Mr. James Ryan is planning to finalise the proposals for the rule on hypothecation and the Code of Procedure to supplement the Code of Ethics of Finance Brokers of Lithuania. Mr. Donald Buddenbohn will work with Market Regulation

Department of the Securities Commission on reporting rules for brokerage firms and trading in foreign securities. Mr. Reciuinas will be finalising the Rules on Agreements and the new draft of the Rule on Registration and Public Offering of Securities he is currently working on. Mr. Rimkus will continue work on principles of financial accounting for investment companies. Mr. Valciukas' task is to prepare the final draft of amendments to the Law on Investment Companies by the end of October. Dr. Paskevicius will continue with the capital market analysis according to the the schedule approved by the Securities Commission. Should the Securities Commission decide to re-new and supplement the materials that the consultant prepared earlier, namely, on taxation of capital markets, due diligence or financial accounting of investment holding companies, the expert will work on these projects.

**APPENDICES AND ATTACHMENTS:**

**APPENDIX 1. KEVIN SALISBURY'S TRIP REPORT :**

**ATTACHMENTS: A. SHAREHOLDER INFORMATION RIGHTS**

**B. PARTLY PAID SHARES**

**C. COMPANY REDEMPTION/REPURCHASE OF ITS OWN SHARES**

**D. SHAREHOLDER VOTING INFORMATION**

**E. MATERIAL EVENTS DISCLOSURE**

**F. TENDER OFFER MEMO 1**

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## TRIP REPORT

### LITHUANIAN CAPITAL MARKET DEVELOPMENT PROJECT

Name of Consultant: Kevin M. Salisbury

Date of Visit: September 10-September 30, 1998

Counterpart: Lithuanian Securities Commission.

Purpose of Trip: To continue and to follow up on efforts from June/July 1997 visit with respect to reorganization of Lithuanian Company Law and Law on Public Trading in Securities, and regulations issued by Lithuania Securities Commission on various topics including tender offer rules, material event rules, and rules on public offerings.

Deliverables: The attached memoranda are self explanatory and cover topics both specifically asked of me by members of the Commission or Staff, as well as important items which I felt needed to be brought to the attention of the Commission to establish and cultivate a "culture of disclosure" for Lithuanian public companies, and to facilitate foreign investment..

They are as follows:

Attachment A: Shareholder Information Rights

Attachment B: Partly Paid Shares

Attachment C: Company Redemption/Repurchase of is Own Shares

Attachment D: Shareholder Voting Information

Attachment E: Material Events Disclosure

Attachment F: Tender Offer Memo 1

Attachment G: Tender Offer Memo 2

Attachment H: Rules on Registration/Public Offerings

Attachment I: Company Law Proposals

Contact Persons: Mr. Poderys, Chairman; Mr. Mikuciauskas, Deputy Chairman; Ms Vidutiene, Commissioner; Mr. Simonis, Chief of Enforcement

Recommendations/

Next Steps: I believe that there are some key “big-picture” issues which are important for developing the Lithuanian capital markets from a corporate/securities law point of view. While there is an understandable desire to conform to European Union standards and practices with respect to corporate/securities law, shareholder rights, public disclosure, and the standards of behavior of Boards of Directors and management, I think Lithuania now has a choice: It can opt for these standards which, while they are growing towards a more disclosure oriented environment, are still rather far from the “disclosure culture” prevalent in the United States’ markets. Lithuania can also simply move decisively into the more Americanized system which requires unprecedented disclosure rules, management obligations which are charged with fiduciary duties toward shareholders, and a legal system which empowers shareholders to enforce the securities laws themselves rather than rely on frequently underfunded and sometimes unskilled and bureaucratic governmental agencies.

There are three issues which I think need attention:

1) See attachment D. The mosaic of disclosure requirements under current Lithuanian law and regulations (and proposals now being considered) are rather good, with one exception. This is the absence of what we would call “proxy rules”, or the obligation to give shareholders complete and accurate information when they exercise their vote at shareholder meetings. The problem is that management can solicit proxies (the ‘universal ballot’) by giving only minimal information (the Agenda for the meeting), while “documents related to the Agenda” are unspecified, need not be sent directly to the shareholders, and do not carry any apparent penalty for inadequacy, incompleteness or lack of candor (except to the extent there may be fraud penalties under the civil or criminal laws). They simply need to “be made available” to shareholders for, in most cases, 7 days before the meeting. This literally renders shareholder suffrage meaningless and tends to perpetuate no-ownership management control through management’s possession of the universal ballot or proxy mechanism. Unfortunately, the Law on Public Trading focuses only on trading and the periodic reporting mechanisms and the requirements for public offerings. Ironically, the shareholders must first vote to authorize a public offering with perhaps an agenda reading “Public Offering Approval”, and only then is detailed information sent to the Commission in a registration statement. While the Law

charges the Commission to “protect the interests of shareholders”, I don’t feel the Commission thinks this is enough of an enabler for them to adopt a whole new regime of proxy disclosure (and I don’t disagree). Accordingly, the law needs change. It is difficult to envision investors, such as American mutual funds, coming to Lithuania while this situation exists. Voting disclosure agreements would have to be negotiated with management before any substantial share investment is undertaken, but this would in itself no doubt constitute “material information” which must be shared with shareholders..

2) Pragma has prepared draft proposals for revision of the Company Law, and these contain sections which establish new principles imposing fiduciary obligations on directors, and allow shareholders, by two-thirds vote, to empower directors to exercise authority on matters which are now in the exclusive province of shareholders. This streamlines corporate action to allow companies to respond quickly to opportunities as they arise. I now understand that another draft incorporating none of these has come down from a government-appointed commission (they are untranslated as of this writing). The Commission will thus have to make the choice noted above whether to opt for these more West European standards, or differentiate themselves with what I feel is the American shareholder-oriented approach.

3) On perhaps a lesser but still very important scale, please see Attachment E for the legislative approved exception to the material events reporting rule. I can only re-iterate that the flow of timely and important market information is likely to simply dry up under this provision, at least as far as negative information on the issuer is concerned, and this could seriously impede the development of aftermarket trading.

MEMORANDUM

September 17, 1998

TO: DEPUTY CHAIRMAN MIKUCIAUSKAS

FROM: KEVIN SALISBURY

RE: SHAREHOLDER INFORMATION RIGHTS

The current Article 16, Section 7 of the Company Law provides progressively more information to shareholders depending on how many shares they hold. The proposed changes to this Section (Proposed Section 8 of Proposed Article 16) make no such distinction among percentage shareholdings, and I believe this is the better approach.

In the United States, the various statutory corporate laws are not dissimilar from proposed Section 8, but they exist against a background of common law rights which favor very broad shareholder inspection of a company's "books and records". Further, the "discovery rights" in litigation are broader still, as long as information demands are arguably related to the claim asserted in the lawsuit. This combination of statutory and common law rights, however, does protect trade secrets and demands for information which are for improper purposes or otherwise abusive to the company. These inspection rights are particularly important for shareholders in private corporations since there is no public trading of shares and no Commission charged by law with eliciting corporate information. The shareholder is, after all, a part owner in the private or the public company in a democratic society, and while he/she may have no managerial rights, there are informational rights which naturally attach to ownership provided such rights do not jeopardize the rights of the other owners. Likewise, the company management is accountable to the owners, and the owners must have sufficient information to examine and to test that accountability. Managers, as human beings, do not like this, and tend to complain that almost any request for serious information is abusive or detrimental to the other shareholders and to the company. The difficulty for the legislature or the Commission comes, of course, in drawing the line. We in

the United States, for better or for worse, tend to leave that to the courts---the multiple court decisions then begin to give some guidance over time.

The Delaware corporation law has an approach which I think may be helpful. It states in relevant part:

“Any stockholder, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right to inspect for any proper purpose the corporation’s stock ledger, a list of its stockholders, and its other books and records, and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person’s interest as a stockholder. . . . . If the corporation . . . . .refuses to permit an inspection . . . . . or does not reply to the demand within five business days after the demand has been made, the stockholder may apply to the Court of Chancery for an order to compel such inspection . . . . . The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other or further relief as the Court may deem just and proper . . . . .”

The case law under this approach has in general held that a proper shareholder purpose would be for the purpose of evaluating his investment or for the purpose of dealing with other shareholders in their investor role. This latter purpose has been held proper even where the shareholder wants to communicate with other shareholders in order to solicit proxies, to make a tender offer, or to otherwise form a group to protest management’s actions. Improper purposes have been held to include seeking the shareholder list in order to sell them products or otherwise solicit personal business, seeking corporate information in order to give it to competitors , seeking trade secrets, or seeking to promote the shareholder’s personal or political or social agenda which is not directly related to the company’s investment value. (In one case where an anti-war shareholder purchased one share of Honeywell and demanded the shareholder list in order to try to stop the company from producing munitions, the Court denied the request because the shareholder was trying to press his political views on the other shareholders. Had the request been based on the shareholder’s desire to promote the view that the economics of munitions manufacture was detrimental to Honeywell, the Court would have granted it).

This approach at least discourages shareholders with idle curiosity and establishes a “reasonable or proper purpose” test which the company would be allowed to challenge upon receipt of the shareholder’s sworn demand. The company would also be in a position, by the required response date, to demand an appropriate confidentiality or other protective

agreement from the requesting shareholder. The only thing I would add to the Delaware approach would be to require that the shareholder describe, in addition to his purpose, some reasonable definition of which books and records he desires to see—this would discourage “fishing expeditions”.or overly broad demands for “all of the company’s books and records” which may be used by a disgruntled shareholder to harass the company I should also note that Delaware does not necessarily require the company to provide this service free of charge, although the court may so order it. Proposed Section 8 does provide it “free of charge”, but this could be amended to say “free of charge unless a legitimate request causes the company to incur an expense which, under the circumstances, should reasonably be charged to such shareholder” or words to that effect.

I am not familiar enough with Lithuanian courts and what expertise they may have in handling this type of request. It may be that proposed Article 16, Section 8 should offer guidance and include some language about what constitutes “proper purpose” and what does not. I should also note that, as long as public companies are following the continuing and periodic disclosure rules, these issues should only arise, for the most part, in the context of private companies.

MEMORANDUM

September 16, 1998

TO: DEPUTY CHAIRMAN MIKUCIAUSKAS

FROM: KEVIN SALISBURY

RE: PARTLY PAID SHARES

You have referred to Articles 33 and 41 of the Company Law on the matter of partly paid shares, and whether the prohibition on the trading of such shares is supported.

I think that shares which are not fully paid should be allowed only in private companies, and that public companies should be prohibited from issuing such shares. To allow it in a public company, it seems to me, would open up the possibility of abuse: would one group of shareholders be allowed to own them and another group not so allowed? To have unpaid shares is really to allow a shareholder to borrow from the company, and if one shareholder has that right, then I would suppose that fairness might require that all shareholders should have the same right. (Please note that the proposed amendments to Article 18, section 10, of the Company Law forbid a member of the management from borrowing money from the company without approval of two-thirds of the shareholders.) It would also seem difficult to administer a public offering if the subscription need not be fully paid at the time of the offering. Defaults by some shareholders would also be inevitable if the offering were successfully marketed to a large number of persons, and then the question of enforcement by the company of its rights would be a distraction. I can envision other problems: a supplier to the company, for example, who is also a shareholder holding unpaid shares may seek to set off amounts owed to him by the company against his debt on the shares. If trading were allowed in unpaid shares, some transferees would perhaps purchase shares without the knowledge that in fact they were not fully paid. While all of this could be allowed, it seems to me that an orderly capital market, particularly an emerging one, would be better off without such shares, as they seem unnecessary and complicating factors to efficient corporate finance.

I would make only one exception to this, and that would be for employee stock option or other benefit plans approved by shareholder vote and in compliance with current Article 36 of the Company Act. Article 36 should, however, state that such shares are not transferable by the employee until they have been considered fully paid. It now says that transfer may be "restricted" by the Articles for up to a period of 3 years, but it does not say

that they must be fully paid before transfer. (An employee could receive a grant or gift of company shares without payment by the employee if that is authorized by the Articles or a shareholder vote on the terms of an employee benefit plan, and these shares would be considered "fully paid" as long as at least the nominal amount of the share is taken from the company's surplus account to its authorized capital account.) I think that Article 36 should also make reference to the requirement for a "plan" for employee shares to be in the Articles or in a shareholder authorization. This would be necessary to avoid ad hoc grants to employees who happen also to be major shareholders, Board members or senior members of the administration. A "plan" would imply a rational program which covers employees in general, and which would identify the the circumstances under which employees, or categories of employees, would "earn" shares by virtue of their efforts on behalf of the company.

In a private company, I see no such impediments. In fact, it may facilitate capital formation to allow such shares in the manner now authorized by the Company Law. While some inequality among shareholders might still exist, at least it would not be in the public markets, and the new proposal to the Company Law mentioned above would tend to severely curb any such abuse, along with the current law which requires full payment in any event within one year (Article 41, section 2). Shares for employees of private companies, however, would and should be subject to the same considerations as set forth under the discussion of Article 36 above.

As to prohibiting sales of unpaid shares in a private company, I would doubt that this is a practical problem. I would think that most private companies would in any event take advantage of Article 34, section 7 of the current Company Law and restrict the sale of shares, whether fully paid or not. The Commission should also have an interest in this - if the transfer of shares in private companies is not restricted in some way, the private company may inadvertently end up with enough shareholders to qualify as a public company and subject to the reporting requirements. It is the practice in the United States that each share certificate in a private company have a legend printed on it to the effect that the shares are not transferable, only in accordance with subscription or other agreement. (Even in public companies where unregistered shares are issued lawfully, a legend on the certificate is utilized to serve as notice that the shares may not be unlawfully presented for public trading).

I should note that the law in the United States generally does allow the issuance and even the transfer of shares which are not fully paid, but these are done as a matter of practice only in accordance with the subscription agreements under which they were issued. While many private companies have such shares, they are transferable only in accordance with strict conditions set forth by contract or subscription agreement, and I know of no public company

which has such shares. It is simply not the practice to do so, and I think the reason is simply that it would inhibit the marketing of the shares in both the primary and secondary markets. From personal experience I know that Romania has prohibited unpaid shares in the public company laws.

MEMORANDUM

September 16, 1998

TO: Deputy Chairman Mikuciauskas

FROM: Kevin Salisbury

RE: Company Redemption/Repurchase of its Own Shares

You had proposed this topic, among others, for discussion. My comments follow:

This discussion will focus on the repurchase by a company of its own shares. While the term "redemption" in the United States can mean the same as "purchase" or "repurchase", it is more often used in instances where a company has issued redeemable securities, for example, a redeemable preferred stock where the company (or the shareholder) has the right, under the original terms of the issue, to redeem the shares on certain dates at stated amounts, or in the case of "redemption" by the company of a debt security it has issued. (I might note here that I do not see any explicit authority to issue such an equity security under the Company Law or its proposed amendments, and this authority should be favorably considered.) Redemption of a debt security can also simply mean "repayment" by the company under the terms of the debt agreement, or, where such debt securities or preferred shares are traded on the secondary market, the actual repurchase of those securities by the company on that market.

As to company purchases of its own shares, it is extremely common in the United States' public securities markets. Public companies frequently announce "buy-backs", and they are usually for two stated reasons: (1) to have treasury shares available for the employee stock option and other savings or benefit plans, and/or (2) simply because it is a good investment. In this latter category, the management generally feels that the stock market has undervalued the company, and that the increased earnings per share, as well as cash dividends saved as the arithmetic result of the buy-back, is worth the cash outlay for the shares. In other words, the net gain in earnings per share may be greater and less risky through the buy-back than it would have been through an identical investment in company operations. The marketplace has also generally reacted well to these announcements: the investment community tends to feel that a buy-back is an expression of confidence by the management, and that the management is in the best position to assess the investment value and earnings potential of the company. These buy-backs are generally done by the company in the open market after publicly announcing the total number of shares it has been

authorized by its Board to repurchase and the period of time over which this authority will be exercised. Less frequently, the company will execute the repurchase by a formal self tender offer, following the rules for such a procedure set forth by the Security and Exchange Commission.

Other instances of buy-backs occur when companies periodically contact all shareholders owning less than 100 shares (100 shares being referred to as a "round" lot), and offer to repurchase their shares at market value. This simply removes small shareholders who have no substantial interest in the company, and allows these shareholders to sell directly to the company without payment of the brokerage commissions associated with lots which are not "round".

After shares are repurchased under American law, they cannot of course be voted,<sup>r</sup> counted for quorum purposes, or calculated in earnings per share as long as they are owned by the company or its affiliates.

The foregoing discussion may perhaps be viewed as the "positive" side of buy-backs. On the "darker" side, depending on one's point of view, they can also be used to increase the percentage holdings of large shareholders who wish to consolidate their control at the expense of the company and all shareholders; or they can be used to generate cash for a large shareholder, or to buy off, at a premium over current market prices, a corporate "raider" who has acquired company shares and now threatens to take control of the company and oust management. (This takeover defense is known as the payment of "greenmail").

Nevertheless, the American company's right to repurchase its own shares is not unlimited. Generally, it is allowed by corporate law as long as the purchase is not done when the company is "insolvent" or will become insolvent as a result of the purchase. The better view among the various 50 American state laws, in my opinion, are those which define insolvency: in other words, those laws which prohibit buy-backs where they would render the company "unable to pay its obligations as they become due" or where the payment would result in the company's assets being less than its liabilities (and where those liabilities are defined to include adequate provision for securities, such as preferred stock, which are convertible into common shares in the future.) In my view, this same test should be applied to dividends, since dividends are another means of getting money into shareholder pockets. While all shareholders participate equally in dividends (as opposed to only some shareholders benefitting from buy-backs), the effect on creditors can be the same. In other words, an inappropriate buy-back or dividend can cripple the company and interfere with the payment of its legitimate obligations to employees, suppliers and lenders.

The other limitation in the United States on the use of buy-backs, or at least, on the "darker side" of buy-backs, is the threat of shareholder litigation. Where "greenmail" has

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been paid or where management has used the buy-back to gain or consolidate control of the company, shareholder suits invariably follow. This places management at risk and on the defensive, often putting them to the task of proving in court that their actions were for the benefit of the company as a whole and not for their personal benefit. This, of course, requires a viable set of laws with respect to the obligations of company officers and directors, and a shareholder/investment community which is willing to use these laws to test the directors' actions. The United States is blessed (or cursed, if you prefer) with an abundance of both of these. This threat is very real in the US, and it does provide a certain discipline on the modus operandi of public companies. The law is quite clear that directors and officers and control persons cannot abuse the minority shareholders or expend corporate assets simply to keep themselves in power or to enrich themselves without a valid and provable corporate purpose. The problem comes in applying this common corporate law to the facts and circumstances of the particular case. In the greenmail cases, for example, the defendant directors have often been successful in court in showing that the repurchase of company shares from a raider at prices in excess of market was a worthwhile purchase, not made by management to preserve their own power, but to save the company from a takeover which they had good reason to believe would have placed control in the hands of persons who would have disrupted its operations and destroyed its value.

My personal point of view is that Lithuania should consider the insolvency limitations set forth above with respect to buy-backs. It should also consider changes to the Company Law which will impose new "fiduciary" duties and obligations on directors and officers. This is a longer term solution for an emerging market, but I think a beginning is needed. My difficulty with the European Union view is that it is too restrictive. It limits buy-backs under any circumstances to 10% of what appears to be "stated capital" (see Article 19 1.(b)). This can be the subject of another discussion between us, if you would like, because stated capital, at least in the United States, has become almost a meaningless concept and usually represents a tiny portion of the net worth of a company. Further, the European Union itself has not sufficiently developed the law of fiduciary duty of directors, and thus has not fully empowered European shareholders to enforce their own rights. This places a greater burden on regulatory agencies which are really not equipped to supervise corporate activities such as buy-backs and to bring enforcement actions. The result is that it is administratively easier to severely limit the activity by law rather than to give the marketplace the tools to deal with it.

I would be pleased to discuss any of this with you at your convenience.

MEMORANDUM

September 22, 1998

TO: DEPUTY CHAIRMAN MIKUCIAUSKAS  
FROM: KEVIN SALISBURY

RE: SHAREHOLDER VOTING INFORMATION

In reviewing the Company Law (and proposed changes), I find that some important changes need to be made with respect to shareholder voting. Neither the current law or the proposals require (1) that complete, adequate, timely and truthful information be given directly to shareholders so that they can intelligently exercise their vote at general meetings; and (2) that the failure to provide this information be specifically made unlawful and therefore subject to penalties from the Commission and to shareholder legal action.

The right of shareholders to vote is a fundamental non-property right guaranteed by Article 16 of the Company Law. This right is exercised at general meetings where the shareholders have the ultimate corporate authority. This authority is far-reaching, ranging from the removal of the Board to liquidation of the company---they are listed in the 15 items in Article 19 of the proposed Company Law. Nevertheless, the information required to be given to them is minimal in relation to the power granted them by the law. In calling a general meeting, for example, management need only notify the shareholders of the date and place of the meeting, and send a draft agenda under Articles 21 and 22, and a universal ballot under proposed section 2 of Article 20. The Board nominees (but no additional information about their qualifications) are required to be disclosed when sending the universal ballot under proposed section 2 of Article 20. There are no requirements as to the content of the Agenda, so it could presumably state something like: "Restructuring of Board Authority" when in fact pre-emptive rights are being waived and the power to issue convertible shares is being passed to the Board together with many other powers formerly belonging to shareholders but now

authorized by the proposals to change Article 19 of the Company Law. While shareholders, under section 8 of Article 21 have the “possibility for reviewing the documents related to the agenda of the meeting no later than 7 days before the meeting.”, there is no requirement as to how or where this is to be done or what the contents of these documents might be. Seven days before the meeting, management could therefore simply make available at its headquarters, for any shareholder who asked to see them, a few descriptive documents about the proposed transfer of authority but which tell the shareholder very little or nothing about the potential dilutive effect on his/her shareholdings when convertible securities are issued and no pre-emptive rights are present. Further, there would be no penalty if the “documents related to the agenda” were false or misleading. It also seems the documents could be made available in Vilnius when most of the shareholders reside in, say, Klaipeda or even Chicago.

When a company “reorganization” is to be voted upon, it is true that, under Article 10, section 10 of the current Company Law, each shareholder shall have the right to familiarize himself with the company’s plan of reorganization and related documents during the 30 days preceding the meeting. But this does not require a mailing of these documents to the shareholders (even each creditor is to get notice of the reorganization), nor does it solve the problems noted in the paragraph above. It is also true that in a merger involving the issuance of securities the Commission will be involved through the registration process, but this is too late---the vote has already taken place. Further, many “reorganizations” will not require Commission approval since shares will not be issued, as in a cash merger with a private company, or a sale or purchase of assets or other similar re-structuring of the company.

I would therefore recommend that this fundamental issue be addressed. The use of the universal ballot by management for the solicitation of shareholder votes will give management the power to control the company with even a small minority of shares, and it is critical that they be required to explain their actions in detail when soliciting the vote on any issue. Particularly where directors may be elected for a 4 year term (and I would recommend this also be changed), the shareholder should be given some information about them other than their names: this should include their work experience, the amount of shares they own, any dealings they may have with the company, any other Boards on which they may serve, etc. The information should be required to be sent to them along with the agenda and the ballot, and the information should of course be tailored to the transaction for which the vote is sought. There should also be a penalty for false or misleading statements and for the omission of material facts.

This would have to be a new informational regime set up by the Commission where “informational statements” are required to be sent directly to the shareholders with a copy to the Commission, no later than 30 days before the meeting (as now required for shareholder notice under Article 21). This would give the Commission time to review the statement and require changes and re-mailings to shareholders, if necessary, thus possibly delaying the meeting. In the case of mergers or other transactions requiring both shareholder and Commission approval for the issuance of securities, the information statement to the shareholders could serve as the registration statement for the securities, containing all the information the Commission requires. It is now an anomaly that the Commission, which has the responsibility to protect public shareholders, has more information on the merger than the shareholders had when they approved it. It is up to the shareholders to read and study accurate and complete information before they vote on matters which materially affect their rights---the Commission can't make them read it, but the Commission can certainly require that it be sent to them.

MEMORANDUM

September 24, 1998

TO: DEPUTY CHAIRMAN MIKUCIAUSKAS  
FROM: KEVIN SALISBURY

RE: MATERIAL EVENTS DISCLOSURE

Both the Law on Public Trading of Securities (Article 6, Section 2) and the Regulations issued thereunder (Section 12) present what I believe is a problem which should be remedied. The Law clearly sets forth the requirement to report "every material event", but it offers an exception:

If, in the opinion of the accountable issuer, the issuer may incur financial or competition-related losses by reason of the disclosure of information referred to in par. 1 hereof, the accountable issuer may refrain from publishing the information report provided for by par. 1 hereof submitting it only to the Securities Commission with a marking "confidential information" and a written explanation of the reasons precluding the disclosure of information.

Insiders, of course, may not trade in the security during the period of confidentiality, but the language appears to give management the ability to withhold critical information based on its own opinion as to "financial or competition-related losses". Should the Commission disagree with issuer's opinion, it would seem that the management would prevail as a matter of law, as long as its stated opinion is not absurd on its face or is otherwise demonstrably unreasonable. The problem is that management can generally articulate sound and honest business reasons for the non-disclosure.

It seems to me inevitable that management will comply immediately with the material event rules only with "good news" disclosures. Almost any company disaster or "bad news" can be cast in terms of predicted "financial and competitive losses", and this provision will thus prevent disclosure of items which are clearly critical to the proper functioning of the public marketplace. Many examples could be given: perhaps the most egregious would be a food company which discovers that it's main product may be contaminated and cause a public health hazard. If this product accounts for 80% of the issuer's sales, it is unarguably

“material” and it is an “event”. Certainly, its disclosure will cause financial and competition-related losses, if not complete financial ruin. Can management choose to withhold disclosure of this event while it tries to determine the extent of the problem and how long it will take to fix it?

A less catastrophic example might be a company which suddenly receives notice that a customer who purchases a product representing 80% of the issuer’s sales will no longer purchase that product. Certainly this is a material event and its disclosure will result in all of the following: alert the issuer’s competition to redouble their efforts to sell their own product both to that customer and to the issuer’s other customers for this product; will upset these other customers who will fear that “something is wrong with the product” just as the issuer’s competitor is knocking at their door; will upset bank creditors who may consider calling loans made to the issuer; will upset the issuer’s suppliers who provide components for the product as they calculate the impact on themselves and seek to raise prices; will upset the issuer’s shareholders who will fear for their dividend income and their plunging share prices; and, finally, will upset employees who will correctly fear for their jobs. There is no question that the disclosure could realistically be followed by harm of this type to the issuer. It is also inevitable that, in any event, the situation will leak into the public domain in a very short time from sources other than the issuer.

Far less dramatic, and perhaps more realistic examples can easily be given, but I’m sure you understand the point. There is always a human reluctance to release bad news for the very reason that embarrassment, as well as financial and competitive damage may well follow. But it is not the disclosure which causes damage, it is the event itself. The fundamental problem is that, while management keeps the information to itself, investors in the public market are trading on a daily basis in ignorance of facts which may dramatically affect their investment decision. The fact that management and the issuer are not trading during the non-disclosure period merely means that management, while not itself benefitting from the non-disclosure, is consciously and deliberately allowing others to sustain potential damage. In the case of the contaminated food company above, it may be causing damage to the public at large and not just to investors. It seems to me that neither the law nor the Commission can support this.

The fact is, and it is often difficult to convince management of this, that the requirement for disclosure actually makes a management act more decisively and effectively in handling the real problem—the event itself. Managers perform more effectively when they know their performance is subject to public and investor scrutiny, and that the results of their performance will be judged by the public markets. Management planning and execution will become far more effective when this is truly understood.

In the United States, it is clearly required that public companies, except in very limited circumstances, make immediate public disclosure of all material information concerning its business regardless of the consequences. It actually goes beyond this and imposes an affirmative duty to update and correct information which may be in a required company filing or otherwise existing in the marketplace. To quote from Securities Act Release 6084:

“(D)epending on the circumstances, there’s generally a duty to correct statements made in any filing....if the statements have become inaccurate by virtue of subsequent events or are later discovered to have been false and misleading from the outset, and the issuer knows or should have known that persons are continuing to rely on all or any material portion of the statements”

Or to quote the New York Stock Exchange Company Manual:

“The company must act promptly to dispel unfounded rumors which result in unusual market activity or price variations.. if rumors are false or inaccurate, they should be promptly denied or clarified.. if rumors are correct or there are developments, an immediate candid statement to the public as to the state of negotiations or of development of corporate plans in the rumored area must be made directly and openly. Such statements are essential despite the business inconvenience which may be caused and even though the matter may not as yet have been presented to the Company’s Board of Directors for consideration.” (emphasis supplied)

These rules are visible on a daily basis: You are no doubt familiar with future earnings projections made by analysts in the United States for specific companies. These are made generally on a quarterly basis, and you will find the companies publicly responding to them, particularly where the projection misses the mark by a substantial margin. So it has become the practice, even with estimates for the future, for the issuers to correct analysts’ projections when it is realized that the analyst has missed the mark in the first place, or that the issuer itself, having at first agreed with the analysis, now realizes that there will be a substantial shortfall against the estimate. This frequently causes stock prices to be severely affected. The failure of the issuer to correct a severe overestimation of future earnings which has been

accepted by the marketplace could subject the company to liability in addition to the punishment the market price will suffer when the actual substantially lower earnings are released. Investors rely on the analysts expectations, and where the issuer does not correct them, the marketplace assumes they are true.

It is nevertheless still technically the law in the United States that information can be withheld briefly but only for a valid business purpose, and only if confidentiality can be maintained, and only if there's no other affirmative duty to disclose as set forth in the quoted language above. In the hypothetical cases of the food company and the lost customer company, it seems clear that confidentiality could under no circumstances be maintained as a practical matter because of the large number of people, even outside of the issuer itself, who would know or soon find out about the situation. As the information began to leak out into the marketplace in the form of rumors, the duty to disclose would of course come into play again.

It is therefore fair to say that in the United States, as a truly practical matter, material information may never be withheld, except in one circumstance----where there are merger or friendly tender offer negotiations. If IBM were in merger negotiations with Microsoft, this very fact would be considered material, but both companies could withhold this information, at least until an agreement in principle is reached. While there has been much litigation in this very area, it is fairly clear that if there are rumors in the market place about the existence of merger negotiations, the companies have no affirmative duty to confirm or deny the rumors, and, if asked by the press or the Exchanges, they may respond with "no comment" unless the companies themselves have been responsible for the rumors, or unless they have previously issued statements which would make the "no comment" statement misleading in itself (for example, if they had previously and repeatedly issued denials of a rumor).

Of course, a company need not reveal a trade secret (such as the architecture of Windows 98 or the Coca Cola formula), but there is no practical circumstance I can imagine where this would be necessary to properly inform the securities market. If a new and startling Microsoft architecture is developed, of course Microsoft would immediately announce that it had such a product and that it possessed certain described performance features, and that it would be available to users by a certain date. The actual trade secret would never be revealed, nor would investors need or care to know how it is constructed. They would only want to know its performance characteristics, or how, in the case of Coca Cola, it may taste.

While the market in Lithuania is still emerging, I think it important that both the law and the regulations look forward to the day when the market is more sophisticated, so that both the issuers and the investors accustom themselves to the "culture of disclosure". It will actually encourage liquidity and sophistication. If global investors become of the opinion

that, in Lithuania, there is no immediate disclosure of "bad news", or that there are other limitations on disclosure (for example, that shareholders receive inadequate or no information at all when asked to vote on significant corporate matters—see my other memo on Shareholder Voting Rights), then the funds will tend to flow elsewhere.

MEMORANDUM

September 25, 1998

TO: COMMISSIONER MARGARITA VIDUTIENE

FROM: KEVIN SALISBURY

RE: TENDER OFFER RULES (AS AMENDED MAY 15, 1998): MEMO 1

As we discussed today, the new tender offer rules, in my opinion, are far superior to those I reviewed last year—they are more streamlined and more effective in bringing the offer to the public market for consideration by the target shareholders. Nevertheless one big issue still remains, and then a number of lesser questions.

The big issue is, of course: what is a voluntary tender offer? If it is voluntary, it would therefore seem that a bidder may use it, or may not use it, as he/she/it sees fit. Consider the following example: a bidder places a newspaper advertisement or uses a direct mailing to target shareholders. He seeks to pay for their shares in a manner not authorized by the rules. He offers to buy no more than 50% (and no less than 45%) of the shares at Litas 100 per share for shareholders who submit their shares in 5 days, and only Litas 80 per share for those who submit within the 5 days thereafter. The offer ends at the end of the 10th day. When the Commission seeks to stop such an offer, the bidder may well reply that, as the rules were voluntary, he simply chose not to use them; that he has in fact used a reasonable mechanism to acquire all the shares quickly and at a fair price (which may well be true); and that he has simply imposed a 20% discount to those shareholders of the target who have not acted quickly. (It may even be true that the discounted price can be considered “fair” in relation not only to previous target share prices on the secondary market, but also on the earnings power of the company. The bidder’s point may be that he is not really discounting the late shares by 20%, but he is only paying a premium over the “fair price” to early shareholders to reward them for their promptness.) Yet, this is precisely the type of offer that the Commission would want to regulate. If one looks at the central attributes of the offer, it is clear that it broadcasts the offer publically to the target’s shareholders, the price is not negotiable, it is contingent on a fixed number of shares being submitted, the shareholders are put under pressure to make a decision quickly, and there is active solicitation of the shareholders.

Accordingly, any attempt to define “tender offer” will have to somehow include at least some of these attributes so that the Commission can fulfill its obligations under the Law on Public Trading “to monitor compliance with the rules of fair trade and competition in the public trading in securities.....(and)..to take measures assuring effective functioning of the securities market and protect the interests of investors”. When all or some of the foregoing attributes or factors are present, as in the case of our hypothetical offer, then the Commission would want to make sure that the offer is outstanding for a sufficient time, that the price is the same for all, that there is pro-ration if the minimum amount to be purchased is exceeded, and other rules with respect to competing offers and withdrawal rights.

I think the underscored language above as to protection of investors is probably the most compelling here as it applies to tender offers. What investors should the Commission attempt to protect? Large sophisticated investors obviously don't need as much protection as small shareholders or “the public”. The block purchase rule deals with the larger investors and still protects the general public and the shareholders by the disclosures it requires. Those who have the funds and sophistication to deal in block purchases should therefore probably be free to do so, even if they intend to acquire the whole target company. That is, if a bidder wants to solicit block shareholders one by one and on a private basis where each transaction has to be negotiated, then I would think that any definition of tender offer should not apply to this private activity. After he negotiates for more than 10% of the target he must of course comply with the disclosure rules, but, as each block is subject to private negotiation, then different prices will of course be paid. But the block seller does not need protection here, nor would the pro-ration and other tender offer rules make sense to a block seller. The public simply needs to know that the block has been transferred when 10% is exceeded. Actually, if the target issuer knows when 5% has been exceeded, it must notify shareholders at its general meeting, under Article 5, Section 4 of the Law on Public Trading. (Please note that the Commission's block purchase rules do not now require that the purchaser state the reason for the block purchase or the price paid. I think it very important that they do so, and that the statement of reasons (along with all other statements) must be complete, truthful, and not misleading. Thus if the block purchase was for the purpose of acquiring all of the target shares, then this must be stated so that the market and all shareholders know the facts)

Likewise, if a person who has intent to acquire all or a controlling part of a target company's shares chooses to do so in normal transactions over the Exchange, then it seems to me that he should be allowed to do so without invoking the tender offer rules. Again, when he purchases more than 10%, he must disclose his position (and, hopefully, his reasons and price

for the purchase!) His buying activity in the Exchange process will tend to increase the target's price, but that is his choice and his problem. I doubt that the Commission would feel the need to require a tender offer in this case because the essential elements of public announcement, non-negotiable price, pressure to respond in a limited amount of time I would stress here though, that it must be "normal" transactions over the Exchange. If he were to publicly announce that he is "in the market" to buy all shares, or a portion of the shares, of target company at Lit 100 per share, and then leave that as a standing bid, then I think the tender offer rules should apply. In this case, again, there has been a public announcement applicable to all shareholders, the price is non-negotiable, and there is actually an element of pressure because it is not known whether the offer will be withdrawn in days or weeks or even hours. Even if the bidder were to announce publicly that he would buy any and all shares "at market", I think this would be enough to invoke the tender offer rules simply because of the public announcement, and some element of pressure in the concern that the offer could be withdrawn at any time.

I could propose a simple change to the definition of "tender offer" in the rules which may give the Commission sufficient latitude to compel compliance in the proper cases:

4.3 "tender offer" is a procedure where a natural or a legal person, directly or indirectly, states, by use of advertising, the media, or other means of public communication, that such person is willing to acquire a part or all of any class of securities of a target company;

4.4 Delete the term "voluntary tender offer" in this section and elsewhere.

This definition is broad enough to pick up any public communication to purchase securities, but would still seem to allow private communications with shareholders, or buy orders on the Exchange. Again, a bidder could privately and through the Exchange acquire more than 10%, whereupon he must be required to "announce himself" and his intentions (if the block purchase rule is changed). In the United States this announcement of intent is likely to take the following form: "The bidder has purchased the target shares as an investment. It plans to become more familiar with the target's business and operations in the future, but it has no present intent to acquire additional target securities at this time." This may cause speculation that a tender offer or other acquisition proposal will follow and the target's shares will tend to rise. A truly serious bidder would not want this to happen, so he would likely tender for the shares before he had to make such a statement. Of course, serious bidders will likely use the

tender offer rules in any event, but the bidder will frequently first want to make sure he has purchased, or has a right to purchase privately, whatever large blocks of shares may be available. So he may approach one or two private shareholders first and either buy their shares outright, or reach a price agreement with both to buy their shares conditioned on a successful tender offer which is to follow immediately. If the tender offer is not successful, then the private purchase would not be concluded. But this gets into the subject of pricing to be discussed later.

You may wish to discuss whether this definition works. Other comments will follow in an additional memorandum.

MEMORANDUM

September 28, 1998

TO: COMMISSIONER MARGARITA VIDUTIENE

FROM: KEVIN SALISBURY

RE: TENDER OFFER RULES: MEMO 2

I have a number of other comments about the new tender offer rules, as follows:

- 1) Item 5.3. As I interpret this, the summary of the circular must be publicly announced only after all permits are issued by the various state agencies. This puts the public and the target shareholders, whom the rules are designed to protect, in the position of the last to know that there is a tender offer. The Exchange, the target, the Commission, and the relevant agencies will all have the terms of the offer. This simply spreads highly confidential material information among too many people other than those who are affected by it, and the opportunity for insider and tippee trading and other abuse is too great. I would strongly urge that this be changed. I would delete the requirement for a summary circular, and allow the circular with the offer to be immediately made public at the same time that it is filed with the Commission, and its terms must include the fact that certain approvals are required, including that of the Commission. This will streamline the procedure and also give a little more time for competitive bids, if any, to form.
- 2) Item 5. The English here reads that a filing is required for "a bidder who has decided to acquire a block of the target's shares by way of a voluntary tender offer or all of its shares.".(emphasis supplied). Perhaps it's clearer in Lithuanian, but it should not be applicable to a bidder who has decided to acquire all of the target shares by merger or some other means.
- 3) The bidder is nowhere required to mail the circular to the target shareholders, although a serious bidder will almost certainly do so. I realize that cost is an issue, but consideration should be given to requiring the bidder or the target (at the bidder's expense) to do so. It is simply another cost of acquisition. The cost of a newspaper advertisement, and perhaps more than one advertisement--see item 12--may be more than such a mailing.
- 4) Items 7 and 66. My view of a tender offer is that the bidder is, as a legal matter, entering into an arrangement with target shareholders to acquire their shares on certain terms and conditions which are really contractual in the sense that they are binding on the bidder. I therefore do not understand Item 66 where the Commission seems to be able to allow the bidder to breach the terms of the offer. The bidder can only withdraw the offer in accordance with its terms, and under no other circumstances. If the offer is subject to

certain conditions, such as approval of a governmental agency, and that agency does not approve it, then the bidder obviously can and must withdraw. The terms must of course be spelled out in detail, because, if the terms are met and the bidder does not purchase, he is in breach and subject to damages from shareholders who submitted their shares. Some consideration should be given to amending Items 7 and section 17 of the Annex 3 circular, which seem to hint at this, but do not quite say it, as 7 asks for the number of shares and 17 for the circumstances which do not directly depend on the bidder but which are instrumental for completion. Bidders should not be able to set forth vague or uncertain conditions which are not clear enough to enforce---or at least it should be clear that they are not easily enforceable. While some bidders in the US state, as a condition of purchase among many other conditions, that “ in the opinion of the bidder, there must be no material adverse change in the business or operations of the target at the time all other conditions of purchase have been fulfilled”, this is nevertheless a contractual condition. It gives the bidder an escape route, contractually, if the target’s main plant burns down or some other “material” tragedy occurs which makes the bid price no longer economic. It weakens the bid, however, and opens the door favorably to a competitive bid which has no such condition. The reasonableness of the bidder’s opinion that there has in fact been a “material adverse change” is, of course, a matter which is subject to court action.

5) Item 6. If you are to continue with the use of a summary of the circular (and I suggest that you do not--see 1 above re Item 5.3), then I think that item 16 should be included. The bidder should be required to describe the source of funds, including the names of banks, if any. This should tend to discourage false offers where there are insufficient funds.

6) Item 13.1. All shareholders of the class of securities to which the bid is directed must have equal rights, not “all shareholders of the target”.

7) Item 13 and Item 15, second sentence, and Item 55. The managers of the target, it seems to me, should be free to appropriately “hinder the execution of the tender offer” or “frustrate” the offer if they think it undervalues the shares or is otherwise harmful to the company. (The first sentence of Item 55 forbids frustration of an offer, while the second sentence requires the target management to seek maximum profit for the target and its shareholders. But seeking maximum profit may well require frustration of the offer.) If the target management owes a fiduciary duty to its shareholders, then management would be obligated to hinder or frustrate an unfair tender offer. They should be free to seek to merge with other companies, or solicit competing tender offers, or sue the offering company if legal grounds are available. They should even be allowed to have the target tender for its own shares at a higher price, thus allowing the target to be the competing offeror. Items 13 and 55 seem to prevent this, and the second sentence of Item 15 seems to prevent a proposed merger of the target into

another company even if this maximizes profit under the second sentence of Item 55.

I assume that a negative opinion from the management of the target under Item 28 would not be considered a "hindrance" of the tender offer under Item 13.2, but the target's management should also have some freedom to fight against a tender offer, even if it is merely a negotiating tactic to increase the price. I think the Commission should not be in the position of "tying the hands" of either the bidder or the target, or to create rules which favor either the bidder or the target, but simply to try to set rules which will allow the game to be played fairly. The more difficult questions are whether target management should be allowed to issue rights to its own shareholders so as to defeat the tender: this could be done, for example, by a proposal to increase the capital to allow each of the target shareholders to purchase, for a nominal value, an additional share for each share held, thereby doubling the shares outstanding and defeating the bid; or by causing the target to incur substantial additional indebtedness, thereby discouraging the bidder by dramatically changing the financial situation of the target; or by offering "greenmail" to the bidder for target shares it might own so that it will withdraw the bid. There are situations where each of these tactics employed by target management may be justified, and other situations where they are not justified. Item 55.1 and 55.2 seem to imply that a "poison pill" passed by shareholders before the date specified in Item 5 cannot be exercised (perhaps I mis-interpret this.)

I don't think the Commission can write a rule addressing "good" tactics and "bad" tactics, as each case will be quite different depending on its own facts and circumstances. Perhaps the only rule should be a simple one: "When confronted with a tender offer which, in the honest and reasonable judgment of target management, is considered unfair or otherwise not in the best interests of its shareholders, management of the target may not act in opposition to the offer for reasons of its own self interest, but only in the best interests of the target and its shareholders, and must not impose unreasonable burdens on the target company, its operations or financial condition".

8) Mandatory Tender Offer. If a bidder tenders for 100% of the shares and purchases all shares submitted, and this amounts to 70%, has he satisfied the mandatory offer rules or must he make another offer because he now has more than 50%? It seems to me that he should not be required to do so, but I don't find a clear answer in the rules. Further, if this bidder has used registered shares for this 100% offer, has he inadvertently violated Item 43 which requires that a mandatory offer be only for cash? I would think he is not in violation, but it is not clear to me. I also do not understand why a mandatory offer cannot be something other than cash. If only cash is required and the bidder does not want to use it, it is inevitable that such a bidder will simply use shares in a merger in order to avoid the rule. This may be

desirable since at least all remaining shares are, in effect, purchased in a merger, even the shares of those shareholders vote against the merger. In a tender offer, there will always be some few shareholders who never submit their shares. I only wish to make the point that I don't think such a rule will be effective.

9) Item 73. I think you are aware that I do not approve of the law's requirement for a mandatory tender offer, nor do I approve of the pricing requirement in a mandatory offer (the price shall be no lower than the weighted average price in the preceding 12 months), but I realize that it is required by the European Union rules and apparently is also in the British rules. The pricing rule can be unfair both to the bidder and to the target shareholders: unfair to the target as it is a governmental suggestion that such a price may be acceptable when in fact it may be grossly unfair because of a substantial increase in value of the target (and extremely low prices paid by the bidder in the first instance); and unfair to the honest and serious bidder due to what may be a substantial decrease in value of the target. Further, what does it mean when a bidder with, say, 10% of the target bids for 100% of the target at prices less than the weighted average previously paid by the bidder? Is the rule applicable at all in this case inasmuch as the offer is not mandatory in the first place? Any bidder who wants to "steal" the target will no doubt time the purchases in order to avoid the rule in any event. I would recommend that the Commission consider the following: maintain the rule if it is required for EU purposes, but add a requirement that the bidder accompany its bid with the written opinion and supporting analysis provided by an investment banking firm, which is independent of the bidder and recognized by the Commission, that the offered price is fair to the target shareholders. This will at least put the issue of fairness into the public domain for comment by market analysts, as well as by the target management in its response, and by the Commission if it chooses to do so by requiring the bidder to enlist a second opinion in a proper case. If the Company Law is amended to impose fiduciary duties, the bidder's management would be well advised to protect itself legally with such an opinion in the event they are alleged to have breached their duty to the minority shareholders of the target. This will not place the Commission in the business of establishing "fairness" itself, but merely requiring others to do so in order to protect shareholder interests. The fundamental problem I see here in all events is that, if the bidder does not really want to bid for the rest of the shares, but does so only because the law requires it, then the remaining shareholders will get the lowest possible price which the law will allow. A bidder can control the target company in any event with less than 50% of the shares since he is in control of the calling of the general meetings and the mailing of the universal ballots (see my memo recommending changes to that part of the Company Law). It may be that the Commission should even go beyond my

recommendation of requiring the bidder to provide a fairness opinion: the Commission simply could impose a "fairness" rule for the price in the mandatory offer situation. This may put the Commission in the position of judging fairness, but perhaps that is what is required.

MEMORANDUM

September 29, 1998

TO: COMMISSIONER MARGARITA VIDUTIENE

FROM: KEVIN SALISBURY

RE: RULES ON REGISTRATION/PUBLIC OFFERINGS

This will briefly review the issues we discussed yesterday on the subject rule:

- the Law on Public Trading requires a public company to register its securities, and no distinction is made between a private offering and a public offering for this purpose. The Commission is therefore required to register securities of a public company in circumstances where the issuance would normally be private, that is, to a limited number of investors who cannot resell without re-registration. I would urge that the law be changed so that a public company may quickly and easily raise capital from wealthy investors or financial institutions without registration. The qualifications for these investors can be described using, for example, a net worth test, and perhaps limiting the amount that can be raised by the issuer in such a transaction.
- any private offering should also have a visible restriction or notation on the shares to the effect that they were purchased for investment and cannot be sold in public trading except after re-registration.
- absent a change in the law, the Commission should try to facilitate the filing of a private sale registration by requiring a minimum prospectus, which will be considered "registered" upon 30 days after filing unless the Commission notifies the issuer to the contrary during that period.
- we discussed that in the US, private investors usually negotiate registration rights in the contract of purchase with the issuer. These generally take two forms: a right to cause the issuer to register the purchaser's shares for a secondary offering at some

point in the future; or a right to “piggy-back” a secondary offering of the purchaser’s private shares whenever the issuer itself decides to have a primary or secondary offering. Sometimes both are negotiated, particularly if the purchaser has acquired a substantial amount, so that he will be able to choose favorable market conditions for the registered resale.

- as a technical matter, we discussed whether sections 13 and 14 could be merged, as well as whether the meaning of “re-register” in section 15 applied to any situation other than the re-registration of shares already issued and registered in a private offering.
- we also discussed the peculiarity of an investment law philosophy which requires the registration of a private offering, but then denies the public trading right until re-registration. This is really why the law should be changed as there is no incentive to use the private offering unless it can be demonstrated to issuers or investors that there is some significant advantage over buying registered and publicly marketable shares. Further, it would seem that where there is no sale or exchange of a security, as in a stock dividend or where the capital is increased and more shares are issued to existing shareholders out of issuer reserves, then no registration should be necessary as the Commission has no public interest to protect. Where one security is issued in exchange for another, as in the case of a convertible share being issued for a non-convertible share, a registration might make more sense as a shareholder’s rights may change, but if one share with a higher par value is exchanged for one with a lower par value (and no other differences) then the process of registration makes little sense.
- the question of sealed confidential information was discussed re sections 19 and 40, and the tendency of issuers to overuse this provision--see my memo on confidentiality in the context of the material event rules.
- sections 14 and 32 should be reconsidered in that it should simply be part of the normal information for the prospectus.
- the matter of due diligence should not be placed in a separate document but should be a concept or requirement that is inherent in the effort to produce a prospectus which is

accurate and complete and presents fairly a description of the company and its risk factors for the investor to make an informed choice

- the relative liabilities of the issuer, the underwriter, and the other consultants (lawyers and accountants) was discussed. While the underwriter in the US has the same liability as the issuer, the underwriter, as a matter of practice in the industry, is always covered by an indemnity from the issuer (but which excludes the underwriter's wilful or gross negligence), and this is placed in the underwriting agreement. The contents of this agreement should also be disclosed in the prospectus so that the potential investors also know that the person selling the security is protected in this fashion.
- the rule should also be re-written in a more informative manner with perhaps an overview of what is required, that all shares must be registered and cannot be sold except by means of a prospectus which has been approved by the Commission and made available to investors, although a preliminary prospectus complying with the requirements may be distributed before registration in order to assess the market, provided the price is not included and a legend clearly states that the prospectus has not been approved, is under review, and may change in substantial ways.
- finally, and I'm not certain we discussed this, but there should be a clear "anti-fraud" requirement in the rules to the effect that the information is accurate, complete, and omits no material facts. The liability for breach of this provision is of course why due diligence is conducted, and why such care must be demonstrated in the preparation of the prospectus.

MEMORANDUM

September 29, 1998

TO: Chairman Poderys

FROM: Kevin Salisbury

RE: Company Law Proposals

I understand from Mr. Simonis that there are now two proposals to amend the Company Law: one from Pragma (the Zilvanas draft) which I have reviewed; and a new proposal from a governmental committee which has not been translated, but which Mr. Simonis has discussed with me in some detail.

I wanted to stress a few broad issues which I think are important for the development of the Lithuanian capital markets, as these two proposals are quite different in some key areas. I think Lithuania has an important choice to make about how transparent it wants its market to be: while it understandably wants to follow European Union guidelines, market structures and disclosure rules, for which I have deep respect, I think the American model, with all of its imperfections, nevertheless provides an alternative which goes well beyond this. Lithuania need not, of course, accept it, but it can valuably adapt at least some of this model to its own specifications and culture, and still retain the EU guidelines. I think the global marketplace, in the end, will drive us all to systems of complete disclosure and powerful shareholder rights. The only real question is how rapidly any local market wants to accept, or preferably, embrace, this inevitable change.

The competition for capital is intense. If I'm not mistaken, there are more than 50 securities exchanges in Europe alone. Investment capital requires no passport or visa. Local markets can attract these funds only by distinguishing themselves in certain ways. Given these choices, it is difficult to imagine that investors will readily place their funds in countries where information is not readily available, or lacks immediacy in an electronic world, or is not trustworthy, or where managements are free to ignore investors' demands.

Lithuanian law is actually rather good in these areas, but there are some issues on which I would recommend that the Commission focus:

- law changes to allow Commission supervision of the universal ballot or proxy information so that shareholders will have detailed information before they vote at

the general meeting, or sign the ballot approving proposals made by management which provide little or no detail as to the impact on the company or the voting shareholder himself (see my Shareholder Voting Information memo of September 22)

- Company Law changes along the lines of the Zilvanas draft: unlike the committee draft, these impose fiduciary obligations on Board members. They should be expanded, however, to impose these duties on officers and controlling shareholders (regardless of shareownership percentage, as long as they have the power to determine the direction of the company). Powerful shareholder rights are now included in the Zilvanas draft but not in the competing draft. These give shareholders important tools to challenge management and to hold them accountable. Over time they will actually help to improve management's business performance by publicly revealing results and demanding this accountability. I realize that the Civil Law system will have to adapt to this, but the system in any event needs to adapt to modern business realities and global competition.
- law and regulation changes which require disclosure of material events as they happen, both good and bad (see my Material Events Disclosure memo of September 24). The law should also require that any disclosure made by management, whether filed formally with the Commission or voluntarily released to the press, will be held to standards of truth, fairness and completeness, and will be required to be issued to correct inaccurate rumors or false information in the marketplace.

At any rate, these are the areas I think most important from my perspective as an American corporate/securities law practitioner.

Many thanks for the privilege of letting me offer at least some minor assistance to your truly competent group of Commissioners and Staff!

## Open-End Investment Fund XYZ

### Statement of Assets and Liabilities

The end of the accountable period \_\_\_\_\_

No	Name of the Item	Amount
	<b>Assets</b>	
1.	Investments in securities (acquisition cost _____ )	
2.	Cash	
3.	Amounts receivable:	
3.1.	dividends and interest	
3.2.	securities sold	
3.3.	capital stock sold	
4.	Other assets	
5.	Accrued income and deferred charges	
6.	Total assets	
	<b>Liabilities</b>	
7.	Amounts payable:	
7.1.	investment securities purchased	
7.2.	capital stock redeemed	
7.3.	other amounts payable	
8.	Short-term liabilities to banks	
9.	Accrued charges and deferred income	
10.	Dividend for distribution	
11.	Total liabilities	
	<b>Net Own Assets</b>	
12.	Net own assets (___ units of capital stock outstanding the current value of which is _____ litas)	

Notes to Financial Statements are an integral part of these financial statements.

## Open-End Investment Fund XYZ

### Statement of Operations

The end of the accountable period \_\_\_\_\_

No.	Name of the Item	Amount
	<b>Investment Income</b>	
1.	Dividends	
2.	Interest	
3.	Total Investment Income	
	<b>Expenses</b>	
4.	Investment advisory fee	
5.	Interest	
6.	Custodian and transfer agent fees	
7.	Distribution expenses	
8.	State and local taxes other than income taxes	
9.	Directors and employees' fees	
10.	Other expenses and commissions	
11.	Total expenses	
12.	Net investment income (expenses) (3-11)	
	<b>Realised and unrealised gain (loss) on investments in securities</b>	
13.	Realised gain (loss) on investments in securities	
14.	Unrealised appreciation (depreciation) of value of investments in securities	
15.	Net gain (loss) on investments in securities	
16.	Net increase (decrease) in net assets resulting from operations (12+15)	

Notes to Financial Statements are an integral part of these financial statements.

## Open-End Investment Fund XYZ

### Statement of Changes in Net Assets

The end of the accountable period \_\_\_\_\_

No.	Name of the Item	Amount
	Change in net assets resulting from operations	
1.	Net investment income (expenses)	
2.	Realised gain (loss) on investments to securities	
3.	Change in unrealised appreciation (depreciation) of value of investments into securities in a year	
4.	Net increase (decrease) in net assets resulting from operations (1+2+3)	
5.	Result of equalisation	
6.	Distributions to shareholders from:	
6.1.	net investment income	
6.2.	net realised gain (loss) on investments	
7.	Increase (decrease) in capital share	
8.	Change in net assets during the period (4+5+6+7)	
9.	Net assets at the beginning of the accountable period	
10.	Net assets at the end of the accountable period	

Notes to Financial Statements are an integral part of these financial statements.

## Open-End Investment Fund XYZ

### Statement of Investments in Securities

The end of the accountable period \_\_\_\_\_

Arrange securities by industries or other groupings with regard to diversification requirements for the investment fund's securities portfolio, i.e. amounts of investments in concrete securities and compare its volume with net asset value (NAV). Also, specify the share that investment takes in the whole capital of the issuer. Show the nominal value and the fair value of these securities in respective columns. Investments into securities may be grouped according to the branches of industry, sectors, etc.

A sample Statement of Investments in Securities is provided below:

Name of Investment	Nominal Value of Securities	Fair Value of Securities
1. Common shares		
Vilniaus Bankas - 3 % (NAV)		
2 % ordinary shares purchased on Sept. 10, 1998	10,000	225,000
2.23 % ordinary shares purchased on Sept. 14, 1998	11,000	240,000
4 % ordinary shares purchased on Sept. 22, 1998	35,000	680,000
Hermio Bankas - 5 % (NAV)		
...		
2. T-bills - 10 % (NAV)		
T-bills 5 % due		

## THE OPEN-END INVESTMENT FUND XYZ

### NOTES TO FINANCIAL STATEMENTS (EXPLANATORY NOTE)

End of accounting period \_\_\_\_\_

#### 1. General Part

- 1.1. The Explanatory Note is an inherent part of the annual financial statements of a open-end investment fund (further - investment fund)
- 1.2. The Explanatory Note provides for a coverage of the main accounting principles, and the information specifying individual items of the financial statements and supplementing and detalizing the annual financial statements.
- 1.3. While preparing the annual financial statements the investment fund shall prepare the explanatory note pursuant to requirements specified in this document. Investment funds at their own discretion may supply additional information, more precisely specify their investments and explain their investment policy.
- 1.4. Upon preparing the explanatory note pursuant to the requirements set forth in this document account shall be taken of the legal basis and investment objectives of the fund. For example, where the fund has been founded as legal person, such a fund will normally have its own tangible assets which shall be disclosed in the notes to financial statements. Where the investment management enterprise founds the investment fund as a company without the rights of a legal person, it shall not have any tangible assets and it will not be reflected in the explanatory note.
- 1.5. The Securities Commission may, at its own discretion, request investment funds to file some notes to financial statements more frequently than annual financial statements.

#### 2. Disclosure of the Financial Accounting Policy

- 2.1. Principles of the following fields of financial accounting shall be disclosed:
  - 2.1.1. evaluation and accounting of investment into securities, and recognition of the realized and unrealized gain (loss) thereof;
  - 2.1.2. recognition of interest and dividend income;
  - 2.1.3. principles of calculation of income tax (only in the event these are used)
  - 2.1.4. distribution of the redeemable shares of the fund and redemption thereof (accounting of changes of capital account)
  - 2.1.5. accounting of capital account equalization
  - 2.1.6. accounting of dividend distribution to shareholders
  - 2.1.7. accounting of foreign exchange rate fluctuations
  - 2.1.8. principles of recognition and accounting of off-balance liabilities
  - 2.1.9. other relevant accounting policy.
- 2.2. Investment funds shall determine their financial accounting policies, which shall be prepared in detailed description, approved by the Board of the Fund (Supervisory Board) and safe-kept as an internal document. The Explanatory note shall contain only a brief description of the accounting policy, pursuant to item 2.1.
- 2.3. The fund shall follow its accounting policy. The fund is precluded from changing its accounting methods (principles). Upon necessity, some principles may be modified which shall be followed by an additional comparative information on the effect of the modification upon the financial outcome. Besides, the fund shall specify the accounting principle (retrospective, perspective, etc.) when the financial policy of the fund is being modified.

2.4. The Explanatory note shall also contain a disclosure of the investment policy of the fund.

### 3. Notes

#### 3.1. Investment into restricted securities

Note 1: Investment into restricted securities. This note shall contain a description of investment into securities, the trading in which in the market is in some way restricted.

#### 3.2. Cash

Note 2: Cash (bank accounts). The movement of cash and bank account balances (where the redeemable shares are distributed by the fund itself) in the course of the accountable period. The money shall be classified into cash funds, demand funds and term deposits.

#### 3.3. Amounts receivable

Note 3: Amounts receivable. Movement of amounts receivable classified according to breakdown presented in the assets and liabilities accounts in the course of the accountable period.

#### 3.4. Other assets

Note 4. Other assets. Other assets owned by the fund, grouped into relevant groups, changes thereof in the course of accountable period. Other assets shall include the tangible assets of the fund.

#### 3.5. Accrued income and deferred charges.

Note 5. Accrued income and deferred charges. The accrued income and deferred charges of the fund and changes of the balance during the accountable period.

#### 3.6. Amounts payable and short-term liabilities to banks.

Note 6. Amounts payable and short-term liabilities to banks. Amounts payable and short-term liabilities to the banks shall be disclosed according to the classification presented in assets and liabilities account and indicating their change during the accountable period.

#### 3.7. Accrued charges and deferred income.

Note 7. Accrued charges and deferred income. Accrued charges and deferred income specifying their changes during the accountable period.

#### 3.8. Distribution of dividends.

Note 8: Distribution of dividends. Description of distribution of dividends from the net investment income and/or realized gain (loss) from investment into securities. Brief description of taxation levied upon paid dividends. Disclose from when exactly the dividends will be paid.

#### 3.9 Change in capital share.

Note 9: Change in capital share. The number and amount of the new issue of the fund, including the number and amount of securities issued instead of dividends (reinvestment of dividends) or capital stock redeemed during the accountable period and their changes during the accountable period.

### 3.10. Investment advisory fee

Note 10. Investment advisory fee. Describe expenses on investment advisory fee by specifying the fixed fee and/or investment advisory fee as a percentage of capital gain.

### 3.11. Transactions in securities

Note 10. Transactions in securities. Describe trading volumes in trading and investment securities. Investment into securities and proceeds from sales of securities, classifying them into equity and debt securities and T-Bills.

### 3.12. Restricted securities

Note 12: Restricted securities. Name, amount and number of restricted securities. Description of how securities are valued in the accounting.

### 3.13. Selected financial indices.

Note 13. Selected financial indices. Selected financial indices of the investment fund per one share of the fund and selected ratios. The information shall be presented in a table per example below:

Title	19x5	19x4	19x3	19x2	19x1
Part per one share of:					
Investment income					
Expenses					
Net investment income					
Distribution to shareholders from net investment income					
The realized and unrealized gain (loss) on investments in securities					
Distribution to shareholders from realized gain (loss) on investment in securities					
Change in net assets during the accounting period					
Net asset value:					
beginning of the year					
end of the year					
Ratios:					
Expenses to average net asset ratio (%)					
Net investment income to average net asset ratio (%)					

# THE PRAGMA CORPORATION

## MEMORANDUM

From: Arvydas Paškevičius, the Pragma Corporation

Re: The Analysis of the National Stock Exchange indices and share prices, supply and demand

Date: September 28, 1996

Responding to the request of the Lithuanian Securities Commission to overview the impact of the Russian financial crisis upon the Lithuanian Securities markets, enclosed please find the survey of the development of the LITIN, LITIN-A and LITIN -G indices. The surveyed period covers January to September, with special regard to July and August. Also, trends of the prices, demand and supply of the Current and Official List shares were analyzed, and the aggregated graphs for the supply and demand for the Official and Current List shares.

### Annexes:

1. The analytical graphs of the share indices and the demand and supply of listed (Official and Current List) securities in the period January-August, 1998. A short comment.
2. Graph "The LITIN Index and turnover of shares underlying the Index in January-August, 1998".
3. Graph "The LITIN Index and turnover of shares underlying the Index in July, 1998".
4. Graph "The LITIN Index and turnover of shares underlying the Index in August, 1998".
5. Graph "The Litin-A Index and turnover of shares underlying the Index in January-August, 1998".
6. Graph "The Litin-A Index and turnover of shares underlying the Index in July, 1998".
7. Graph "The Litin-A Index and turnover of shares underlying the Index in August, 1998".
8. Graph "The Litin-G Index and turnover of shares underlying the Index in January-August, 1998".
9. Graph "The Litin-G Index and turnover of shares underlying the Index in July, 1998".
10. Graph "The Litin-G Index and turnover of shares underlying the Index in August, 1998".
11. Graph "Demand and Supply of the Official List shares in January- August, 1998, in Market value".
12. 8 graphs of the Official List share price, supply and demand.

13. Graph "Demand and Supply of the Current List shares in January- August, 1998, in Market value".
14. 56 graphs of the Current List share price, supply and demand.

**The Analytical Graphs of the Share Indices and the Demand and Supply of Listed (Official and Current List) Securities in the Period January-August, 1998. A short comment.**

### **The LITIN Index**

The shares attributed to the LITIN Index cover about 5 per cent of the capitalization of the listed and unlisted securities, and about 13.5 per cent of the capitalization of listed securities. The turnover of the LITIN Index shares account for 35 per cent of the total turnover on the Central market. In the graph "The LITIN Index and turnover of shares underlying the Index in January-August, 1998" the left vertical axis is used to mark the index values, the left horizontal axis is used to mark volumes in litas. The markings on the horizontal axis stand for trading dates.

The upper curve shows the dynamics of the Index. The arrows mark the spots "Capital gain taxation" and the "The Breakout of the Russian Crisis". To present a more detailed analysis of the changes, supplementary graphs "LITIN Index in July, 1998" and "LITIN Index in August, 1998". Comments on the pending capital gain taxation were first published in early July, although the first impact upon LITIN Index became visible only in mid-July, when brokers started the protest against the amendments to the Tax Laws. On July 1, 1998 the LITIN Index reached 722, and on July 10 it declined to 615. The decline proved short-lived and on July 16 it reached its previous level of 648. The early August reported an insignificant Index fluctuation. On August 17, the Resolutions of the Russian Government and Resolutions of the Central Bank of Russia aroused a currency panic in Russia and the dollar exchange rate rose from 6.2 to 8 roubles. At the early stage of the crisis the LITIN Index decreased very insignificantly. On August 14 it was 632, and dropped down to 591 on August 24, i.e. it decreased by 41 point in the course of ten days. The last week of August reports a stable decline of the Index. On September 18 it was as low as 440.

The bottom curve of the graph "The LITIN Index and the turnover of the shares underlying the Index, in January-August, 1998" describes the dynamics of the shares underlying this index. In this period the maximum turnover of the Index was recorded on March 17 (LTL 1,397,0480), and the minimum - on August 31 (LTL 17,379).

### **The LITIN-A Index**

The shares attributed to the LITIN-A Index cover about 32.5 per cent of the market of the listed and unlisted securities, and 86.5 per cent of the capitalization of the listed securities. The Turnover of the LITIN-A Index shares accounts for 60 per cent of the total turnover on the Central market.

The graph "The LITIN-A Index and the Turnover of the Shares underlying the Index in January-August, 1998". The markings on left side vertical axis stand for the index values, while markings on the right vertical axis stand for the volumes in litas. Markings on the horizontal axis represent the trading dates.

The upper curve shows the LITIN-A Index dynamics. The arrows show the critical points of "Capital gain taxation" and "The Beginning of the Russian Crisis". Seeking to detailize the shifts additional graphs "The LITIN\_A Index in July, 1998" and "LITIN-A Index in August, 1998" were presented.

1. The graphs show that the introduction of the capital gain taxation produced less impact upon LITIN-A, than upon the LITIN Index. On July 1, 1998 the LITIN-A was at 1637, and it fell to 1562 on July 13, the difference at 75 points. The further analysis of the LITIN-A development trends in July show that after the drop the Index never exceeded the 1587 limit. The further decline of the Index has also been reported right before the Russian crisis. In the period between August 1 and August 17 (the beginning of the crisis in Russia) the Index LITIN-A hit the bottom level of 1517. The decline might be a reflection of the general and global tendencies in the capital markets. The crisis in Russia still produces a negative impact upon the trends of the LITIN-A Index. On August 20 the Index was lower than 1500 points, on September 1 - 1450, and on September 19 it was as low as 1336. The lower curve of the graph "The Litin-A Index and turnover of shares underlying the Index in January-August, 1998" describes the trading turnover of the LITIN-Index shares during one trading day. In the accountable period the maximum trading volume of the LITIN\_A Index shares was recorded on March 18, and amounted to LTL 6,896,437, and the minimum was on January 29 - LTL 41,110. On September 19 the trading volume was slightly higher than the minimum bottom line and amounted to LTL 46.986.

### **The LITIN-G Index**

The shares attributed to the LITIN-G Index account for 62.5 per cent of the total capitalization of listed and unlisted securities. The turnover of the LITIN-G Index shares accounts for 8.3 per cent of the total turnover of the Stock Exchange.

The graph "The LITIN-G Index and the turnover of the shares underlying the index, January-August, 1998" markings on the left vertical axis stand for index values, and markings on the right vertical axis stand for the trading volumes in litas. The markings on the horizontal axis stand for trading dates.

The upper curve represents the dynamics of the LITIN-G Index. The arrows mark the points "The capital gain taxation" and "The beginning of the Russian crisis". Seeking to further detailize the changes, additional graphs "The LITIN-G Index in July, 1998" and "The LITIN-G Index in August, 1998".

The LITIN-G trends bear great similarity to those of the LITIN-A Index. The decline started at the early second quarter of this year. On April 4, 1998 the LITIN-G was 1786, on June 1 it declined to 1617, or by 169 points. In June the Index declined by another 67 points to reach 1550 on July 1. The capital gain taxation also was reflected in the trends of the LITIN-G dynamics. On July 14 the Index was on 1445, but on July 16 it reached 1512 points. In the second part of July an insignificant decline of the LITIN-G was noticed. On August 3 the Index was registered at the level 1478

points, and in the period prior to the crisis in Russia, the Index declined by 68 points and on August 17 it was 1410 points. The financial crisis in Russia accelerated the process of decline of the Index. On September 1 the LITIN-G Index declined below the level of 1300, and hit its lowest of 1200 on September 18.

The bottom curve of the graph "The LITIN-G Index and the turnover of the shares underlying the Index in January-August, 1998". The peak trading volume of LTL 3,189,143 was registered on March 19, and the lowest of LTL 108.148 was registered on LTL 108.148.

### **The Supply and Demand for the Official List Shares, in Market value**

The left vertical axis of the graph "The Supply and Demand of the Official List Shares, in Market value" marks the supply-demand values in litas. Markings on the horizontal axis stand for trading dates.

The upper thin curve represents the demand for the Official List shares, the scope of which is determined by multiplying the number of shares offered for sale by the closing price of the shares indicated by the Stock Exchange.

The bottom thin curve represents the demand for the Official List shares, which is determined as a multiplication of the number of the buy orders and their close price.

The upper thick curve shows the average demand for the Official List shares which is calculated by applying the moving average formula, i.e. based on the average demand values of the seven preceding days.

The lower thick curve represents the average supply for the Official List shares calculated by applying the moving average formula, i.e. based on the average supply values of the preceding seven days.

The graph "The Demand and Supply for the Official List shares in January-August, 1998, in Market value" shows that throughout the analyzed period the supply was exceeding the demand. January 18 was the only day when the demand slightly (by 9,402 litas) exceeded the supply. The maximum divergence between the supply and demand was achieved on June 15, when it amounted to LTL 3.898.061. In January-August the daily supply exceeded the daily demand by LTL 2,224,643.

### **The graphs of the prices, demand and supply of the Official List Companies shares**

The left vertical axis of the graph marks the share prices in litas. The right vertical axis marks the securities supply and demand in units. Markings on the horizontal axis stand for the trading dates.

The thickest curve marks the change of the share price, the medium curve represents the supply, and the thinnest curve shows the demand.

Share price, demand and supply of the following companies have been presented:

- Bankas Hermis, ordinary registered share (ORS)

- Biržų akcinė pieno bendrovė (Biržai dairy) (ORS)
- Kalnapilis (ORS)
- Medienos plaušas (ORS)
- Rokiškio sūris (ORS)
- Snaigė (ORS)
- Vilniaus Bankas (50) (ORS)
- Vilniaus Bankas (10) (ORS)

The impact of the Russian financial crisis was reflected in the dynamics of the Official List share prices. Shares of the corrugated board producer Medienos plaušas and the refrigerator manufacturer Snaigė remained at a more or less the same level, but only due to the fact that the demand for the shares was virtually nil.

### **The Demand and Supply of the Current List in Market value**

The left vertical axis of the graph “The Supply and Demand for the Current List Shares, in Market values, in January-August, 1998”, marks the demand-supply, in litas. The markings on the horizontal axis stand for the trading dates.

The upper thicker curve reflects the demand for the Current List shares, which is calculated by multiplying the number of the sell orders by the closing price of the Stock Exchange.

The lower thinner curve of the graph shows the demand for the Current List shares, which is determined by multiplying the number of sell orders by the closing price of the Stock Exchange.

May 28 occupies a noticeable place in the graph, when the buy order for over 8.3 units of the Baltija Shipyard (BS) was registered, at the share price 7,3 litas. It must have been a mistake at entering the data and the next graph shows the data, excluding the demand for the BS data for May 28.

### **The Demand and Supply of the Current List Shares, in Market value (excluding the BS demand)**

The left vertical axis of the graph “The Supply and Demand for the Current List Shares, in Market values, in January-August, 1998” (excluding the BS demand), marks the demand-supply, in litas. The markings on the horizontal axis stand for the trading dates.

The upper thicker curve reflects the demand for the Current List shares, which is calculated by multiplying the number of the sell orders by the closing price of the Stock Exchange.

The lower thinner curve of the graph shows the demand for the Current List shares, which is determined by multiplying the number of sell orders by the closing price of the Stock Exchange.

The upper thick curve shows the average demand for the Current List shares which is calculated by applying the moving average formula, i.e. based on the average demand value of the seven preceding days.

The bottom thick curve shows the average supply for the Current List shares which is calculated by applying the moving average formula, i.e. based on the average supply values for the seven preceding days.

The graph "The Supply and Demand for the Current List Shares, in Market values, in January-August, 1998" (excluding the BS demand)", proves that in the course of the whole accountable period the supply for the Current List shares considerably exceeds the demand.

The minimum gap between the demand and supply was registered on March 27, 1998, when the supply exceeded the demand by LTL 4,879,673. The maximum difference between the same indicators was registered on May 4, - LTL 16,561,765. On average the supply of one trading day exceeded the demand by LTL 8,360,680.

#### **The graphs of the prices, demand and supply of the Official List Companies shares**

The left vertical axis of the graph marks the share prices in litas. The right vertical axis marks the securities supply and demand in units. Markings on the horizontal axis stand for the trading dates.

The thickest curve marks the change of the share price, the medium curve represents the supply, and the thinnest curve shows the demand.

Share price, demand and supply of the following companies have been presented:

- Akmenės Cementas
- Alita
- Alytaus tekstilė
- Anykščių vynos
- Apranga
- Baltijos laivų statykla (BS)
- Bankas Snoras
- Dirbtinis pluoštas
- Dvarčionių keramika
- Ekranas
- Endokrininiai preparatai
- Grofabal Vilnius
- Grigiškės
- Gubernija
- Invalda

- Investicijos fondas
- Kauno audiniai
- Klaipėdos baldai
- Klaipėdos jūrų krovinių kompanija
- Klaipėdos nafta
- Krekenavos agrofirma
- Lietkabelis
- Lietuvos draudimas
- Lietuvos dujos
- Lietuvos energija
- Lieguvos Jūsų laivininkystė
- Lietuvos kuras
- Lietuvos taupomasis bankas
- Lietuvos žemės ūkio bankas
- Lifosa
- Linas
- Liteksas ir Calw
- Lithun
- Litimpex bankas
- Marijampolės pieno konservai
- Mažeikių nafta
- Naftotekis
- Naftos terminalas
- Panevėžio pienas
- Panevėžio statybos trestas
- Ragutis
- Sanitas
- Sema
- Stumbras
- Šiaulių pienas
- Šiaulių strumbras
- Švyturys
- Trinyčiai
- Utenos trikotažas
- Ūkio bankas
- Vilija
- Vilkas
- Vilniaus pergalė
- Vilniaus Vingis
- Žemaitijos pienas

Most of the Current List shares were only slightly effected by the Russian crisis, since the supply has been exceeding the demand for quite a period before the crisis, and the trading volumes were rather low.

The Russian crisis produced the largest effect upon shares of the following companies: Anykščių vinas, Bankas Snoras, Dirbtinis pluoštas, Investicijos fondas,

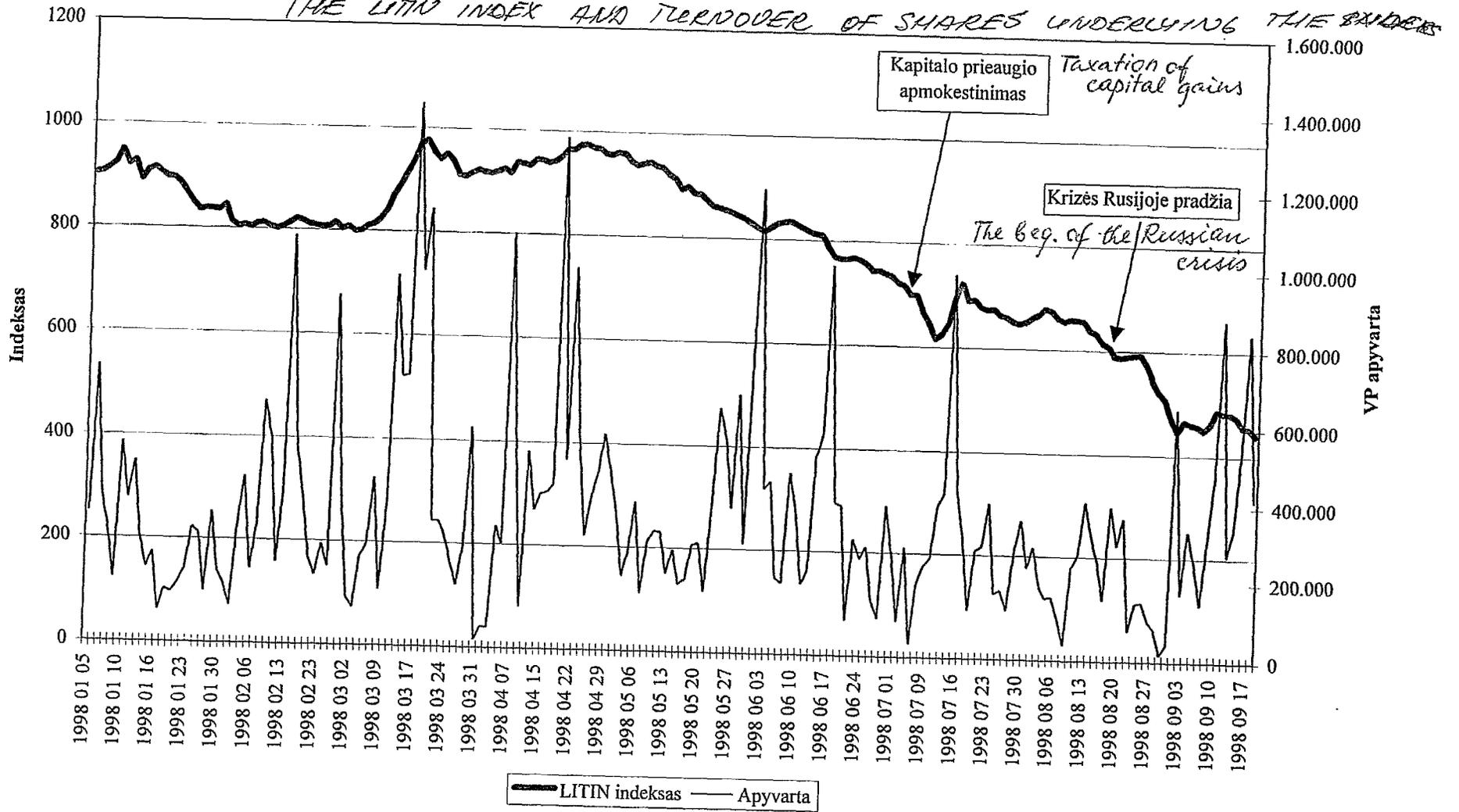
Klaipėdos jūrų krovinių kompanija, Lietuvos jūrų laivininkystė, Liteksas ir Claw, Mažeikių nafta. Prices of Endokrininiai preparatai, Lithun, Ragutis, Stumbras ir Žemaitijos pienas declined very insignificantly.

Most companies relate the investing decisions with the financial statements of companies, thus it may be expected that the impact of the crisis will be manifested more clearly manifested after the quarterly balance-sheets and the profit/loss accounts of companies are published.

LITIN indeksas ir šio indekso akcijų apyvarta 1998 m. sausio-rugpjūčio mėnesiais

JANUARY-SEPTEMBER, 1998

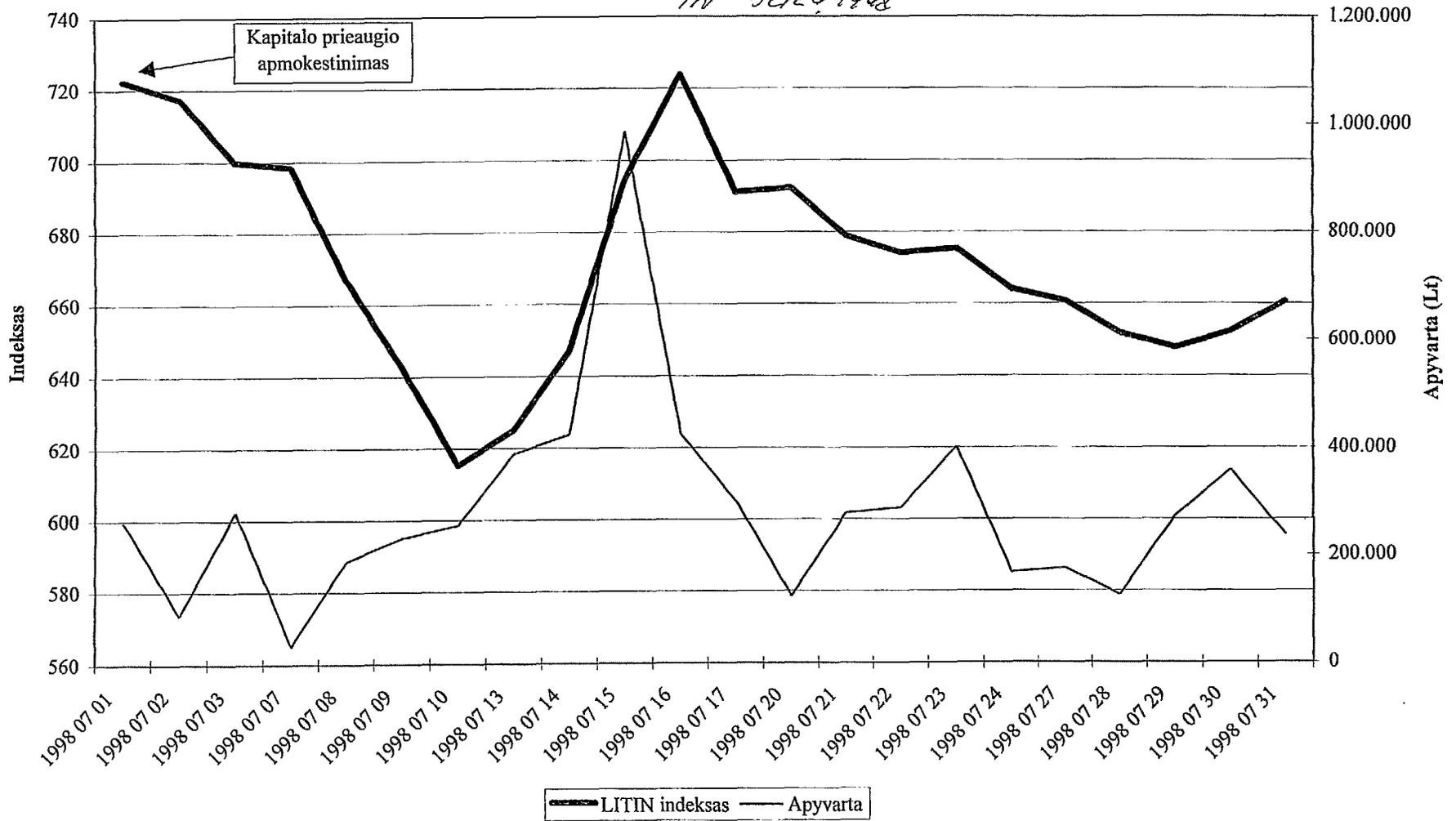
THE LITIN INDEX AND TURNOVER OF SHARES UNDERLYING THE BANDS



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LITIN indeksas ir šio indekso akcijų apyvarta 1998 m. liepos mėnesį  
 LITIN INDEX AND TURNOVER OF SHARES UNDERLYING THE INDEX  
 IN JULY 1998

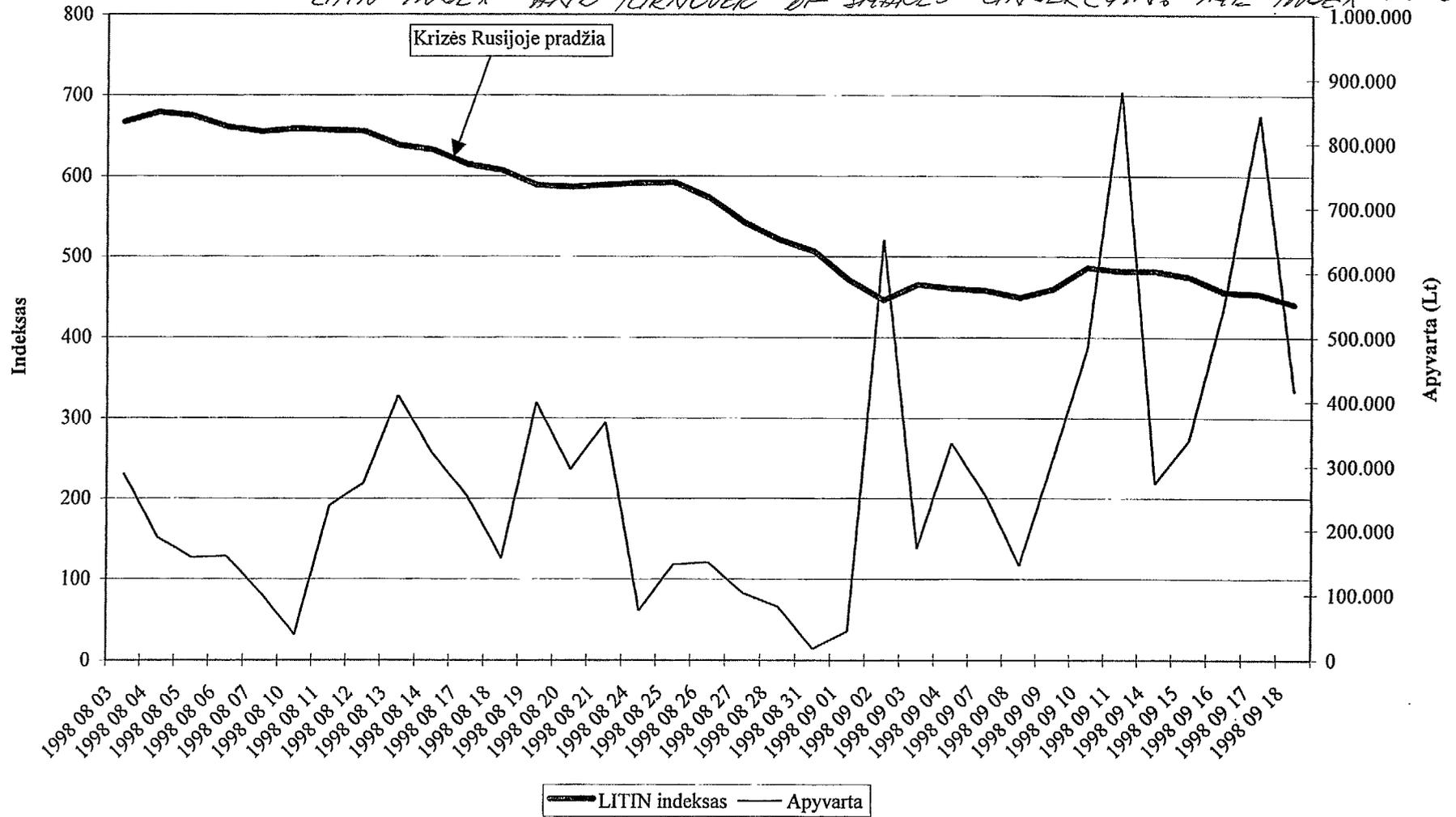


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LITIN indeksas ir šio indekso akcijų apyvarta 1998 m. rugpjūčio mėnesį

LITIN INDEX AND TURNOVER OF SHARES UNDERLYING THE INDEX IN LITAS

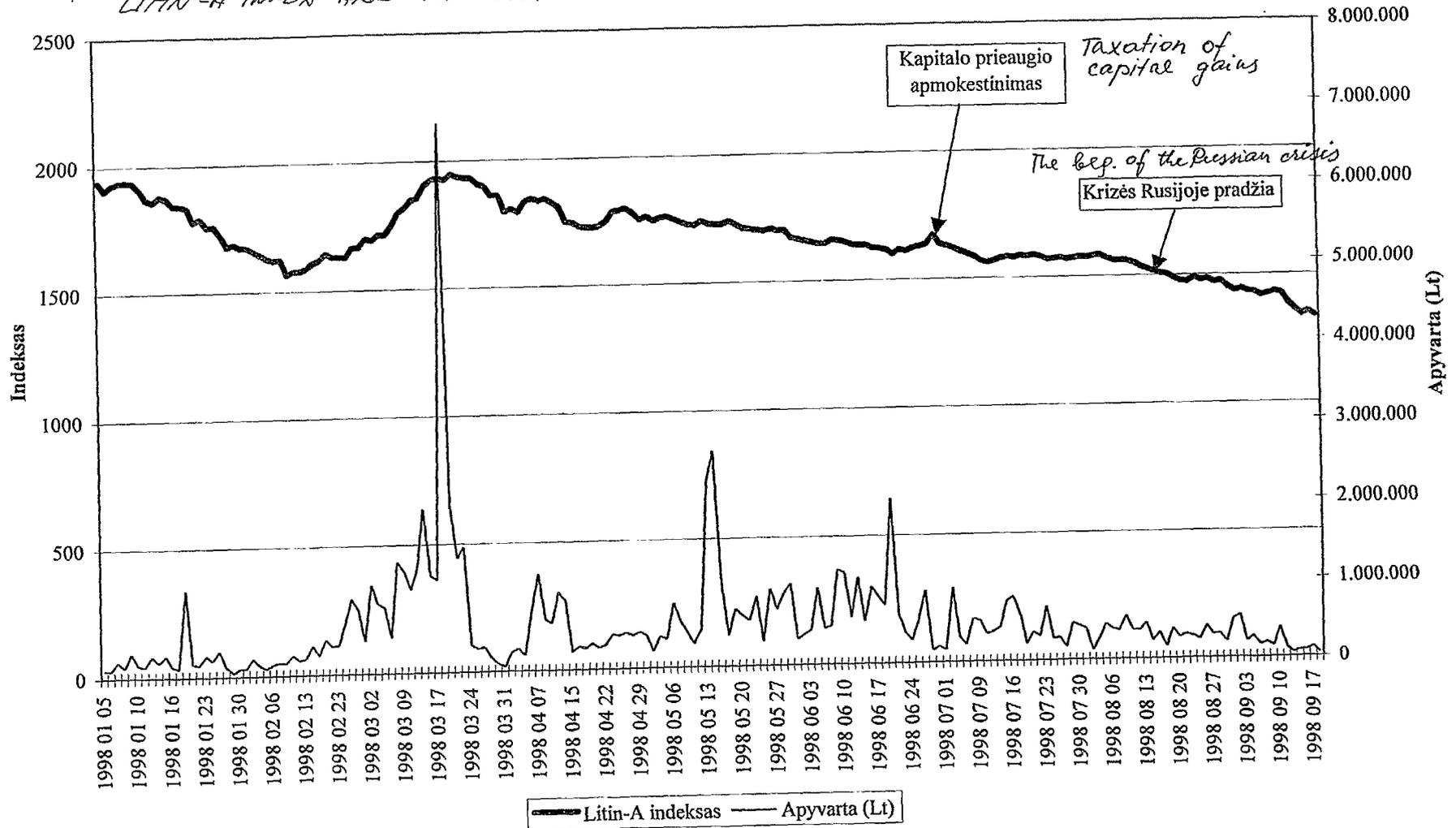


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Lintin-A indeksas ir šio indekso akcijų apyvarta 1998 m. sausio-rugsėjo mėnesiais

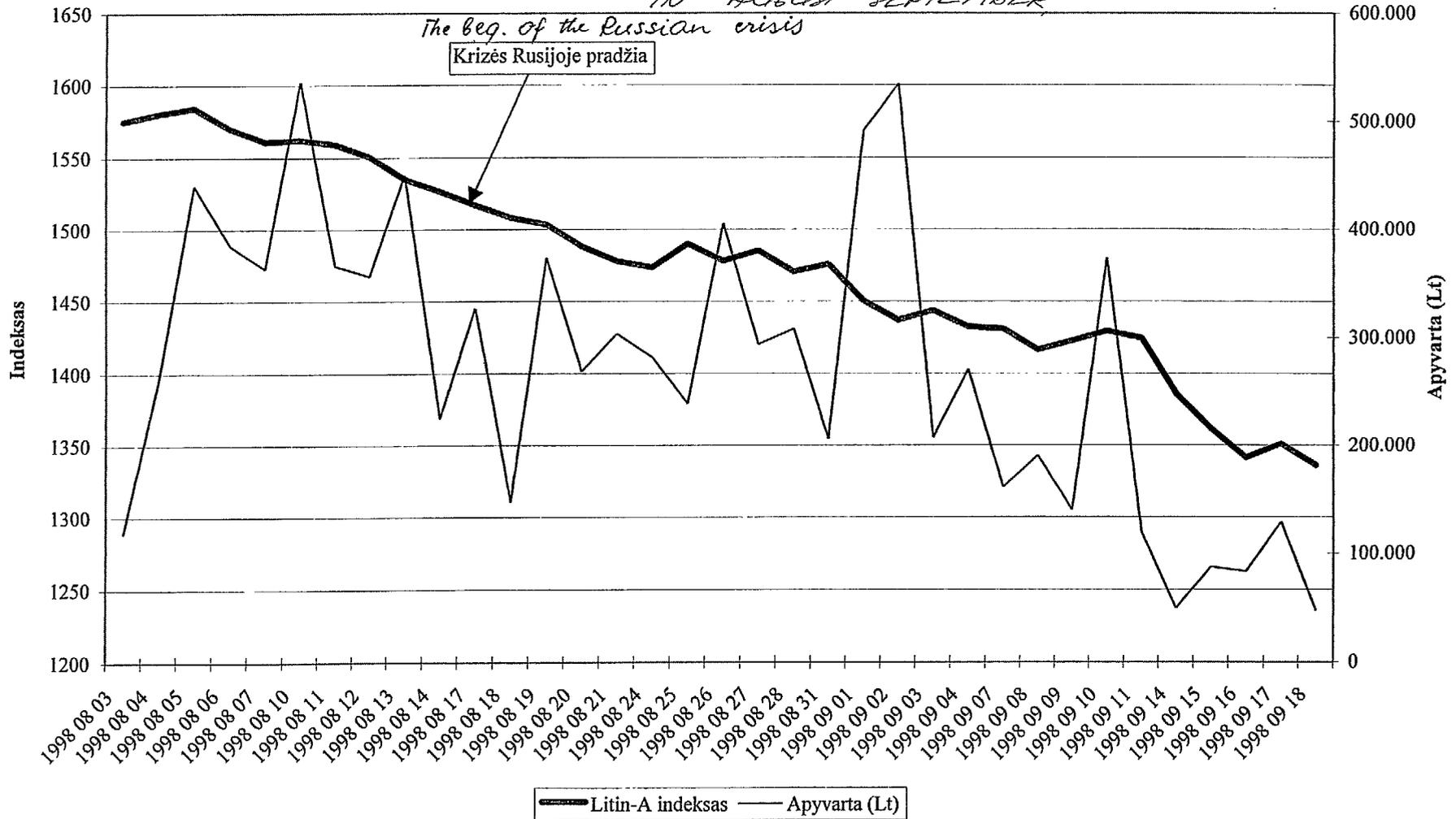
LITIN-A INDEX AND TURNOVER OF SHARES UNDERLYING THE INDEX IN JANUARY-SEPTEMBER



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**Litin-A indeksas ir šio indekso akcijų apyvarta 1998 m. rugpjūčio-rugsėjo mėnesiais**  
 LITN-A INDEX AND TURNOVER OF SHARES UNDERLYING THE SHARES  
 IN AUGUST - SEPTEMBER

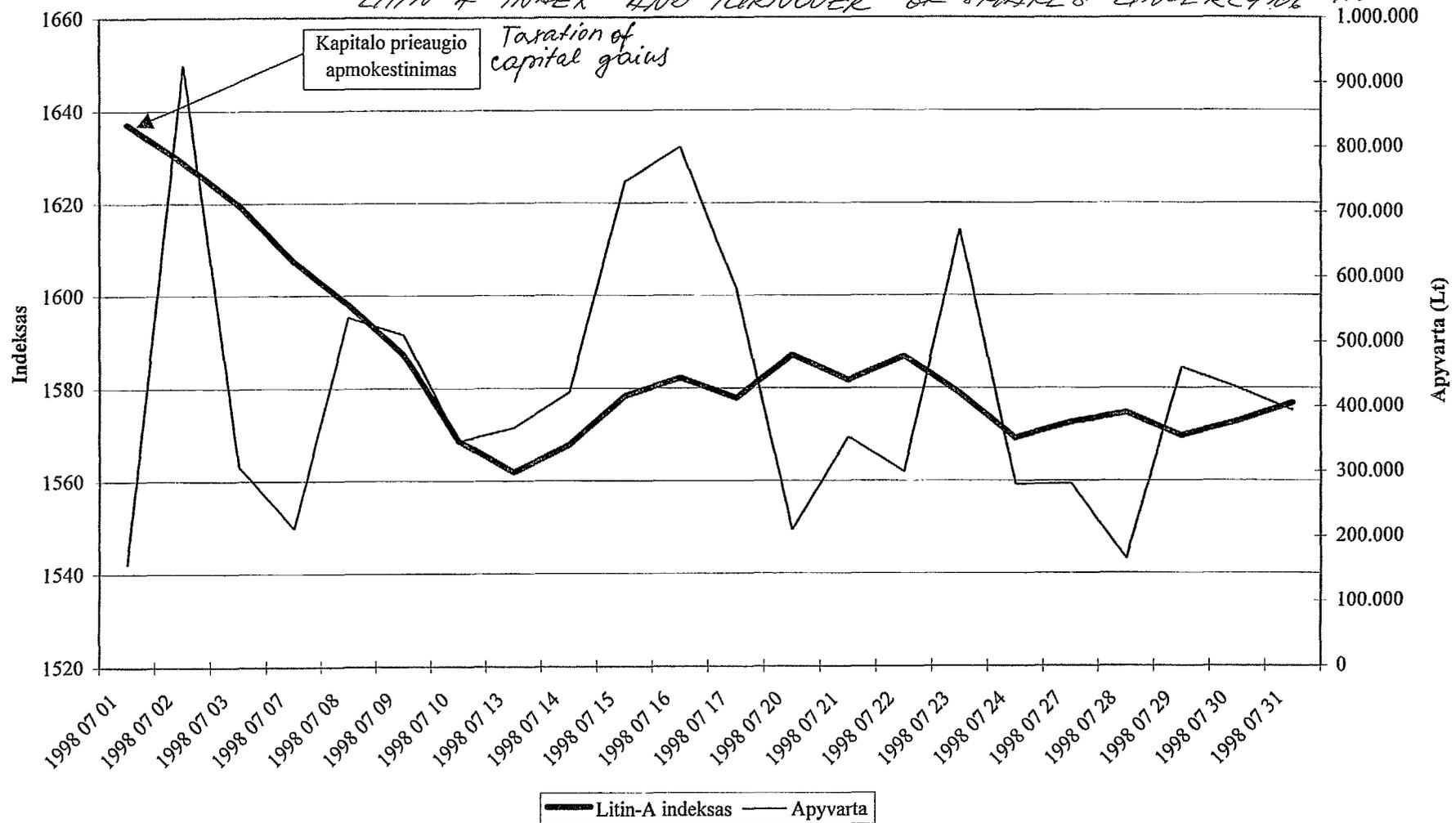


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Litin-A indeksas ir šio indekso akcijų apyvarta 1998 m. liepos mėnesį

LITIN-A INDEX AND TURNOVER OF SHARES UNDERLYING IN JULY

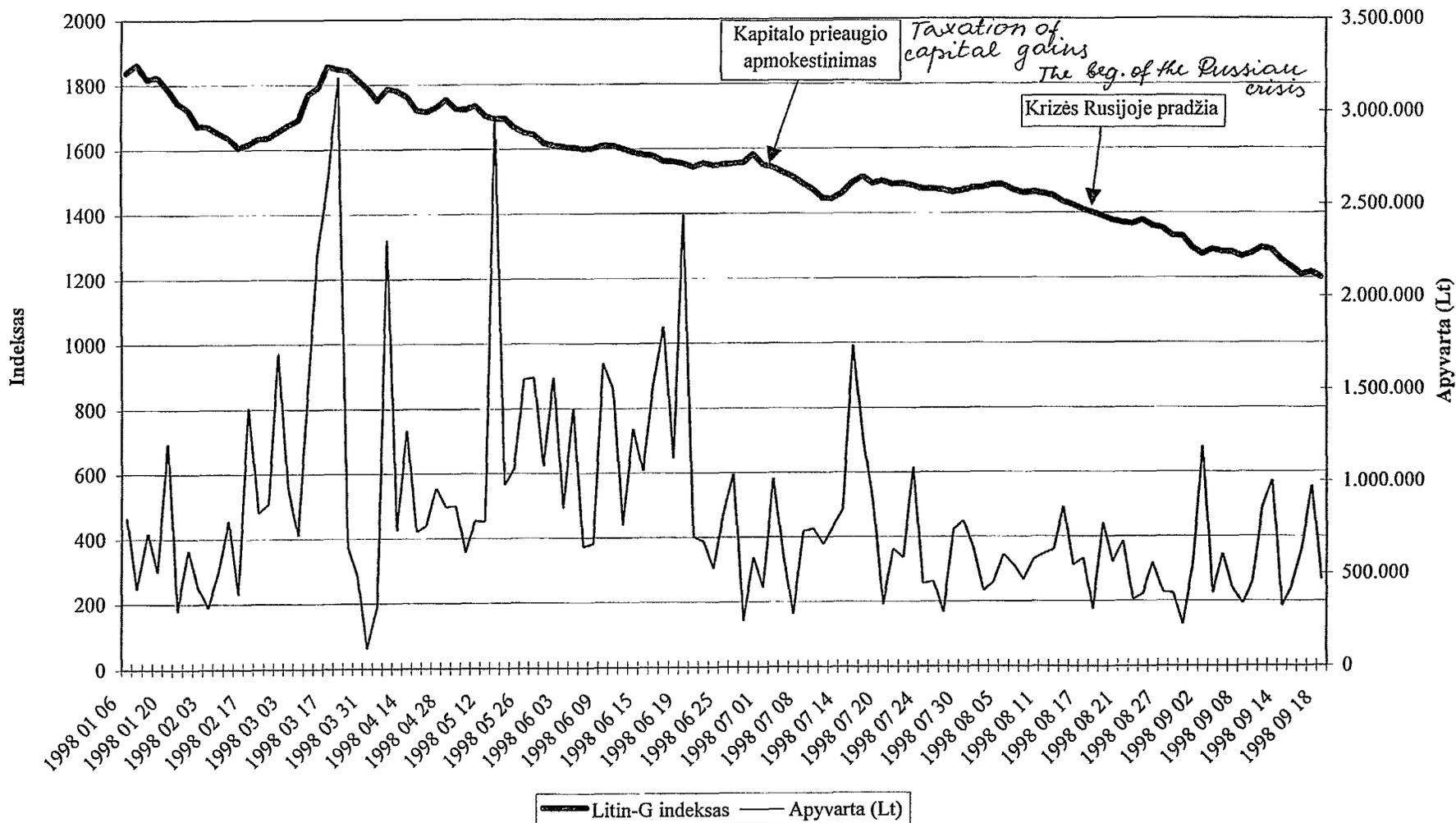


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Litin-G indeksas ir šio indekso akcijų apyvarta 1998 m. sausio-rugpjūčio mėnesiais

LITN-G INDEX AND TURNOVER OF SHARES UNDERLYING IN JANUARY-AUGUST

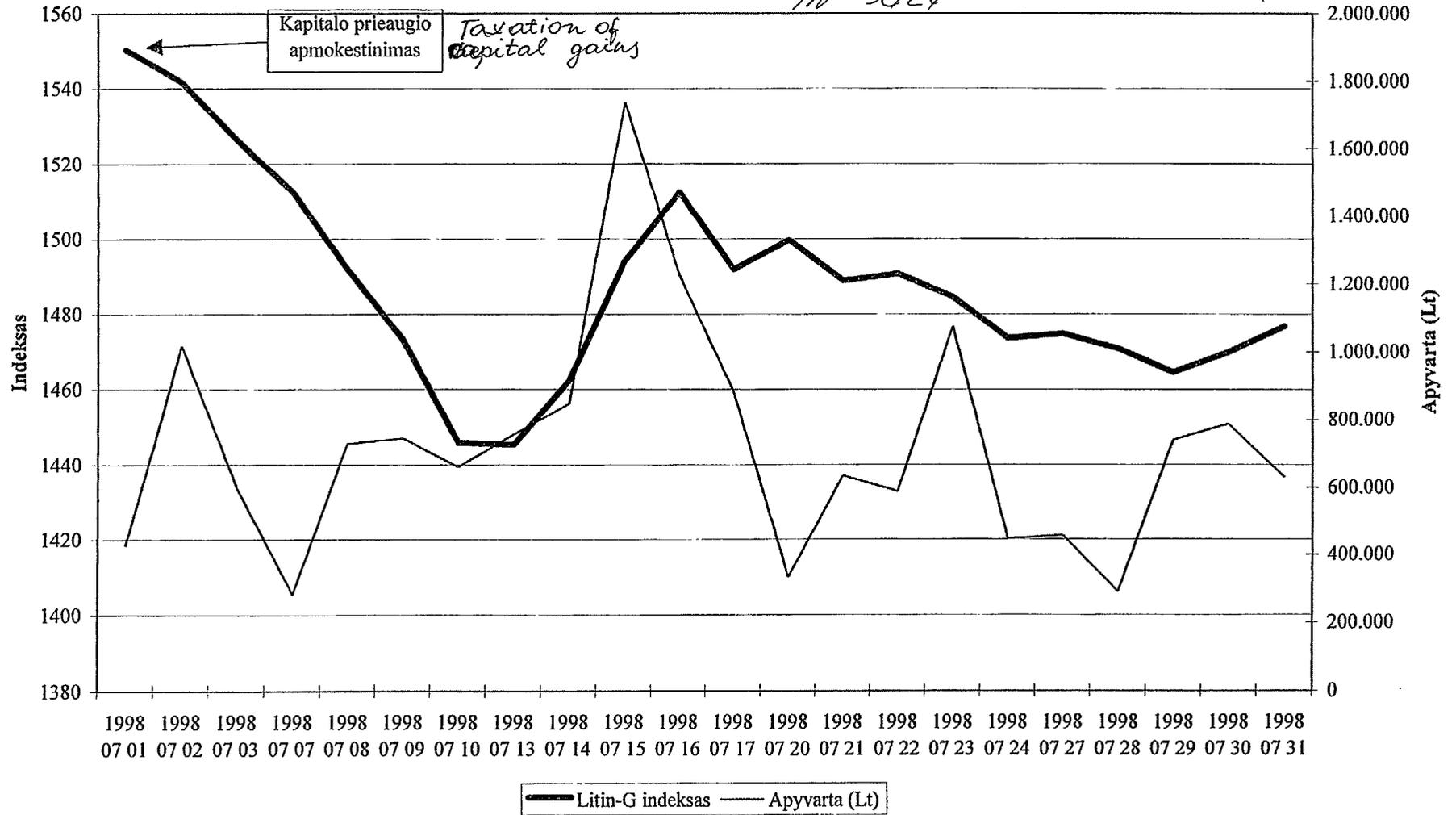


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Litin-G indeksas ir šio indekso akcijų apyvarta 1998 m. liepos mėnesį

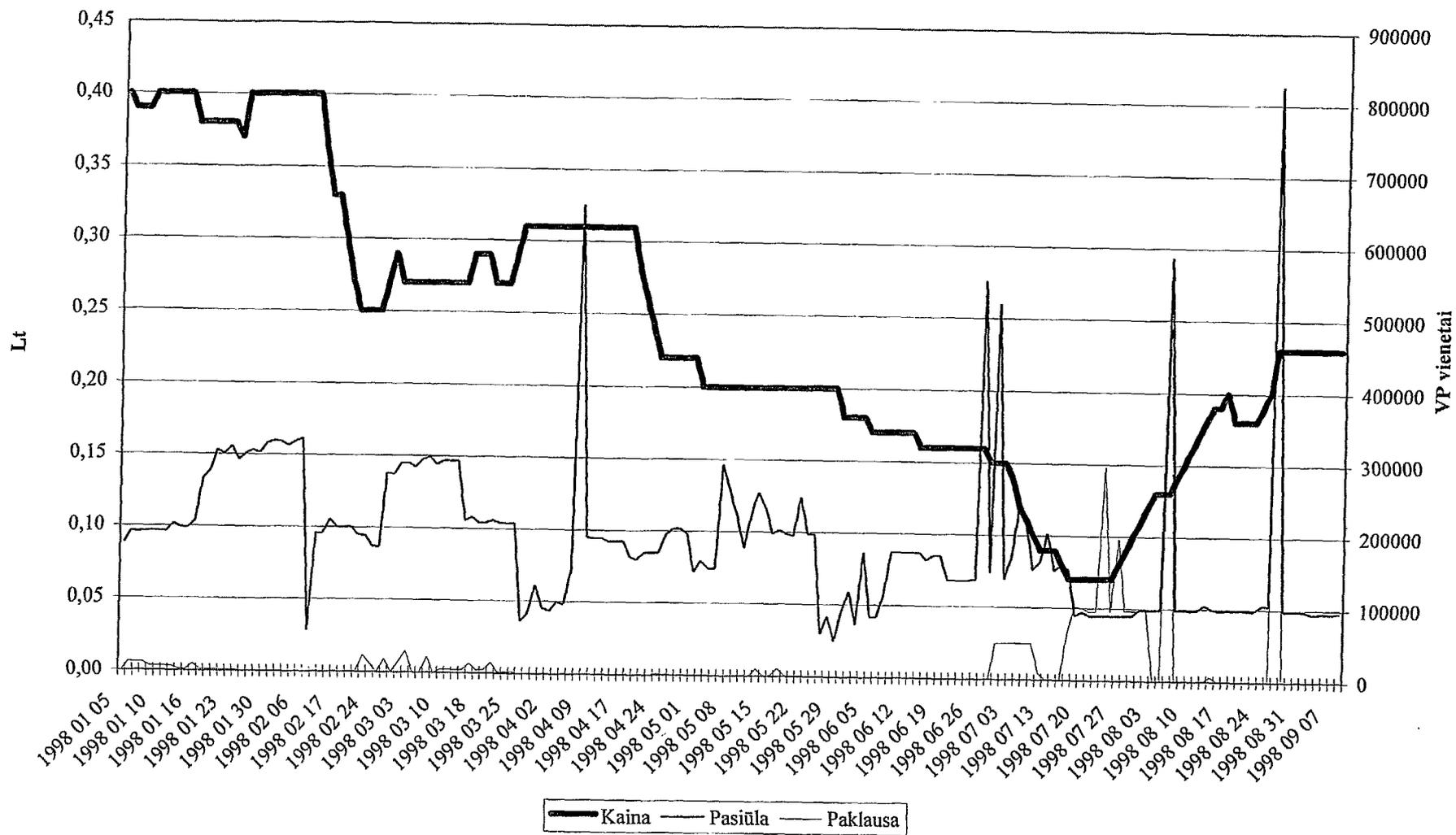
LITIN-G INDEX AND THE TURNOVER OF SHARES UNDERLYING THE INDEX  
IN JULY



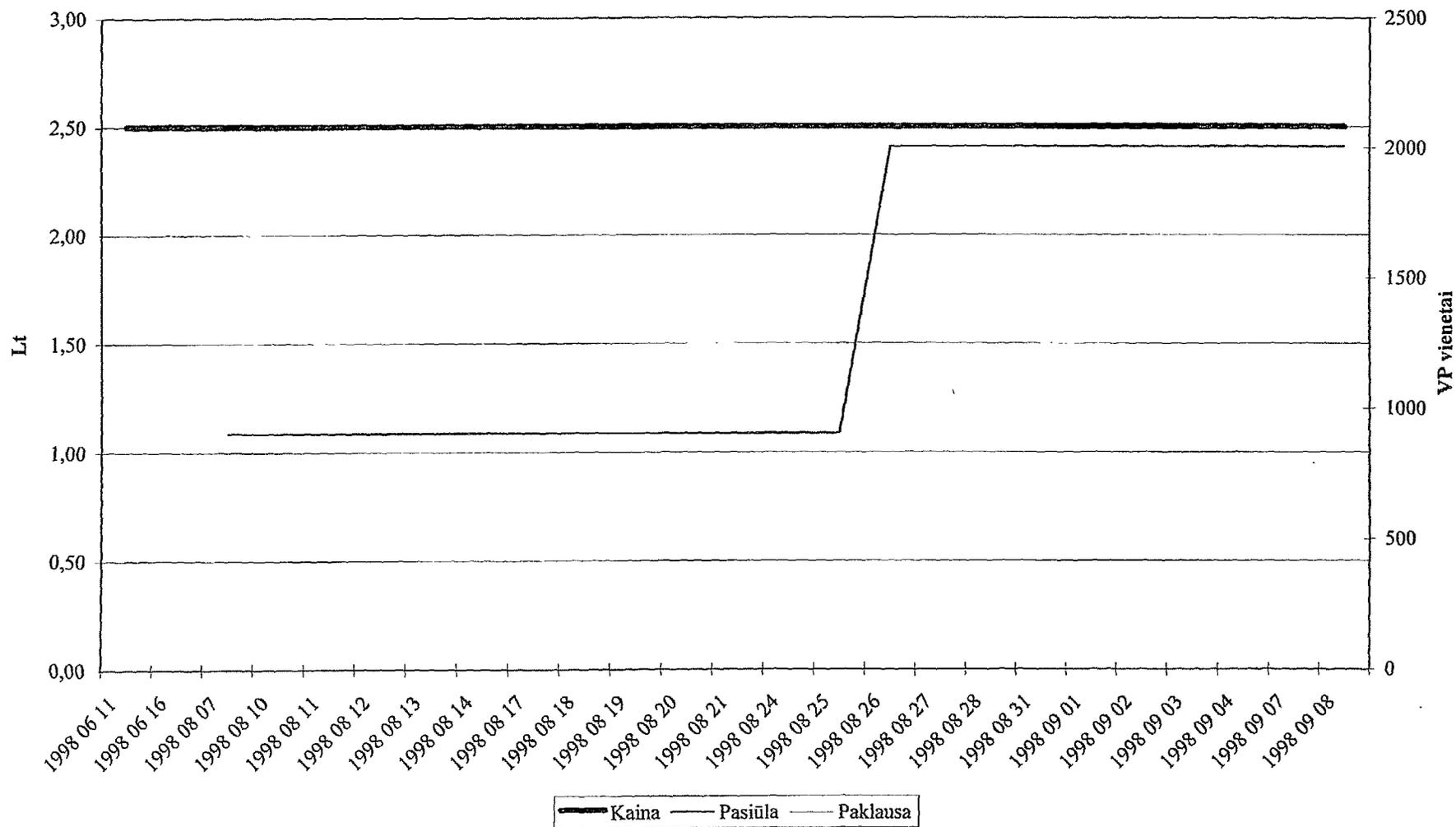
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### Kauno audiniai PVA (Kaina ir paklausa/pasiūla)



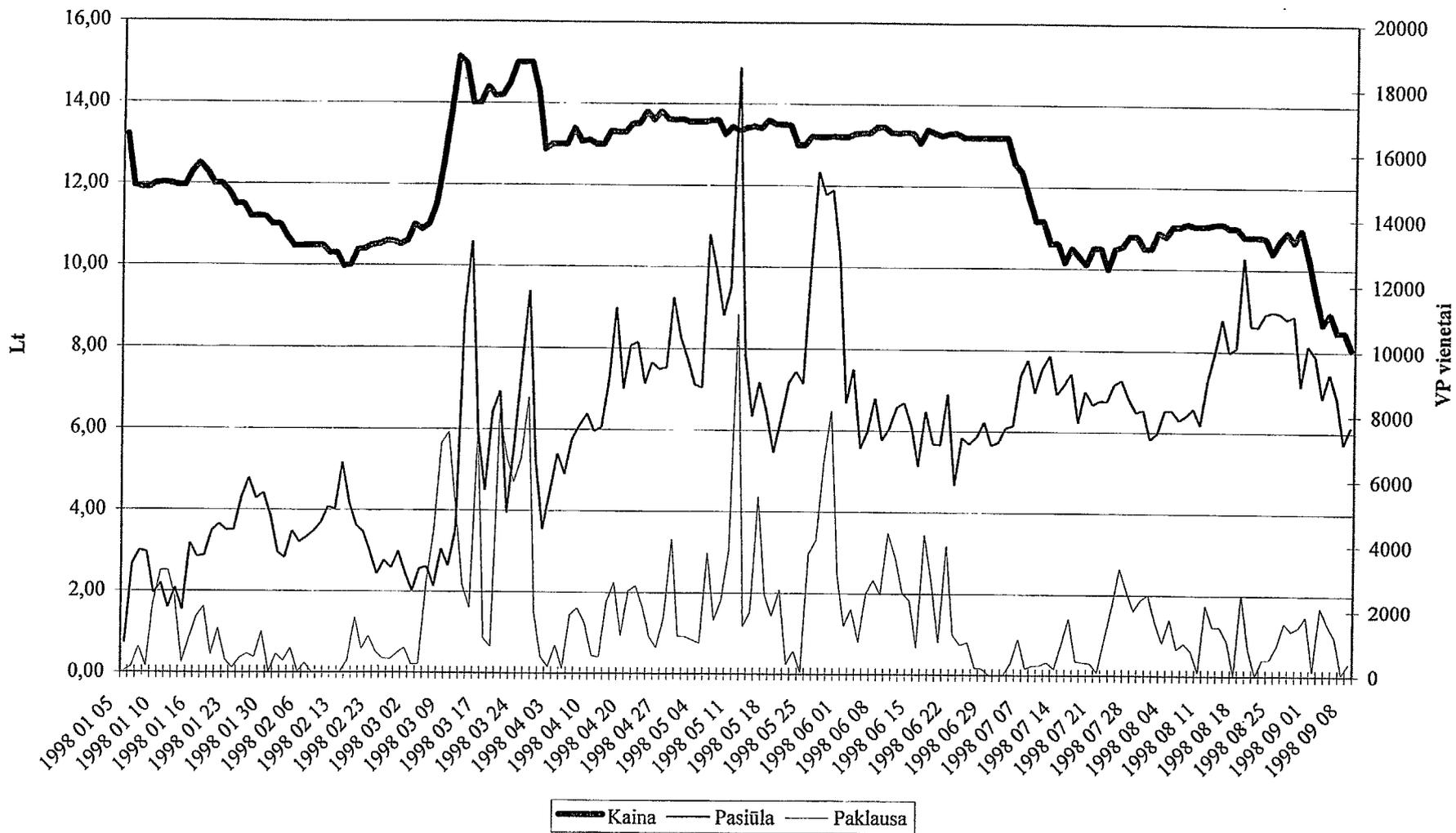
Klaipėdos baldai PVA (Kaina ir paklausa/pasiūla)



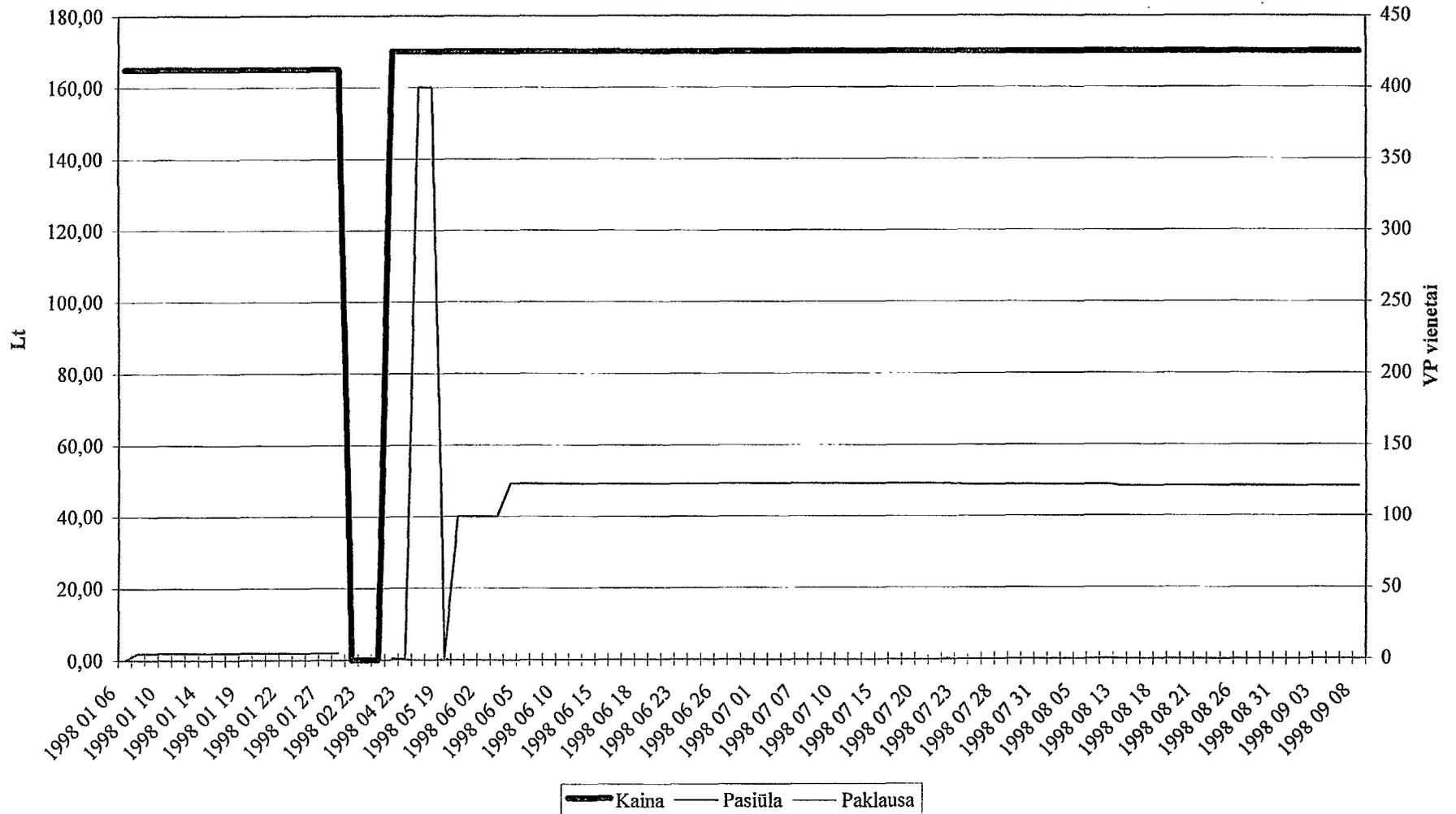
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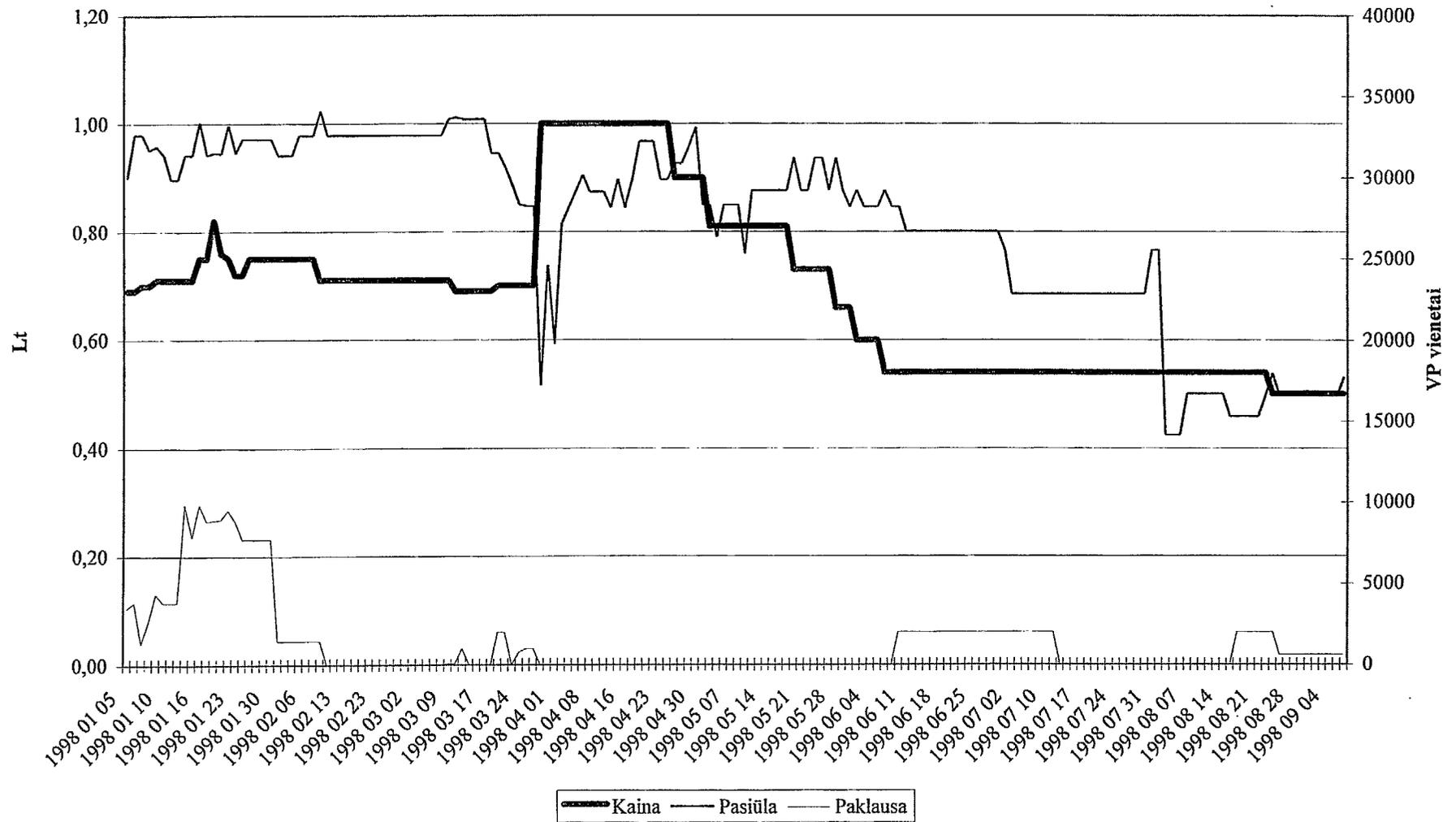
Klaipėdos jūrų krovinių kompanija PVA (Kaina ir paklausa/pasiūla)



Klaipėdos nafta PVA (Kaina ir paklausa/pasiūla)



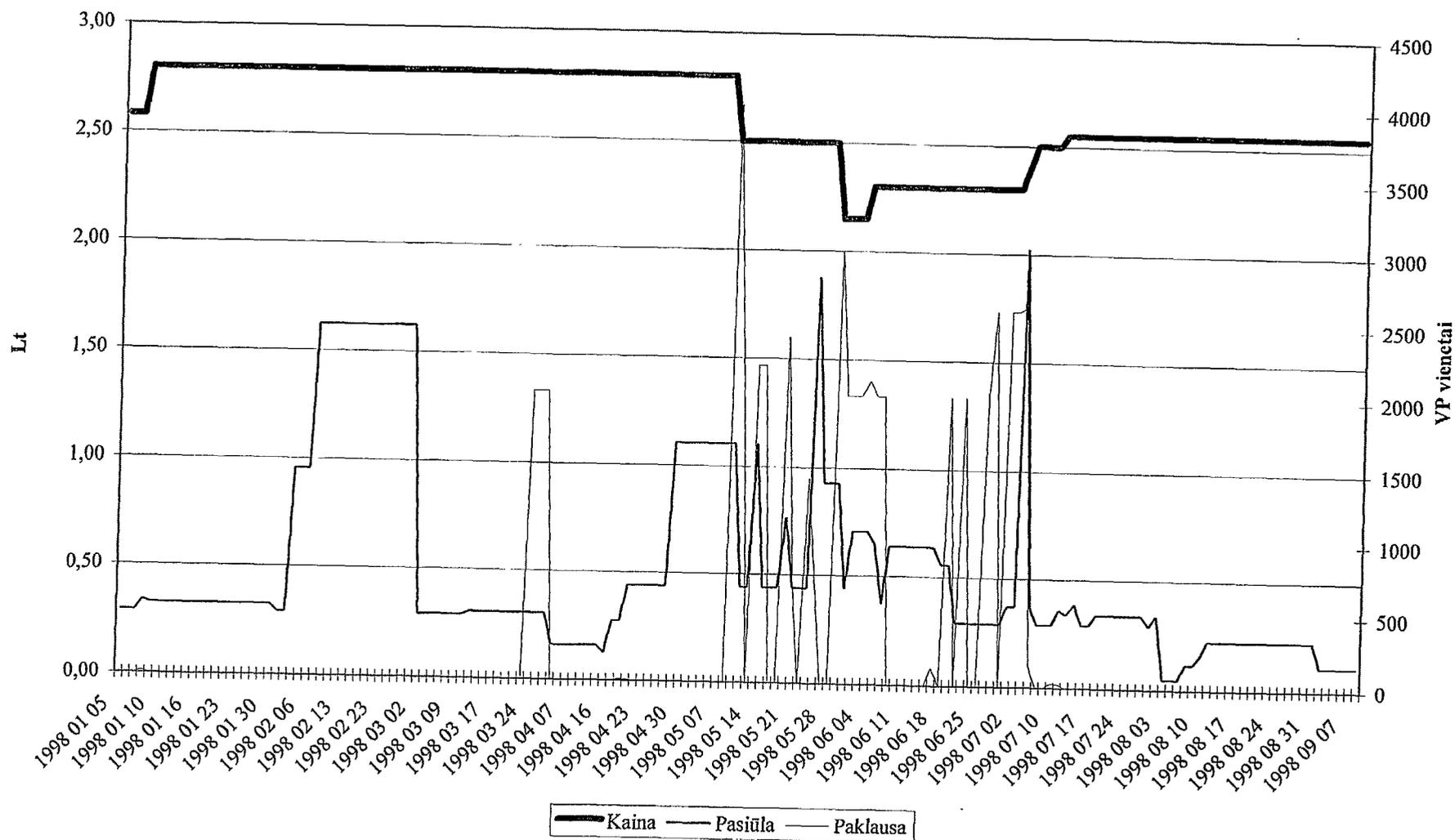
Krekenavos agrofirma PVA (Kaina ir paklausa/pasiūla)



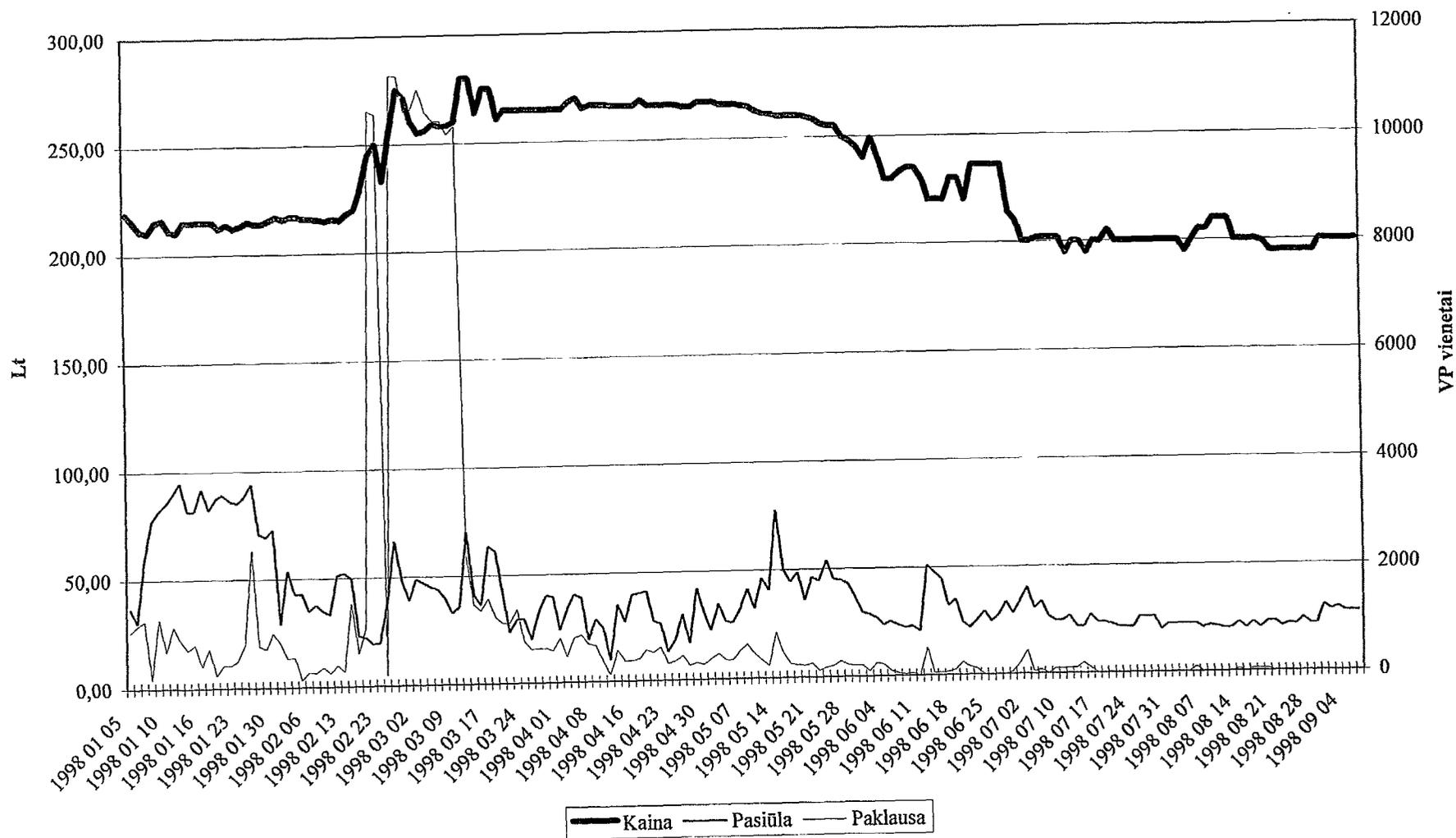
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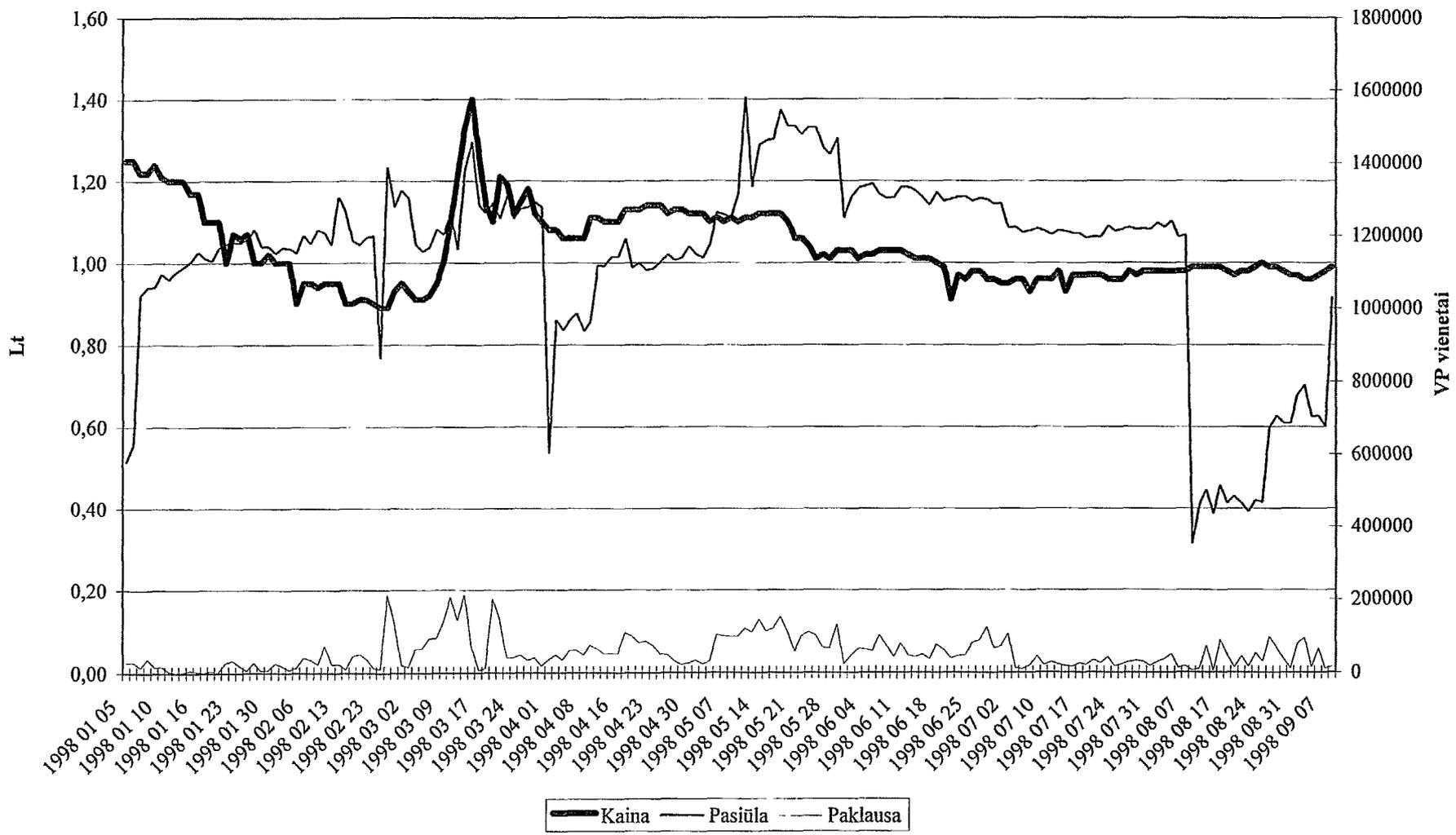
### Lietkabelis PVA (Kaina ir paklausa/pasiūla)



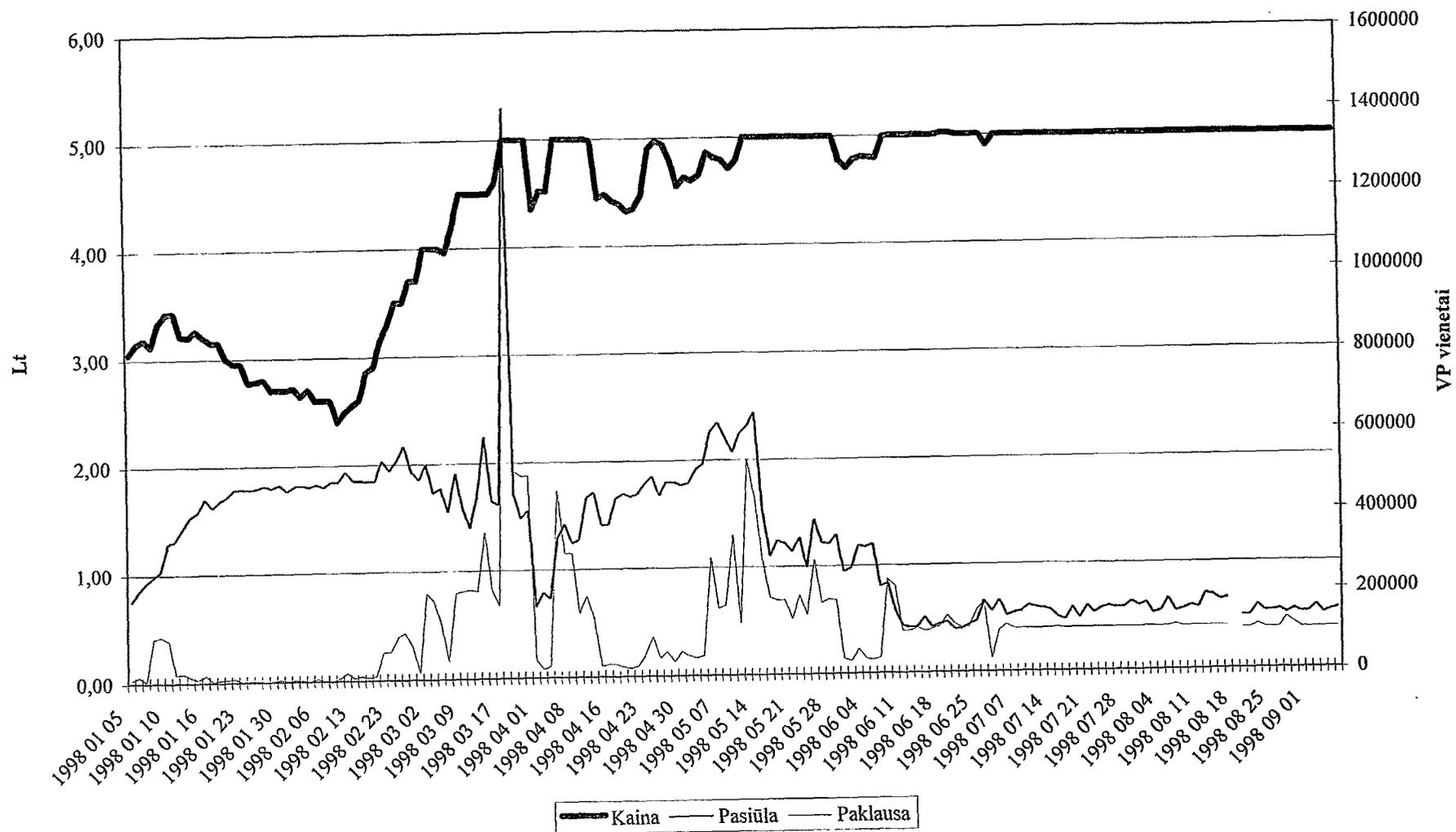
Lietuvos draudimas PVA (Kaina ir paklausa/pasiūla)



### Lietuvos dujos PVA (Kaina ir paklausa/pasiūla)



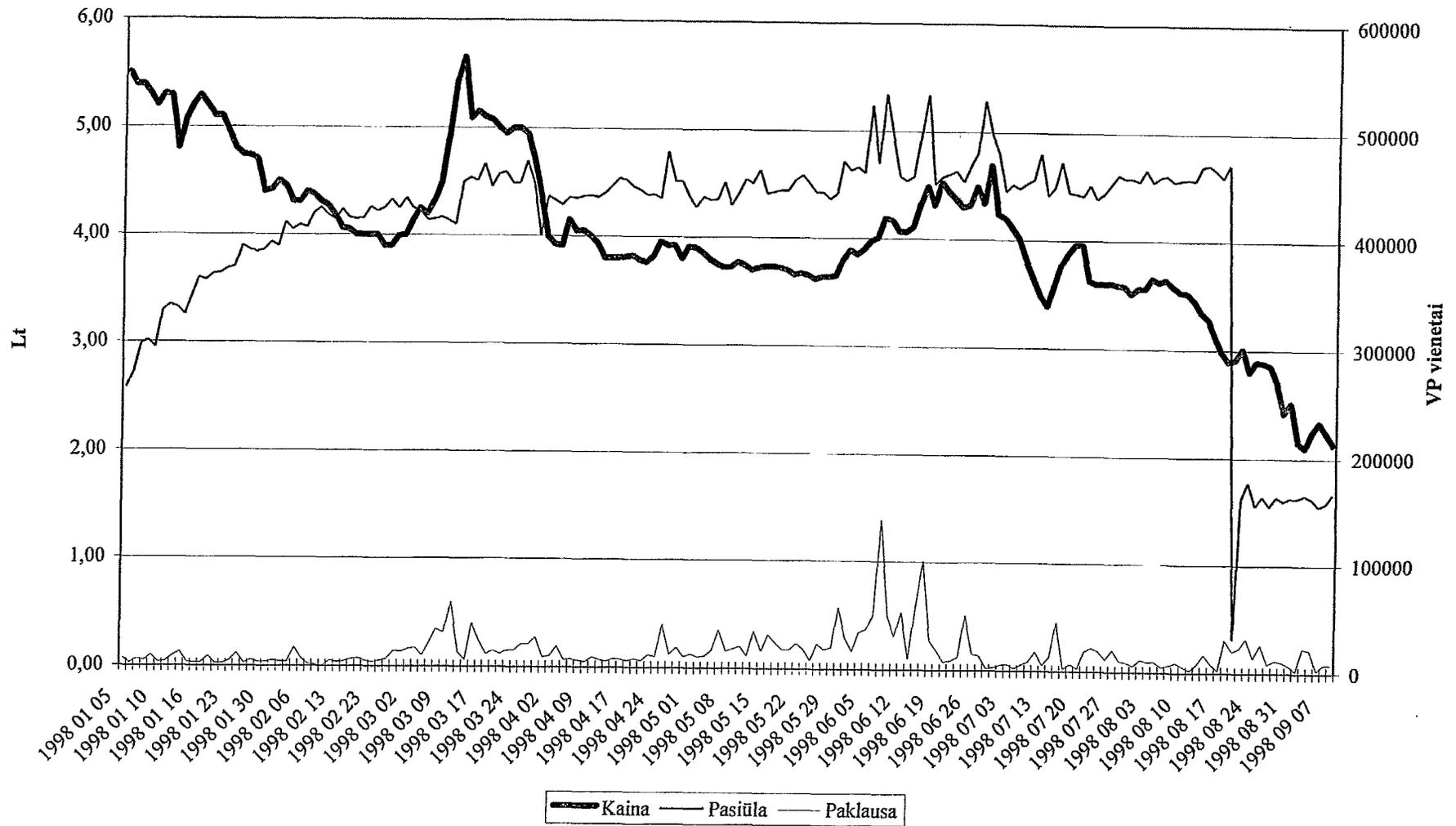
### Lietuvos energija PVA (Kaina ir paklausa/pasiūla)



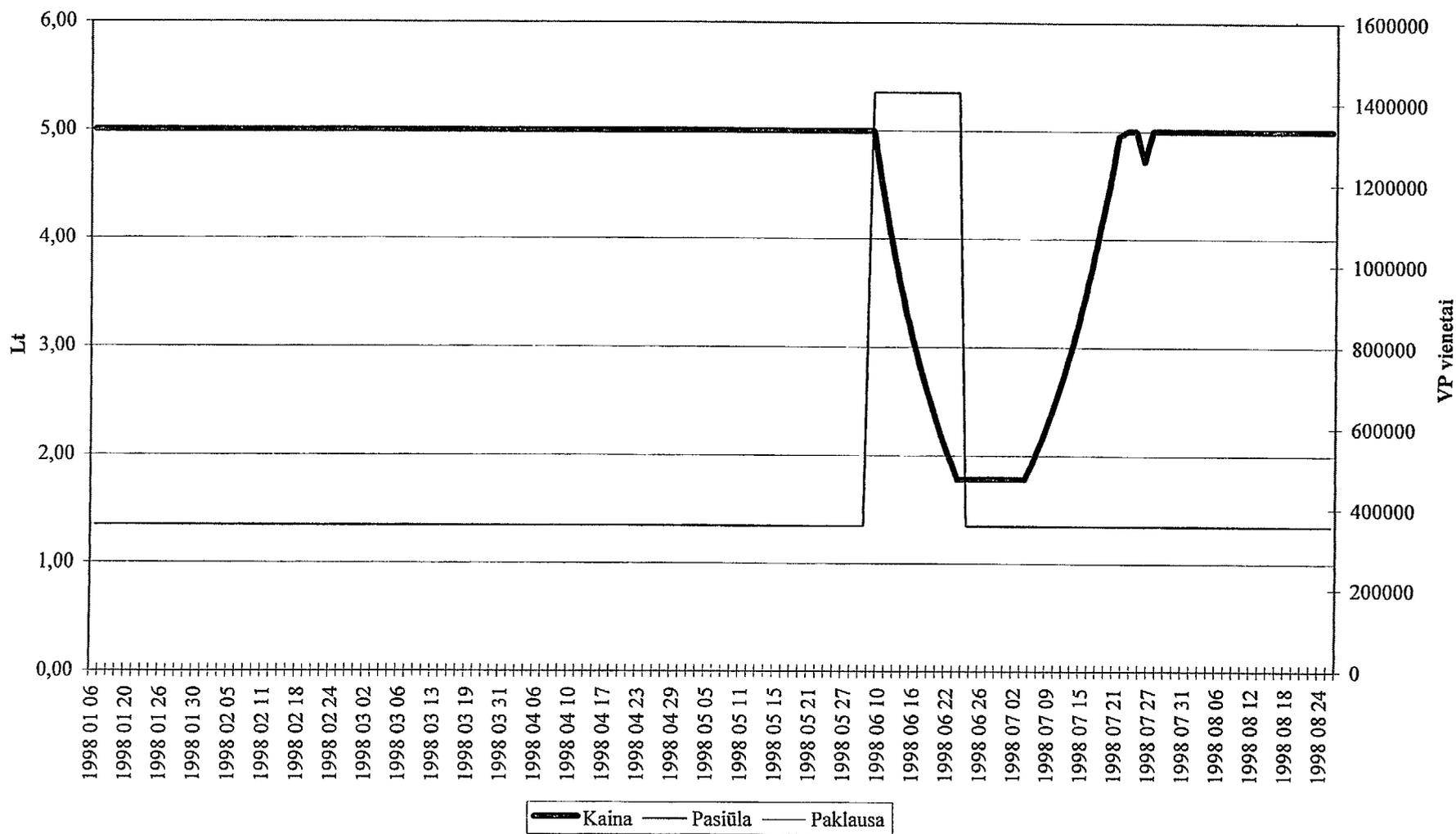
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Lietuvos jūrų laivininkystė PVA (Kaina ir paklausa/pasiūla)



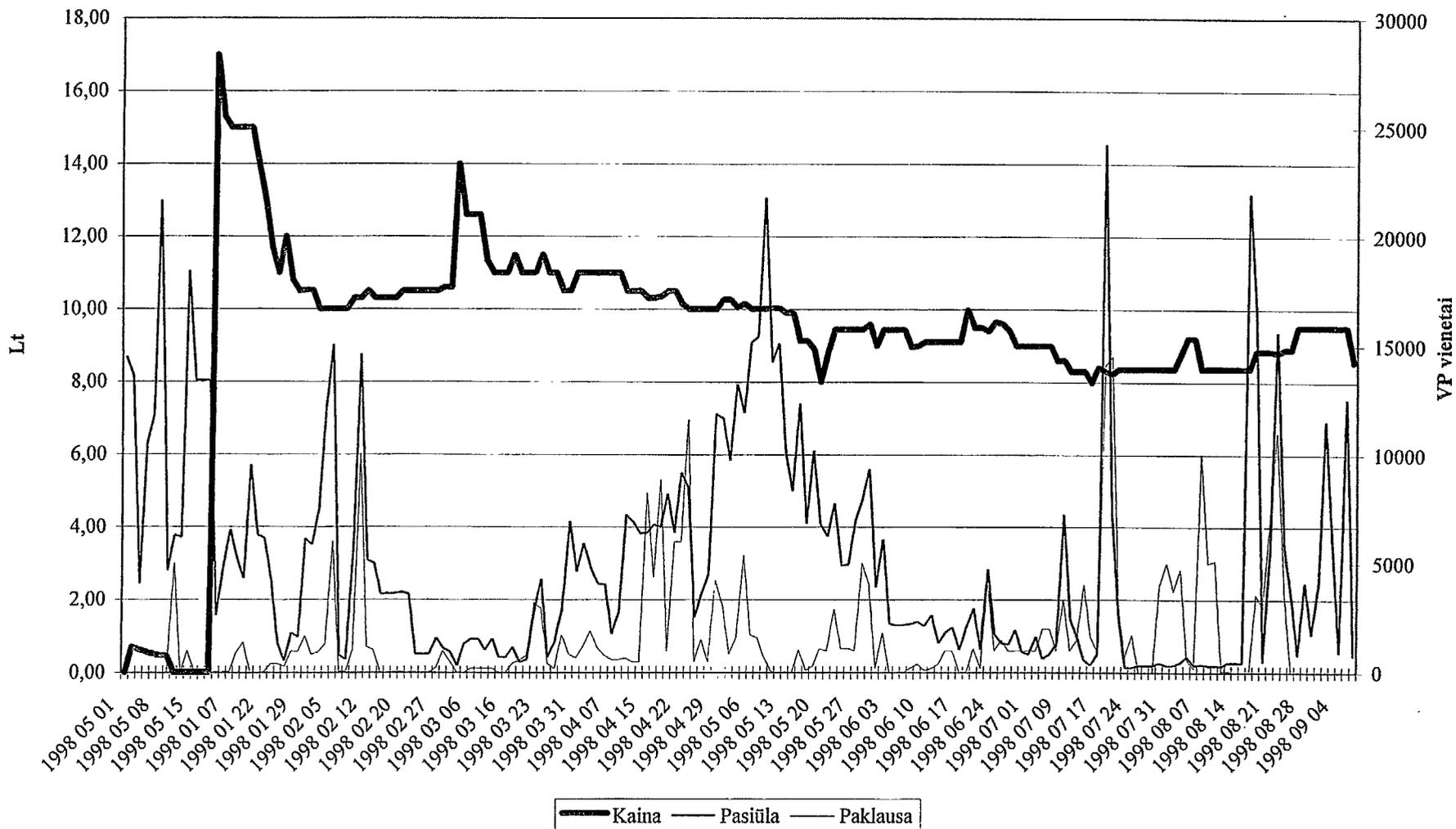
### Lietuvos kuras PVA (Kaina ir paklausa/pasiūla)



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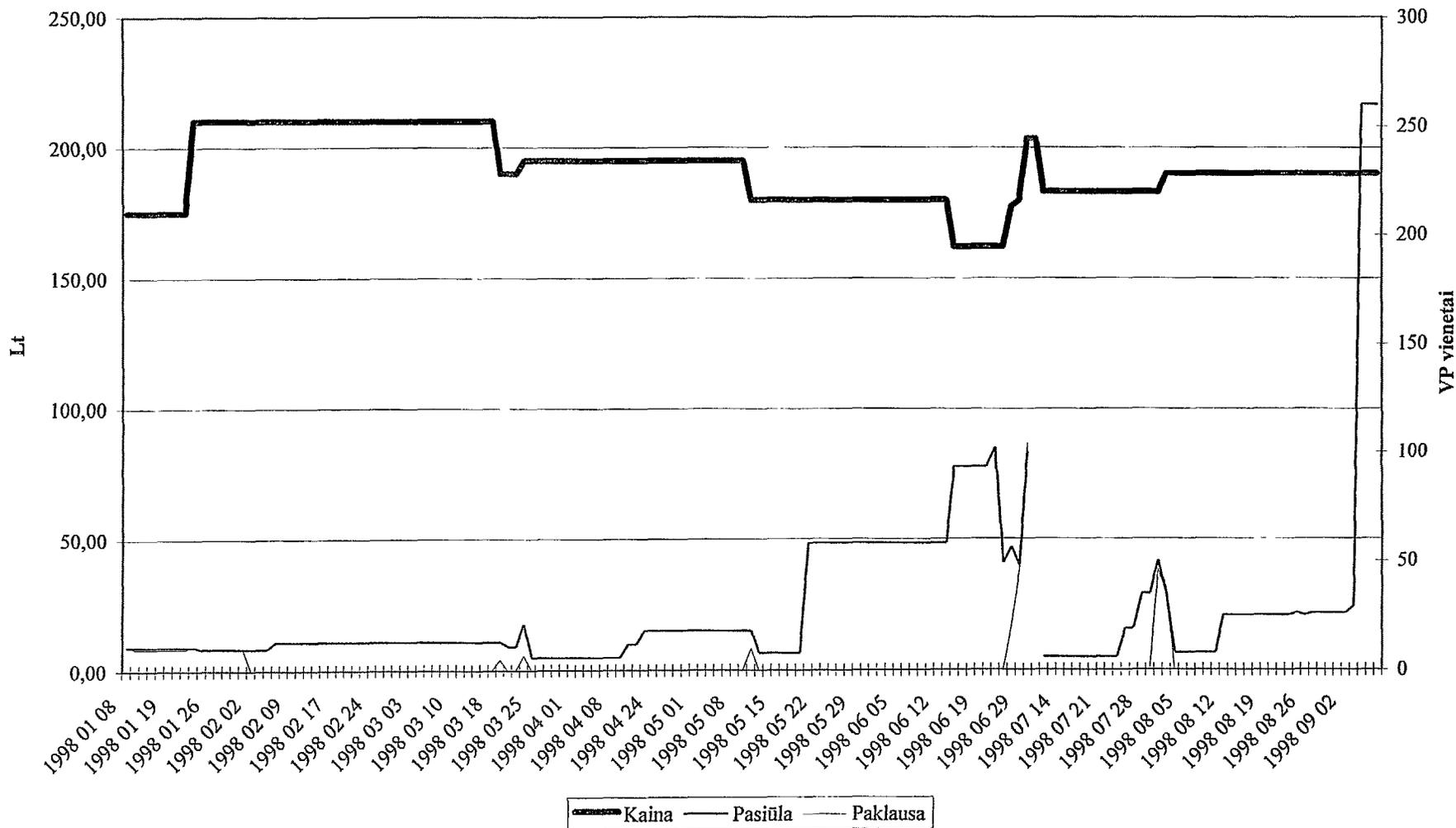
Lietuvos taupomasis bankas PVA (Kaina ir paklausa/pasiūla)



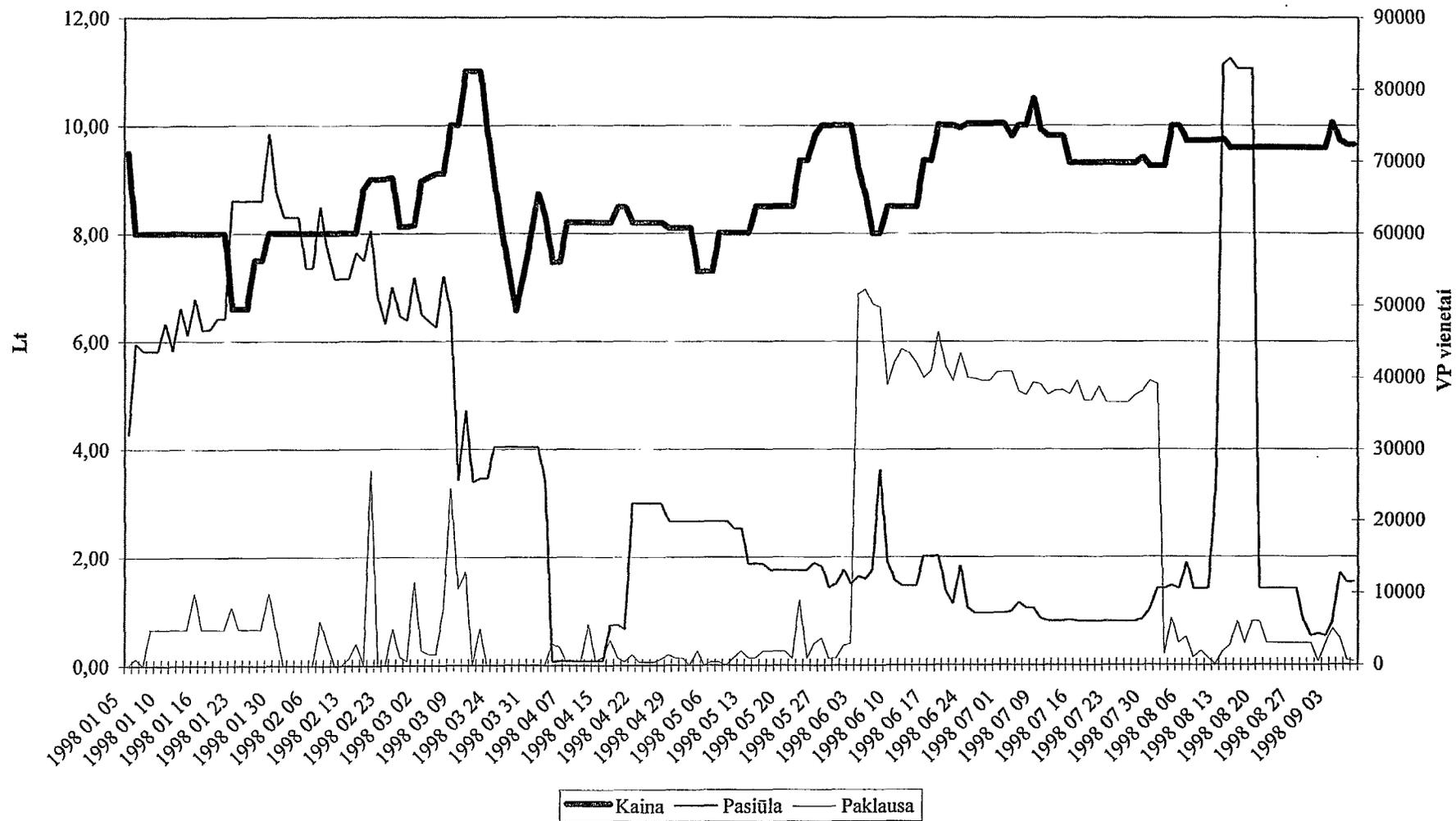
141

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Lietuvos žemės ūkio bankas PVA (Kaina ir paklausa/pasiūla)



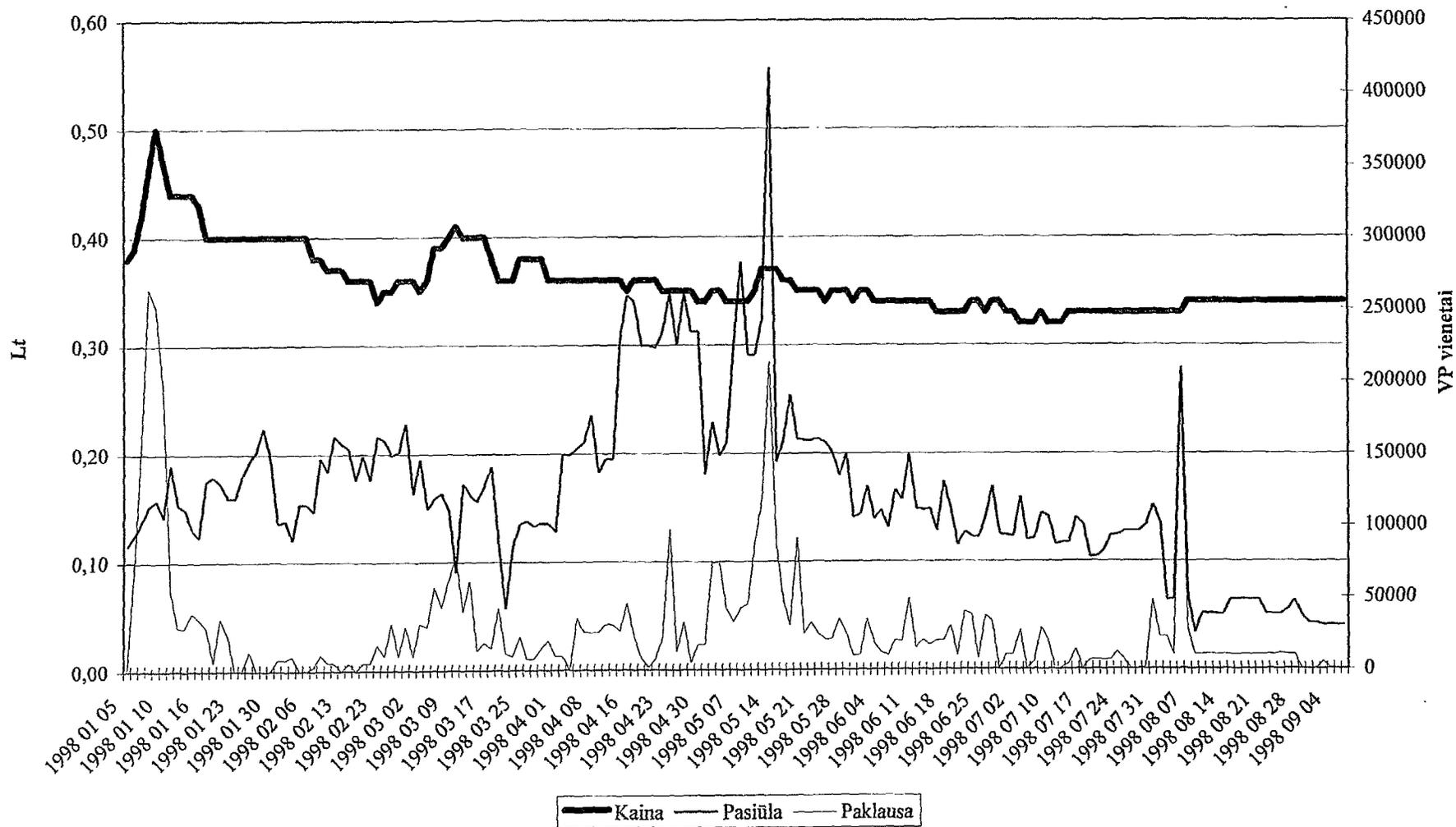
Lifosa PVA (Kaina ir paklausa/pasiūla)



hbi

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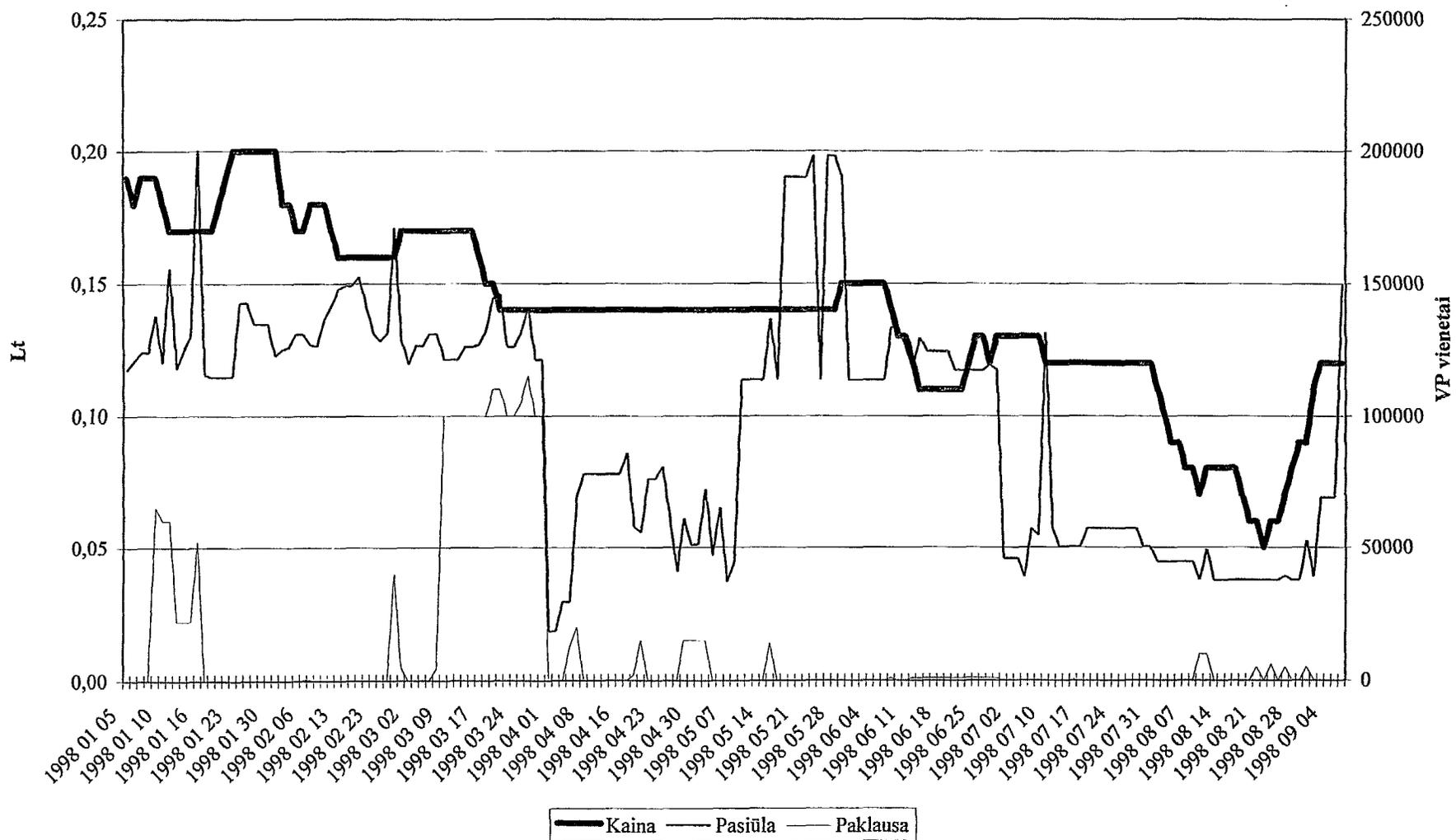
### Linās PVA (Kaina ir paklausa/pasiūla)



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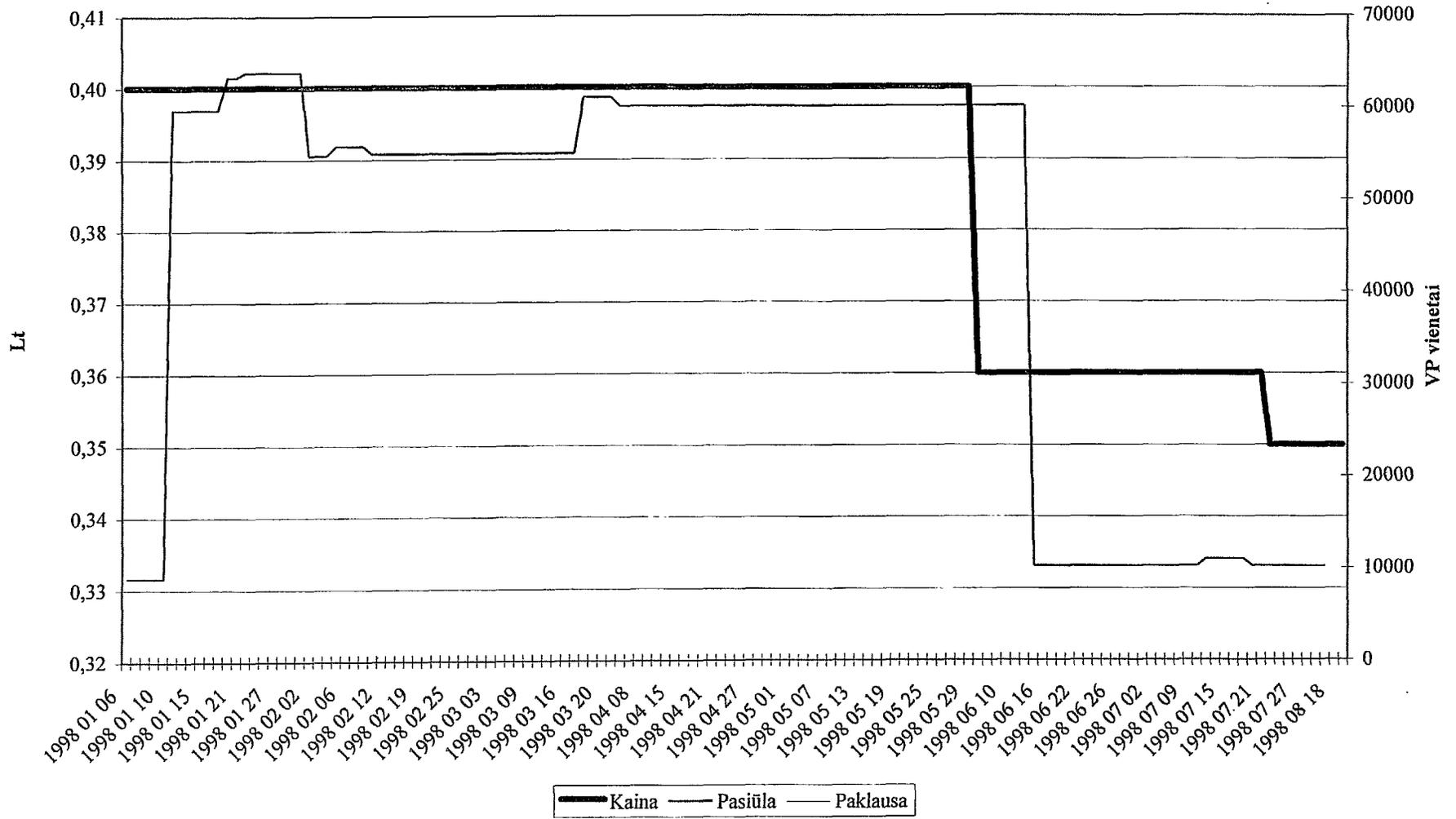
### Liteksas ir Calw PVA (Kaina ir paklausa/pasiūla)



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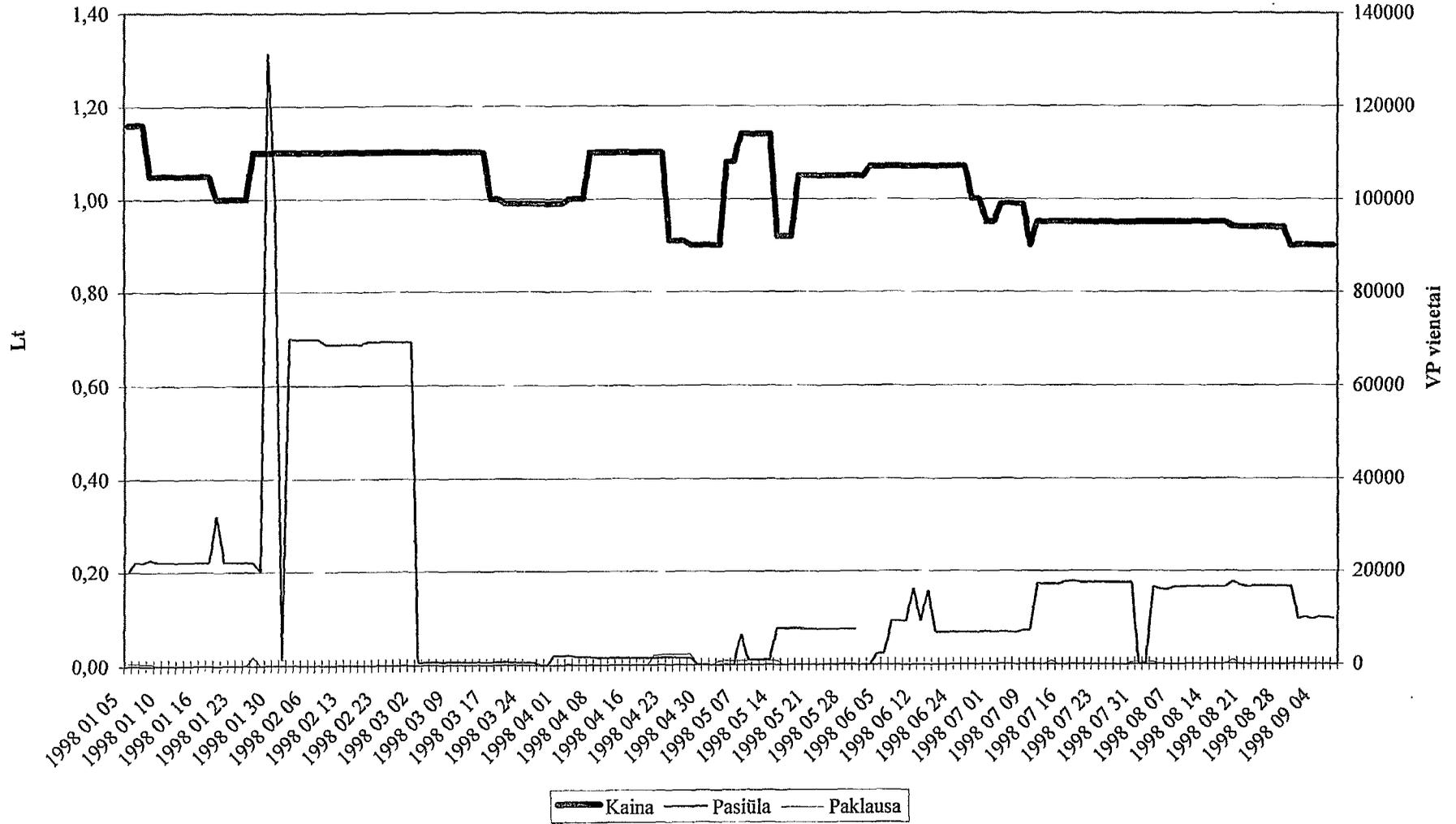
### Lithun PVA (Kaina ir paklausa/pasiūla)



Lh1

Lh1

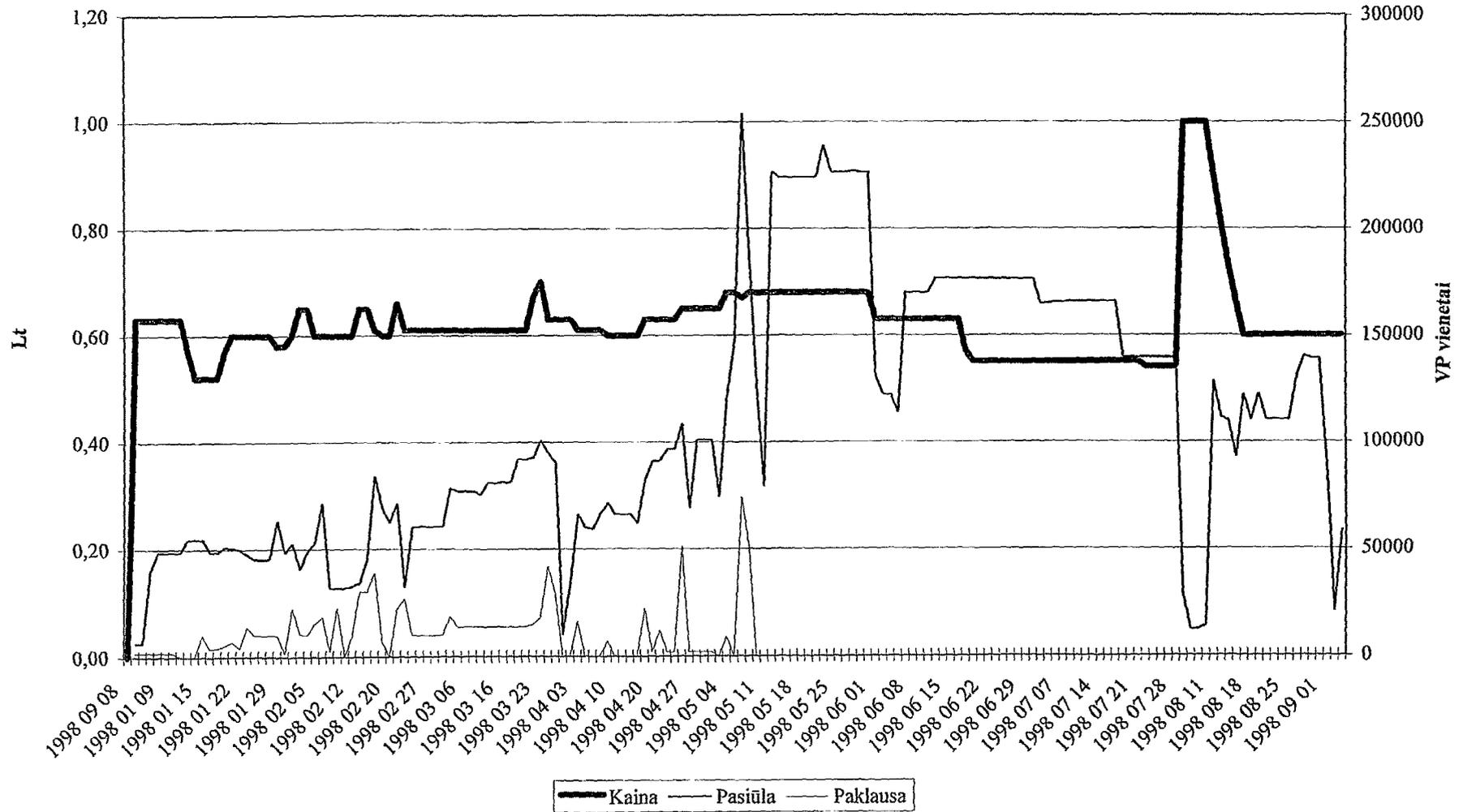
Litimpeks bankas PVA (Kaina ir paklausa/pasiūla)



8h1

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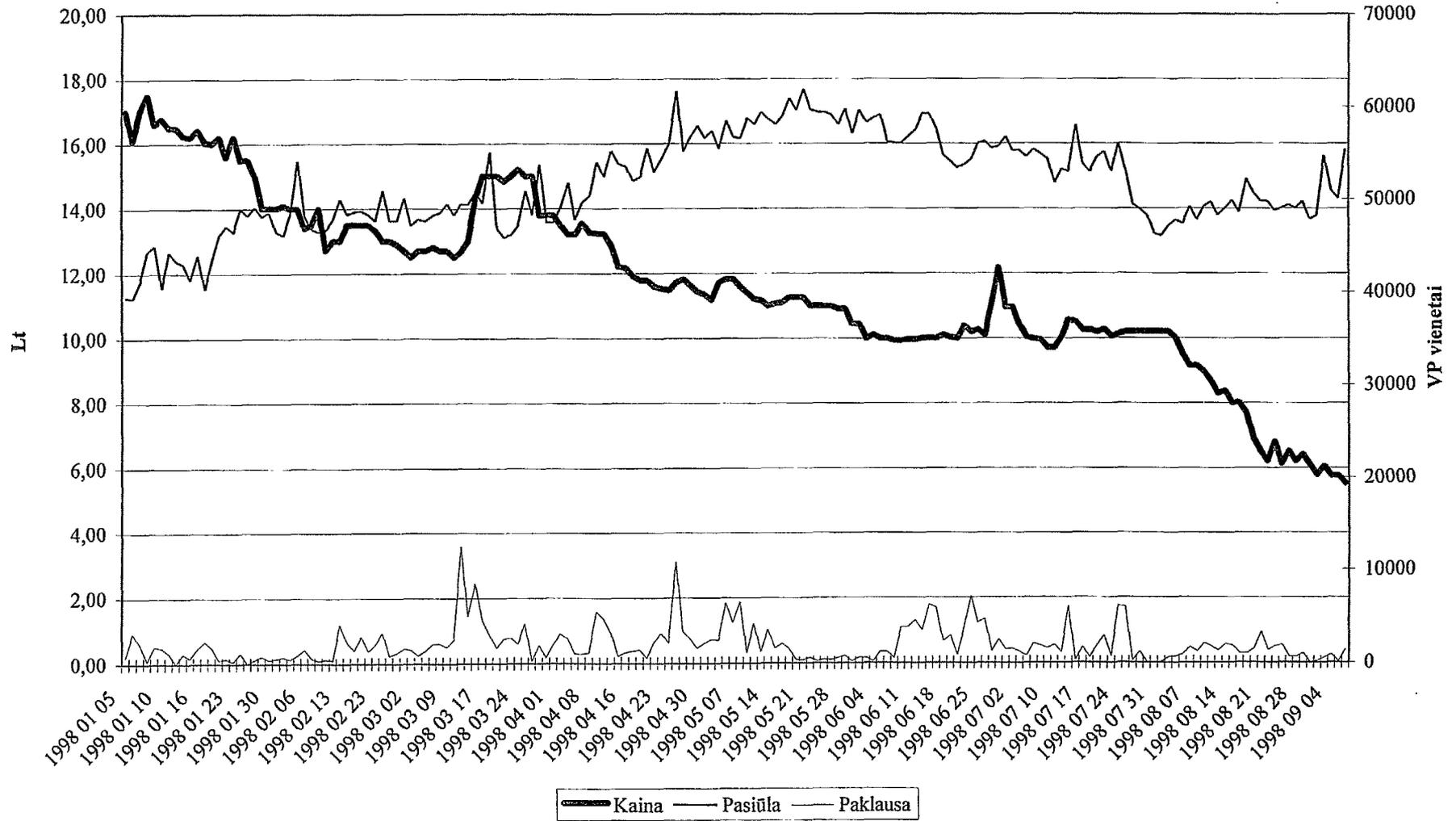
Marijampolės pieno konservai PVA (Kaina ir paklausa/pasiūla)



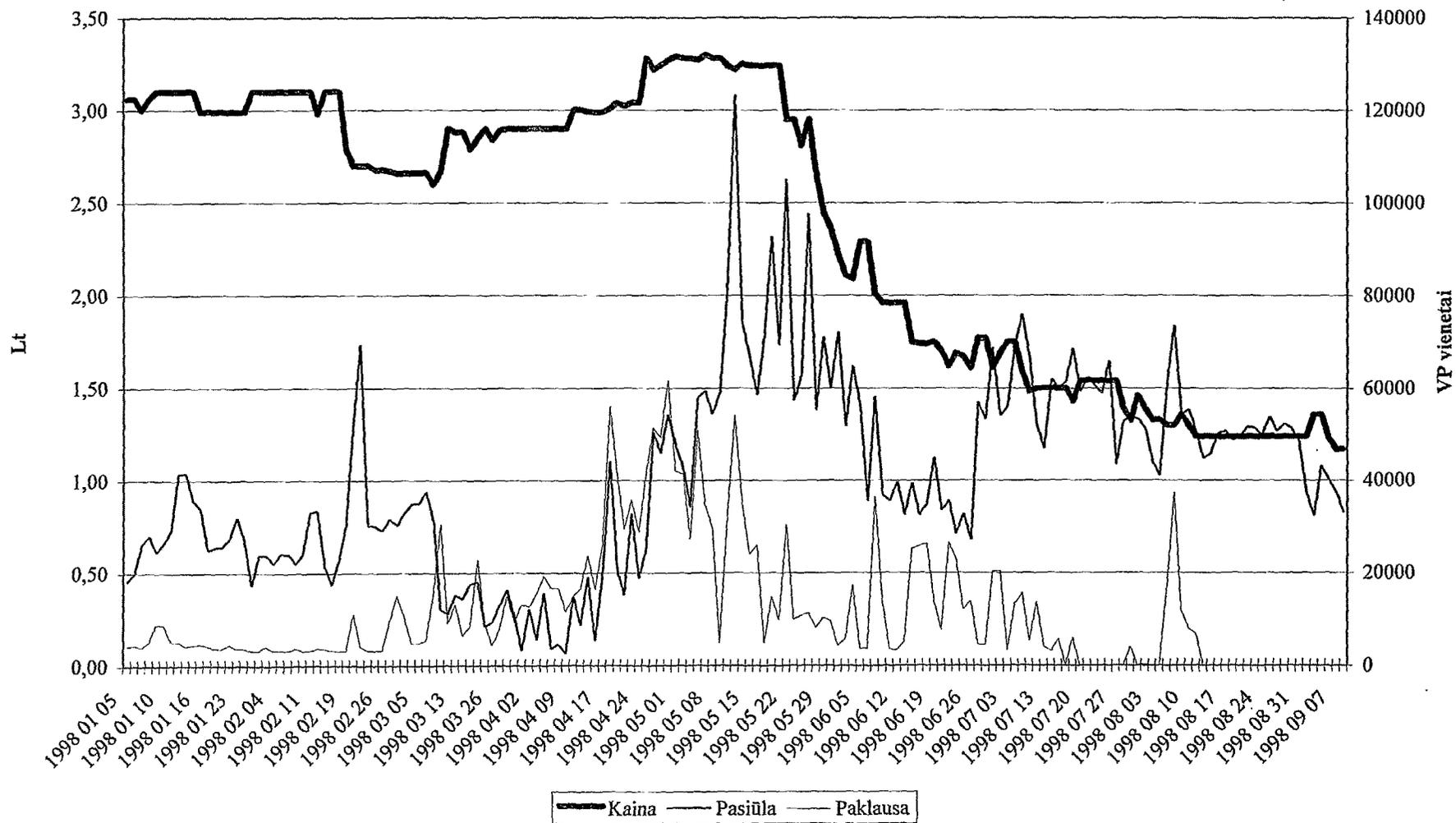
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### Mažeikių nafta PVA (Kaina ir paklausa/pasiūla)

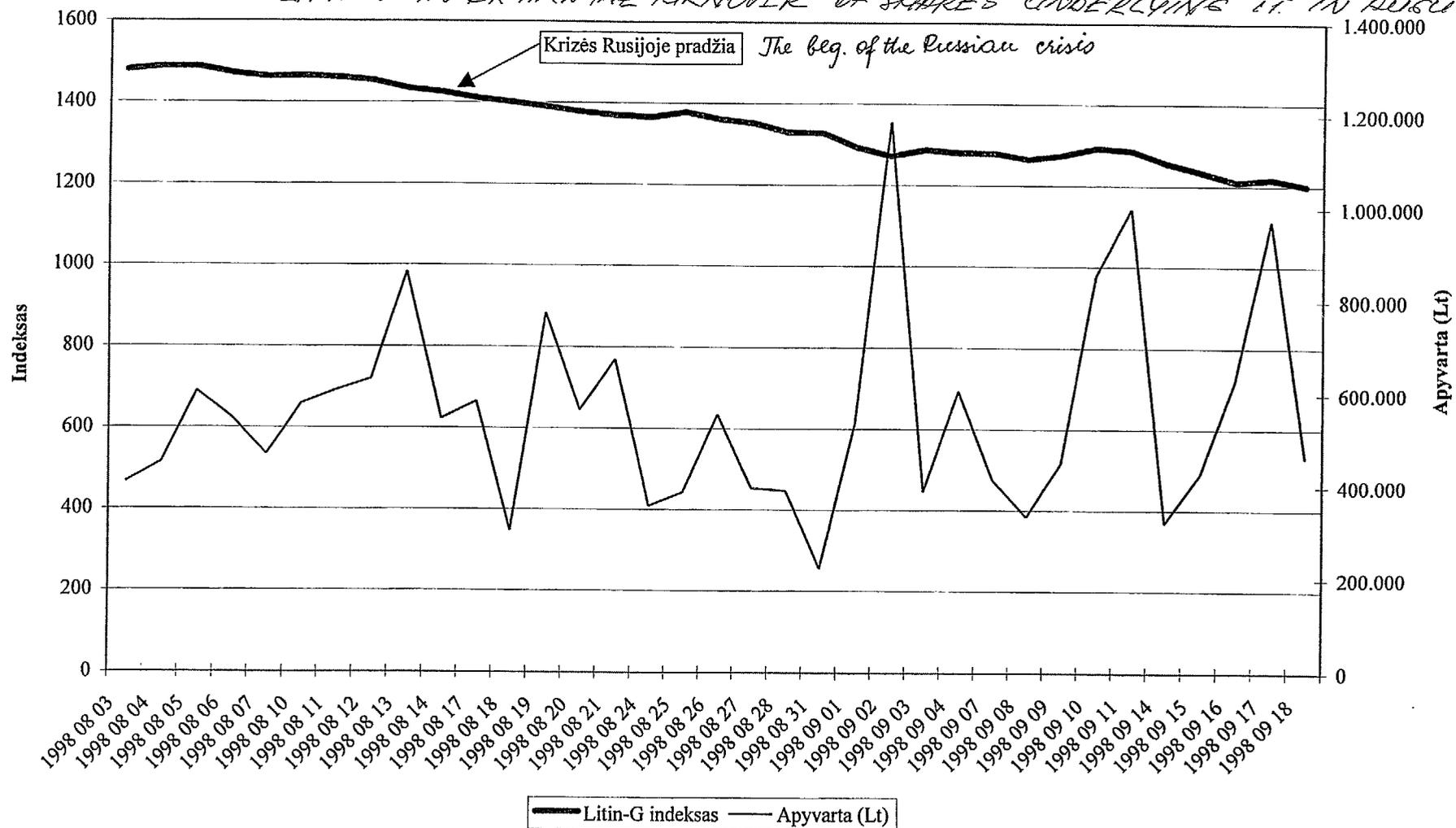


Mažikių pieninė PVA (Kaina ir paklausa/pasiūla)



Litin-G indeksas ir šio indekso akcijų apyvarta 1998 m. rugpjūčio mėnesį

LITIN-G INDEX AND THE TURNOVER OF SHARES UNDERLYING IT IN AUGUST

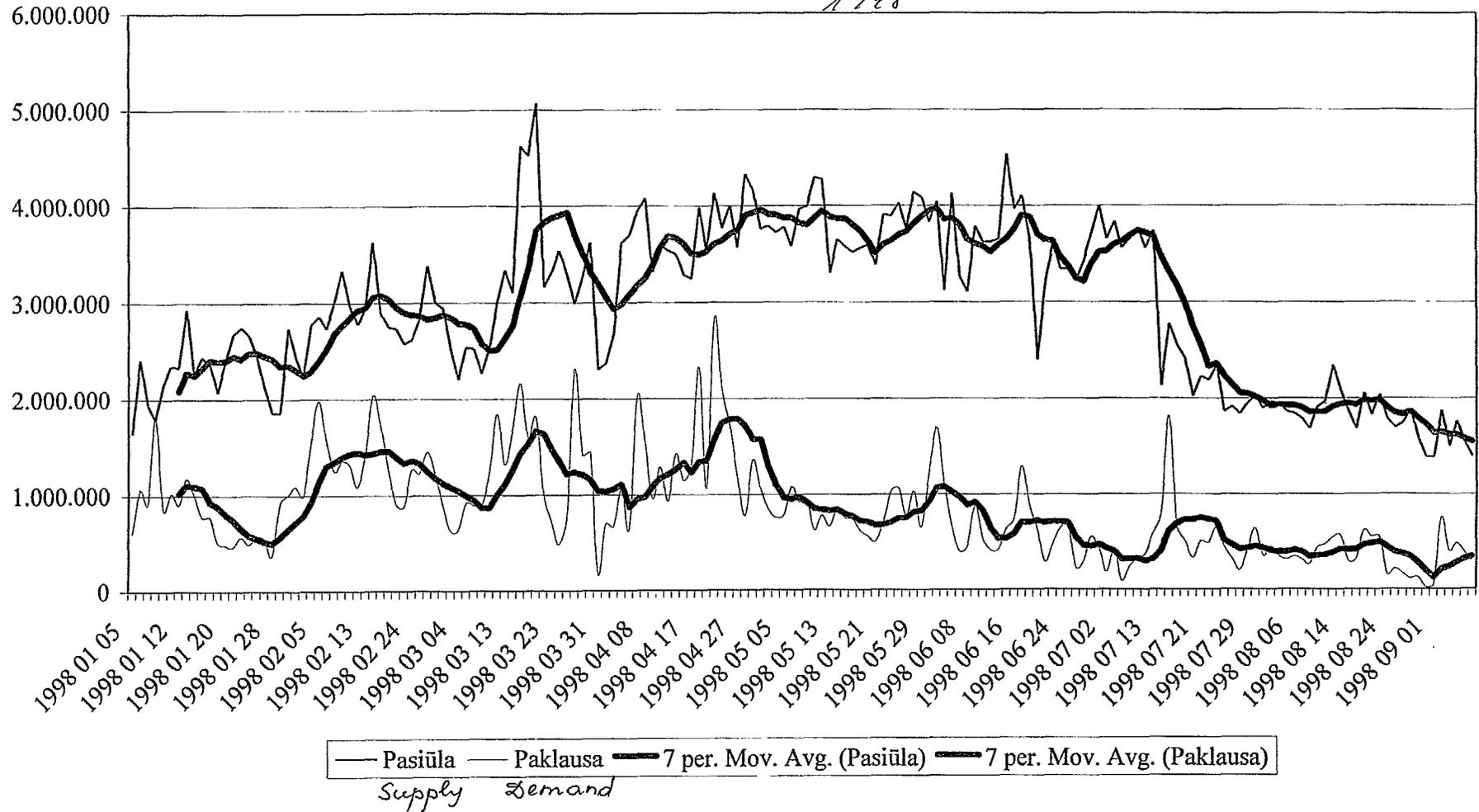


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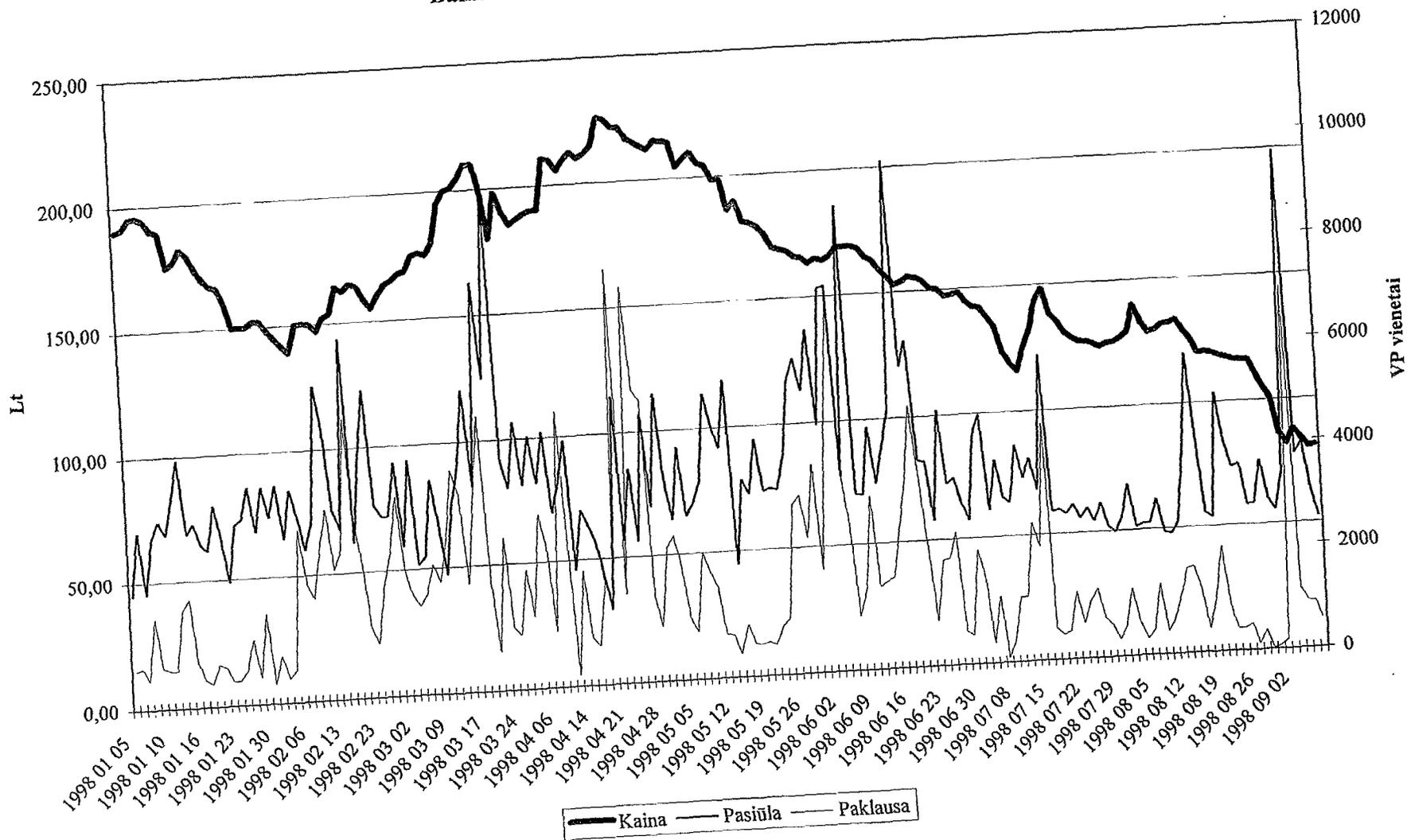
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1998m. sausio-rugpjūčio mėnesių oficialaus sąrašo akcijų pasiūla ir paklausa, išreikšta rinkos  
kaina

DEMAND AND SUPPLY OF THE OFFICIAL LIST SHARES IN JANUARY - AUGUST  
1998



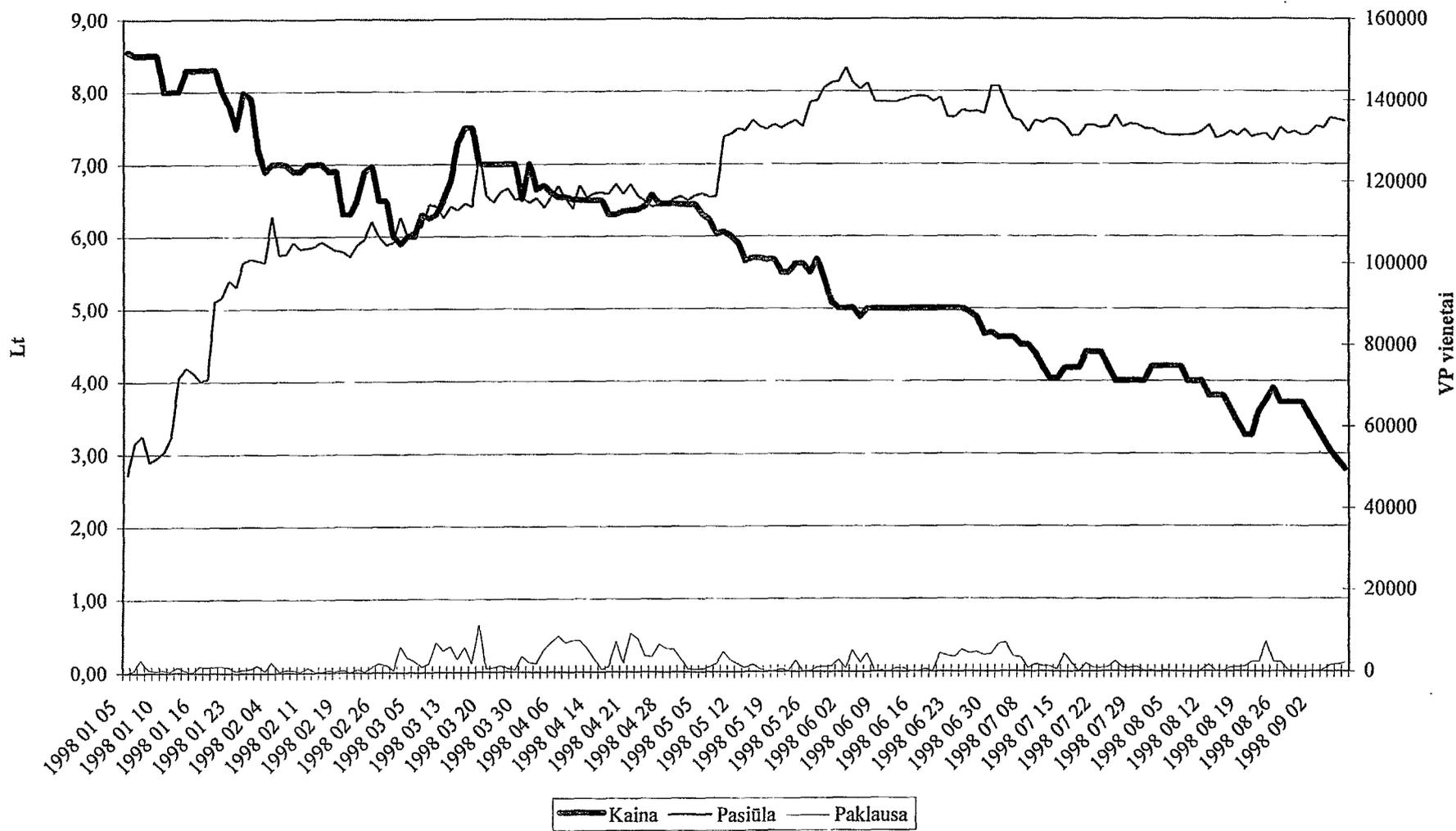
Bankas Herimis PVA (Kaina ir paklausa/pasiūla)



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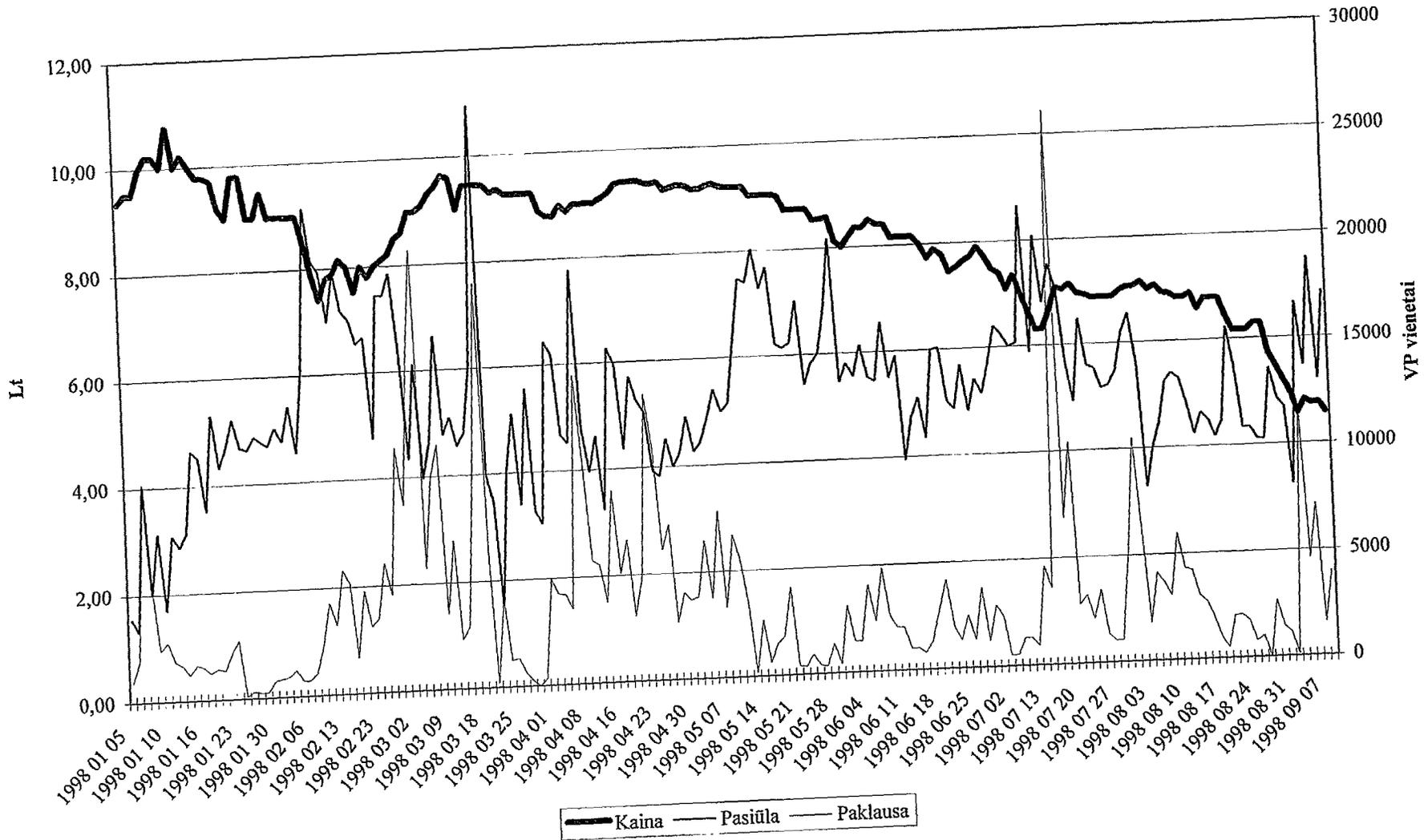
Biržų akcinė pieno bendrovė PVA (Kaina ir paklausa/pasiūla)



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### Kalnapilis PVA (Kaina ir paklausa/pasiūla)

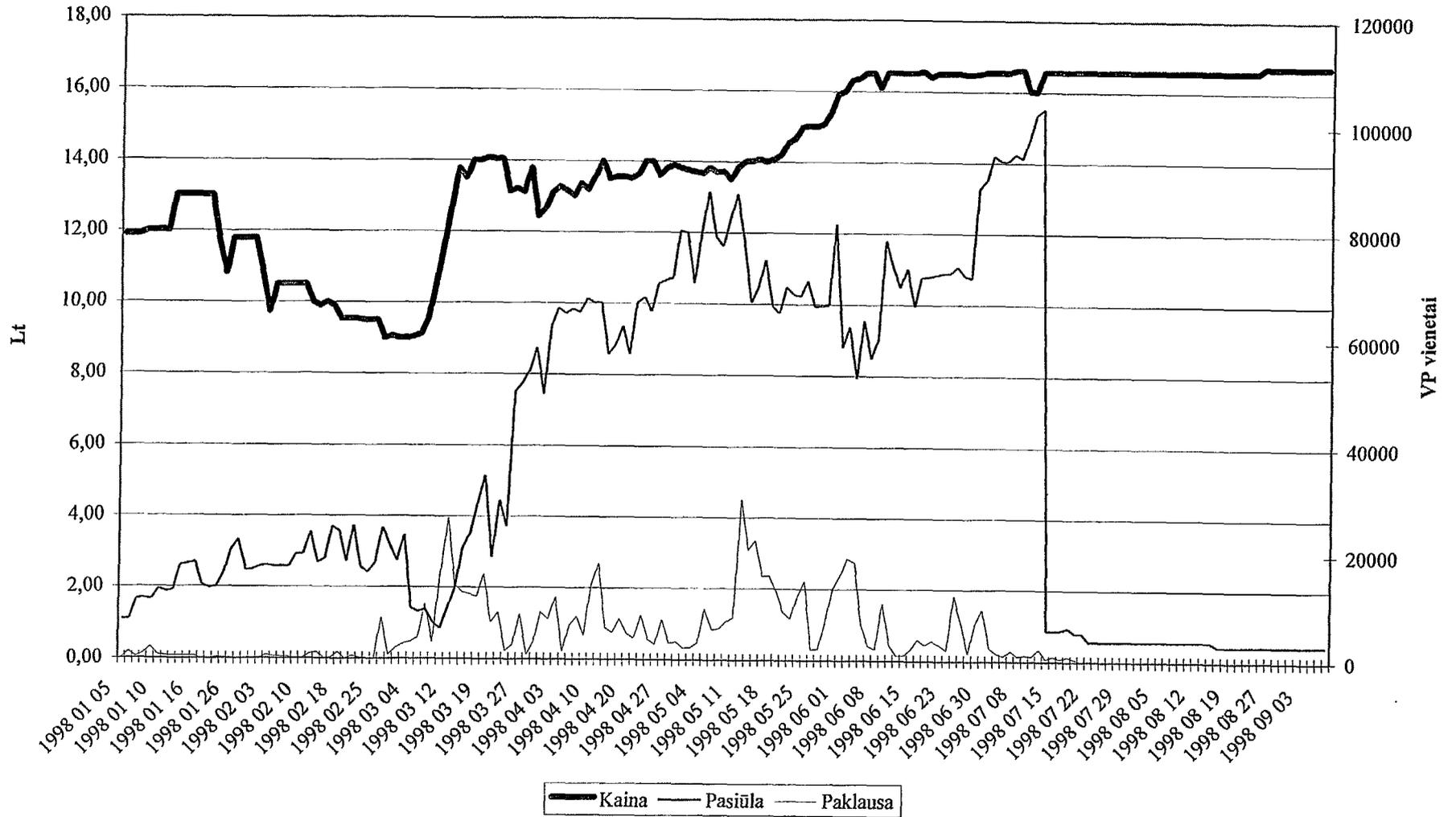


— Kaina — Pasiūla — Paklausa

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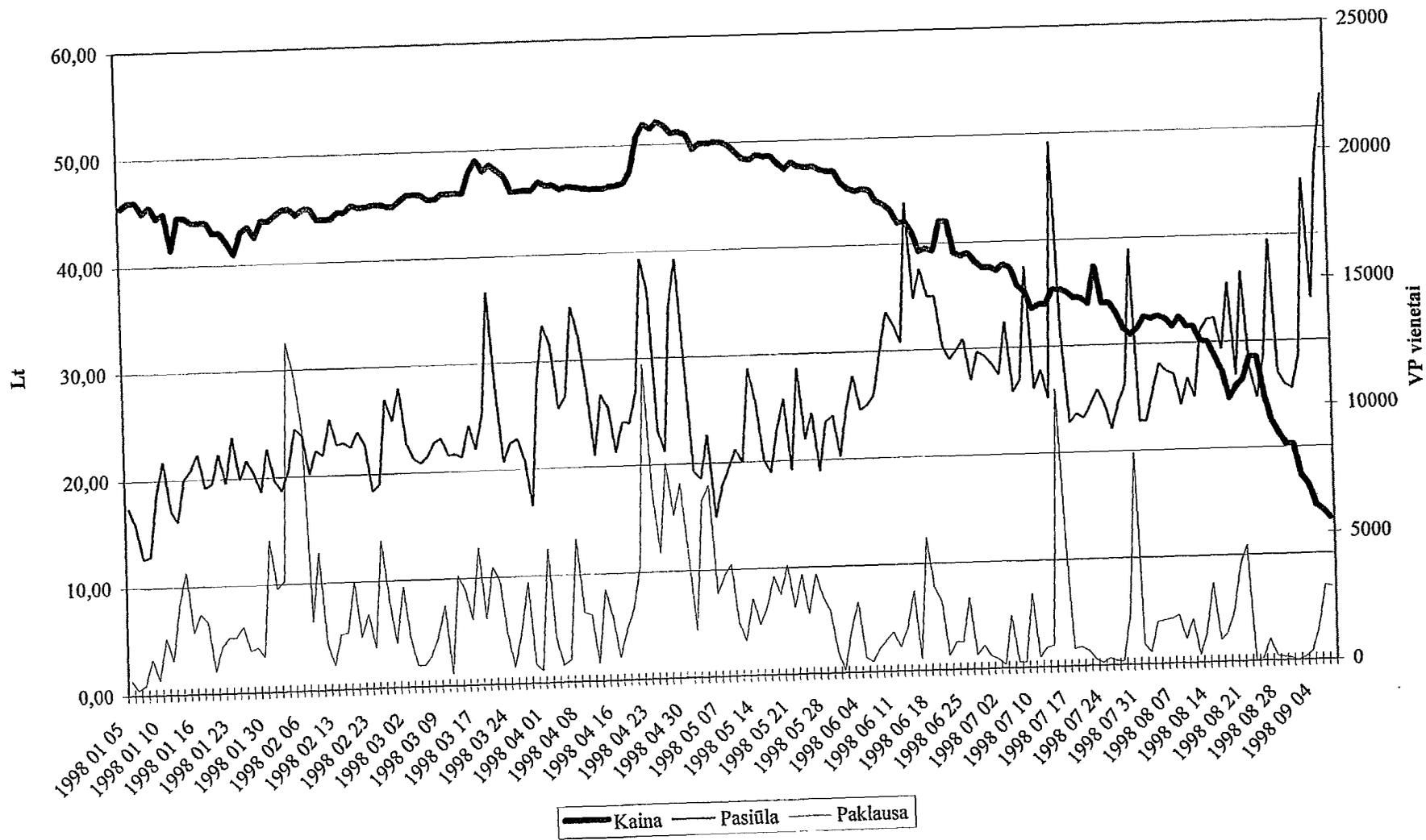
Medienos plaušas PVA (Kaina ir paklausa/pasiūla)



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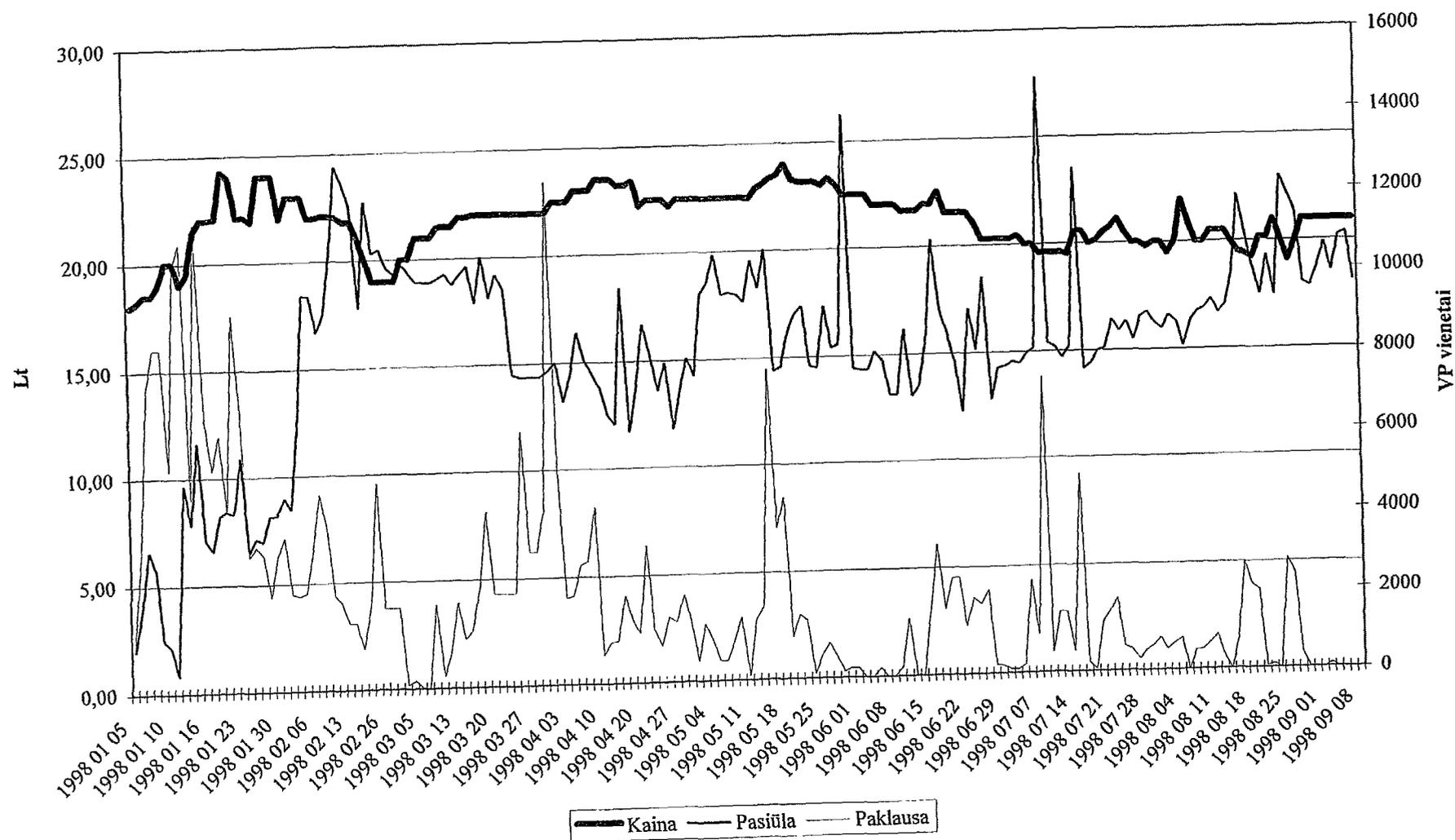
### Rokiškio sūris PVA (Kaina ir paklausa/pasiūla)



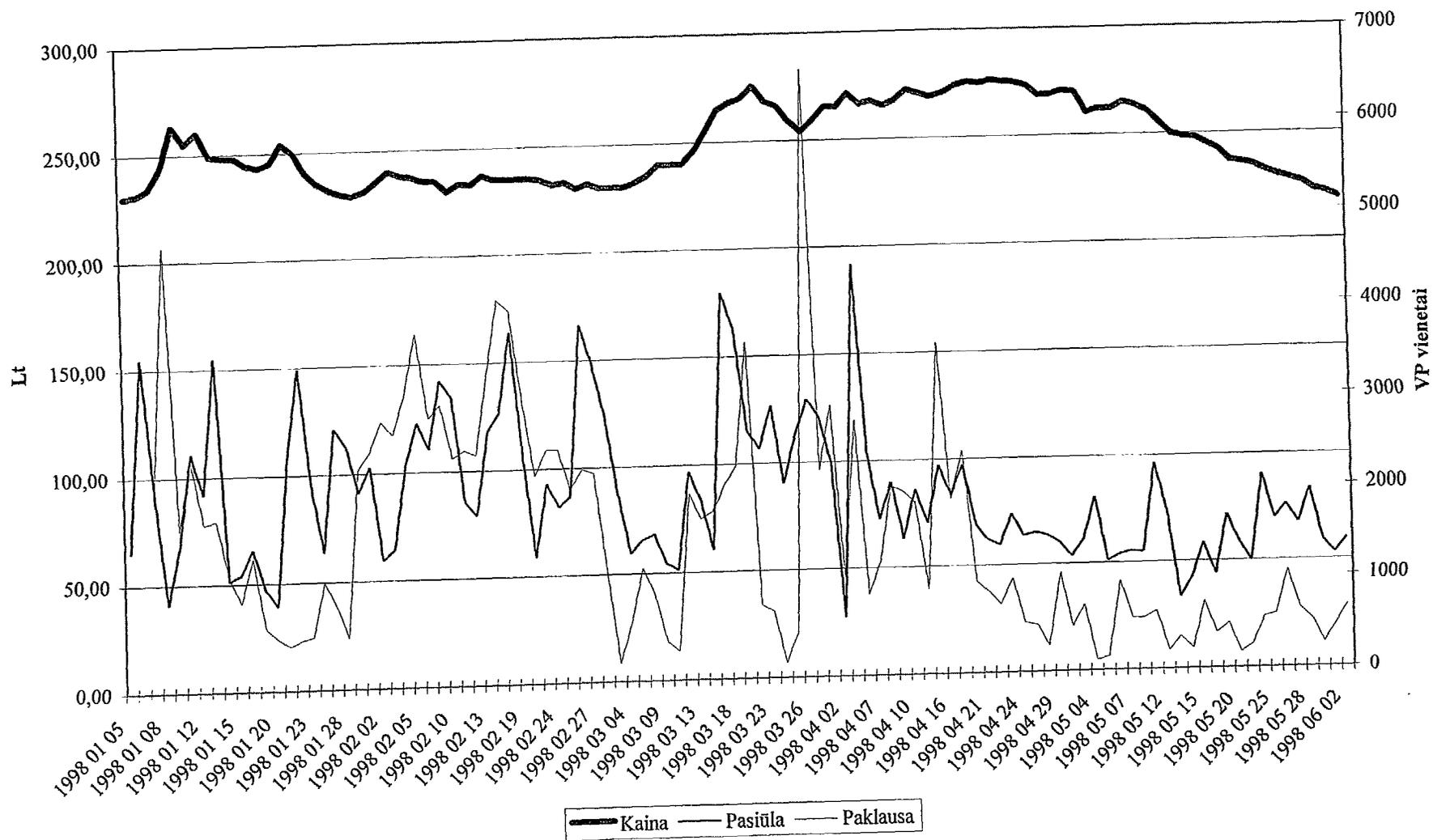
85

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### Snaigė PVA (Kaina ir paklausa/pasiūla)



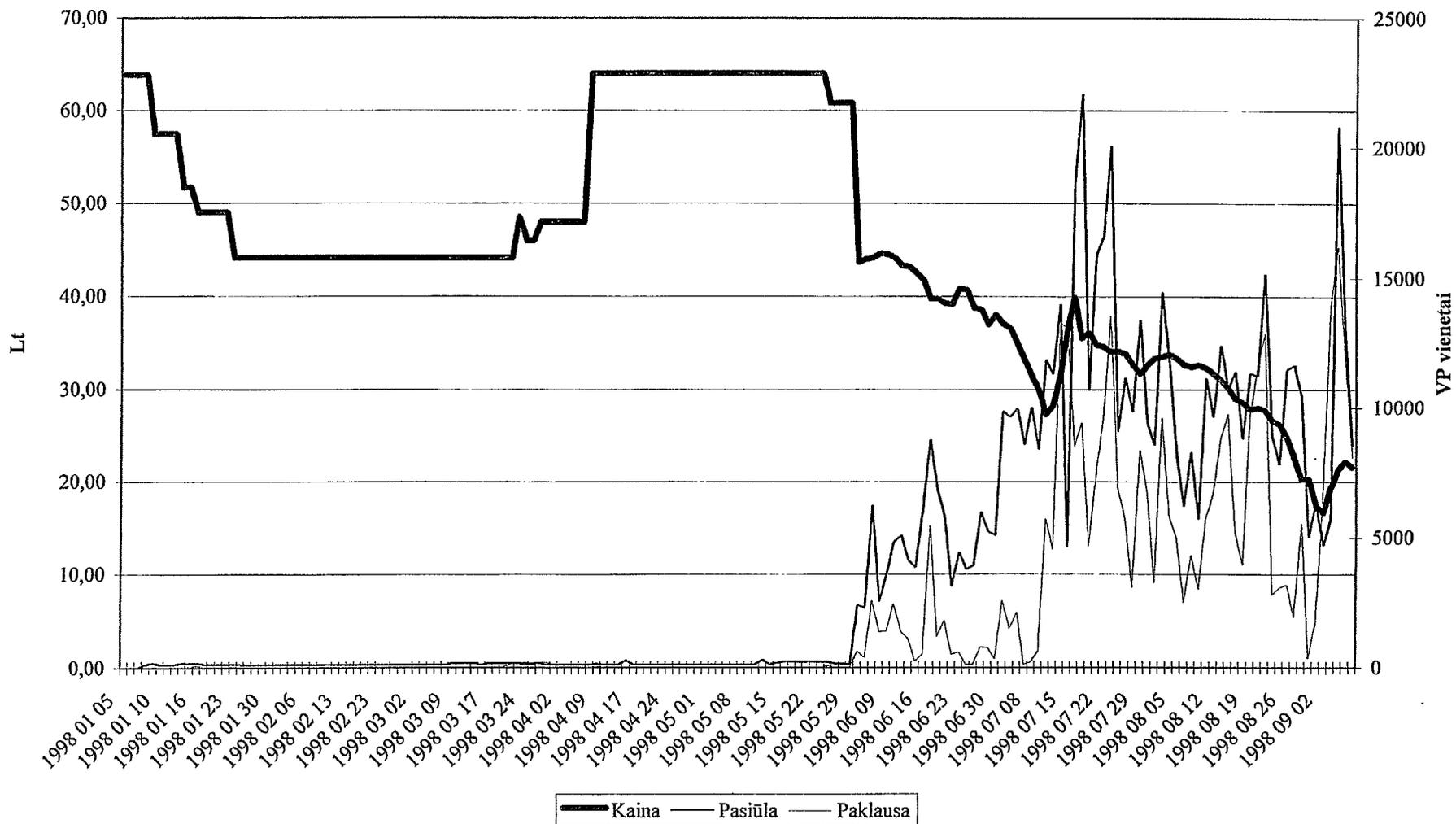
### Vilniaus bankas (50) PVA (Kaina ir paklausa/pasiūla)



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### Vilniaus bankas (10) PVA (Kaina ir paklausa/pasiūla)

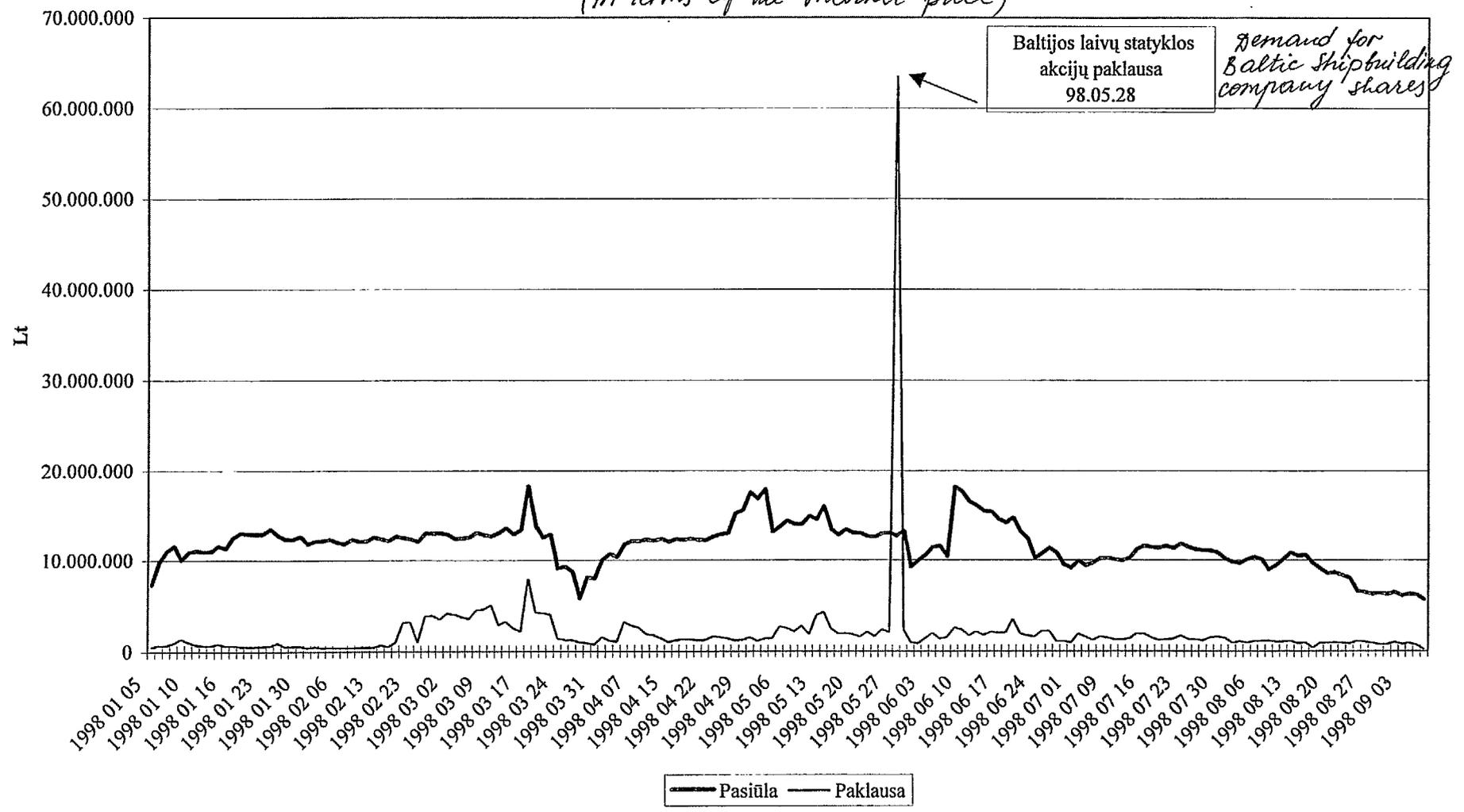


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1998m. sausio - rugpjūčio mėnesių einamojo sąrašo akcijų pasiūla ir paklausa, išreikšta rinkos kaina

Supply and demand of shares in the Current list during January - August, 1998  
(in terms of the market price)



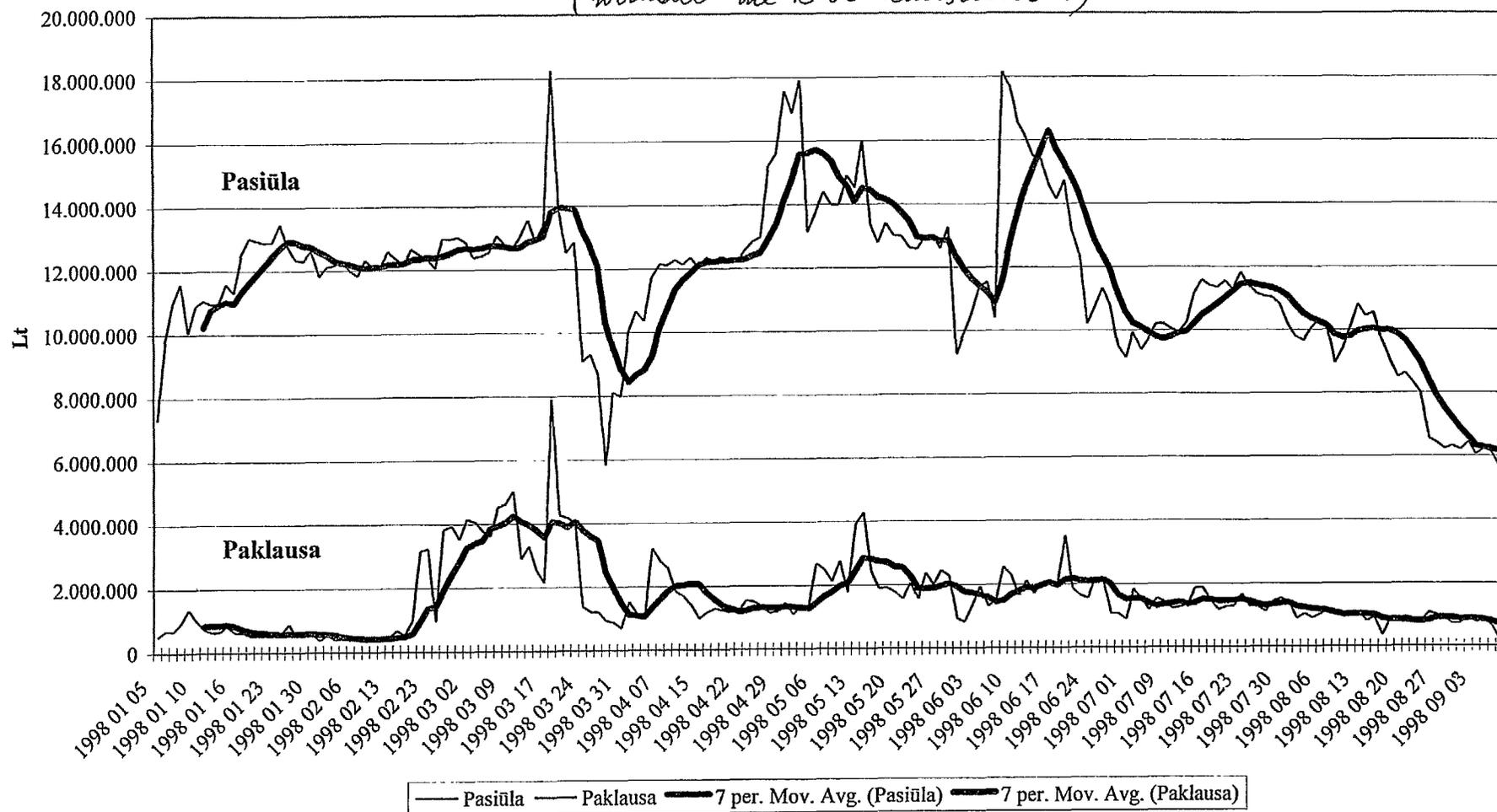
167

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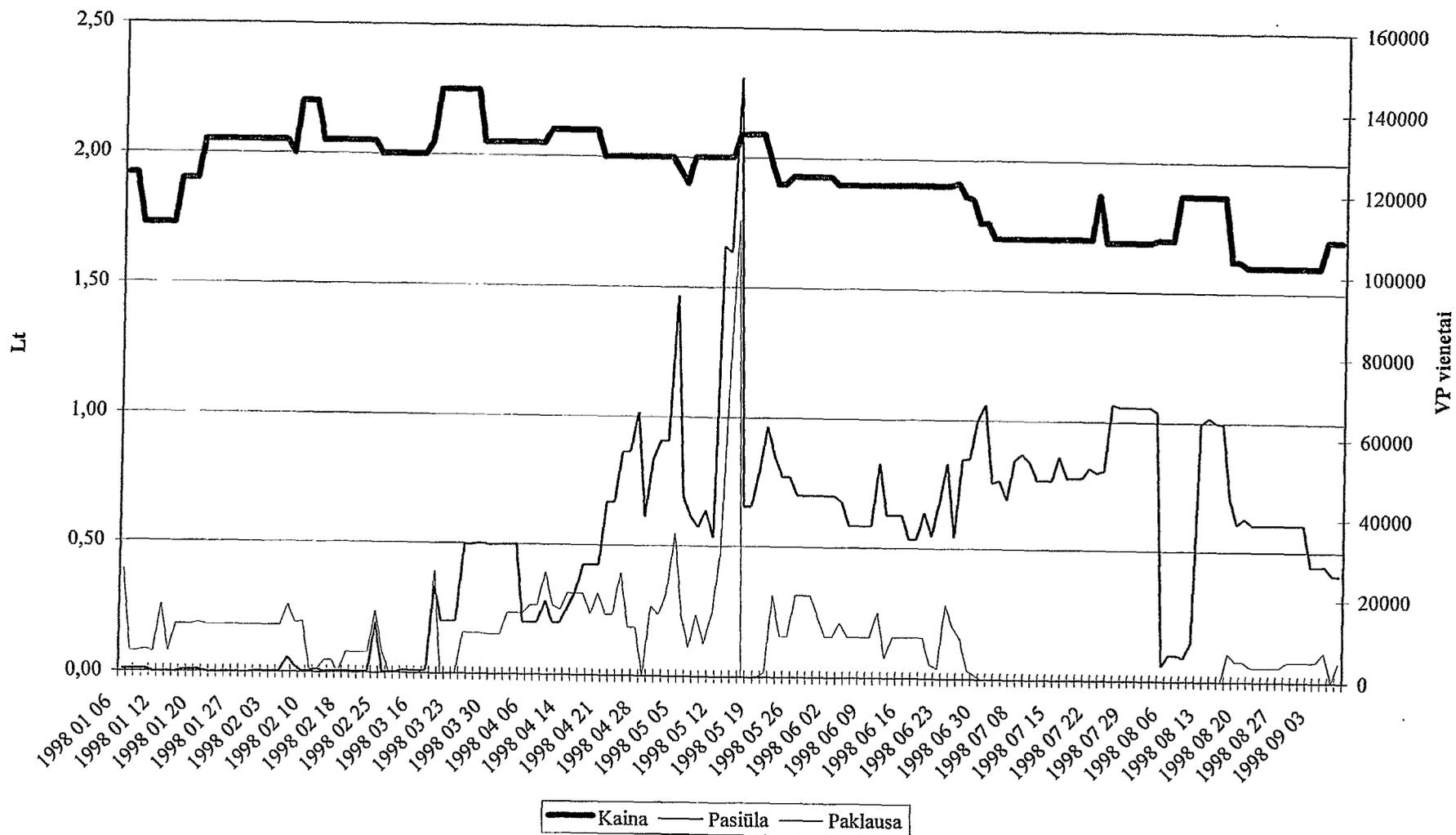
1998m. sausio-rugpjūčio mėnesių einamojo sąrašo akcijų pasiūla ir paklausa, išreikšta rinkos kaina

(be BLS sandėrio)

*Supply and demand of shares in the Current list during January–August, 1998  
(without the BLS transaction)*



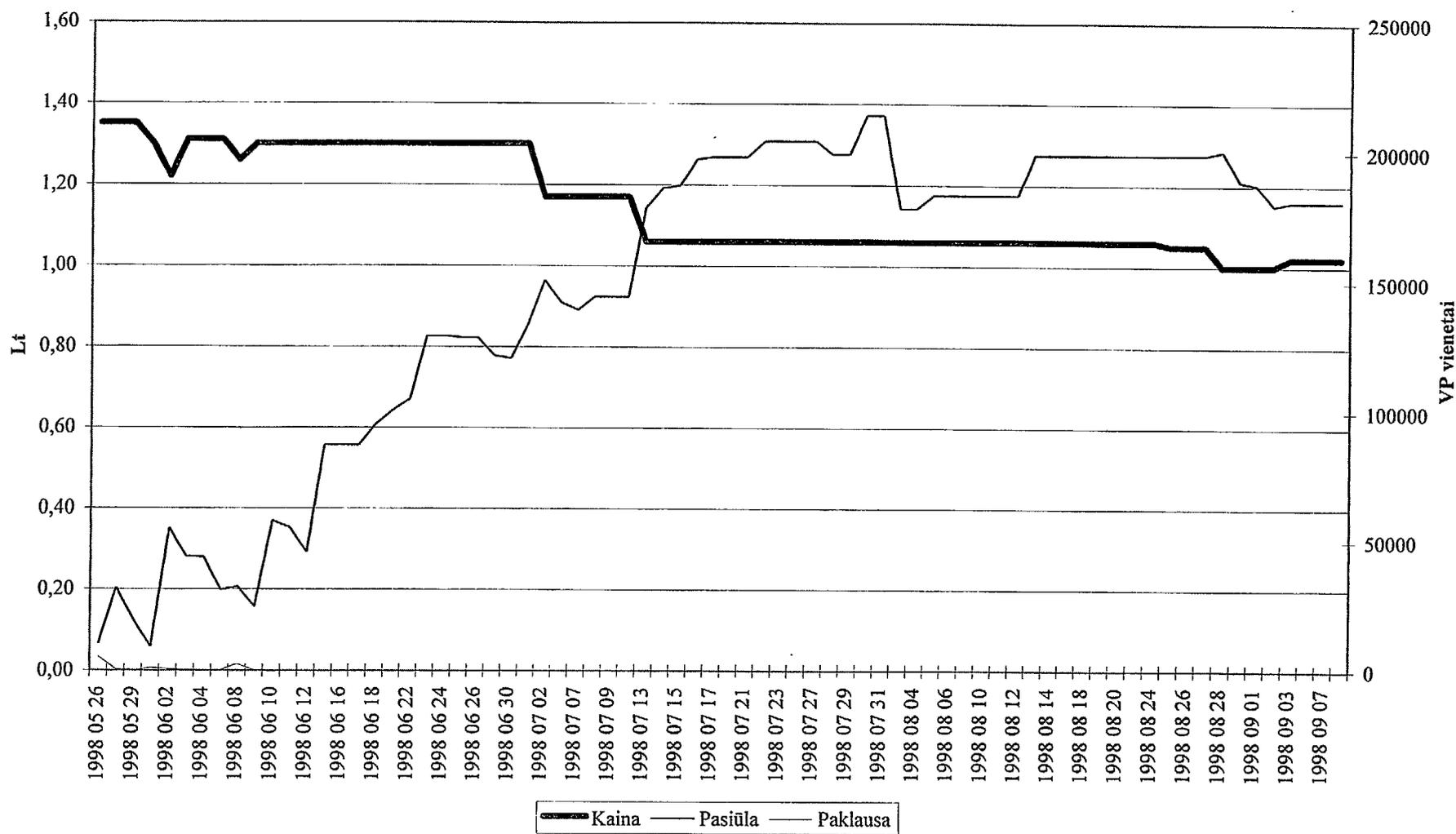
### Akmenės cementas PVA (Kaina ir paklausa/pasiūla)



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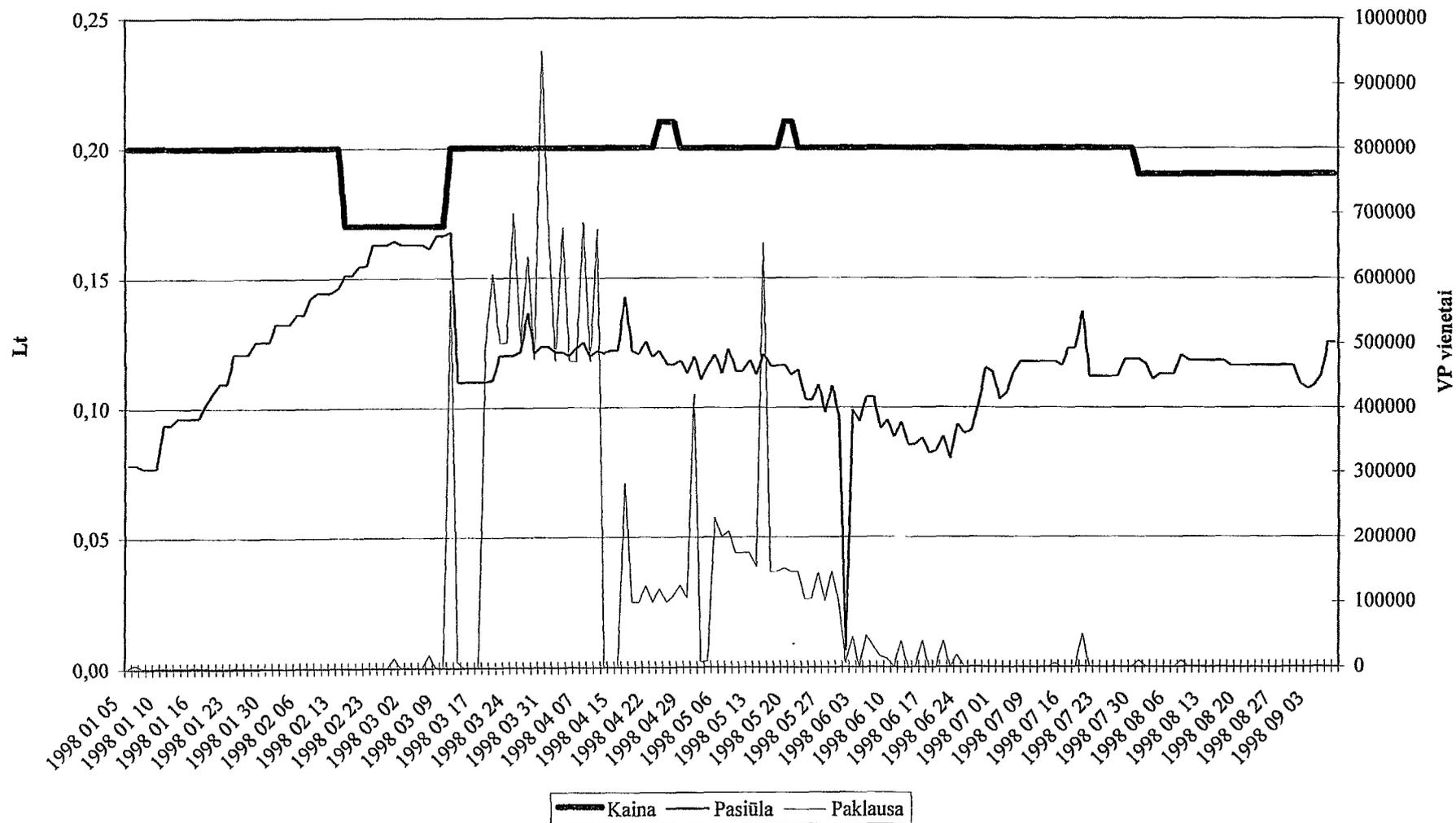
### Alita PVA (Kaina ir paklausa/pasiūla)



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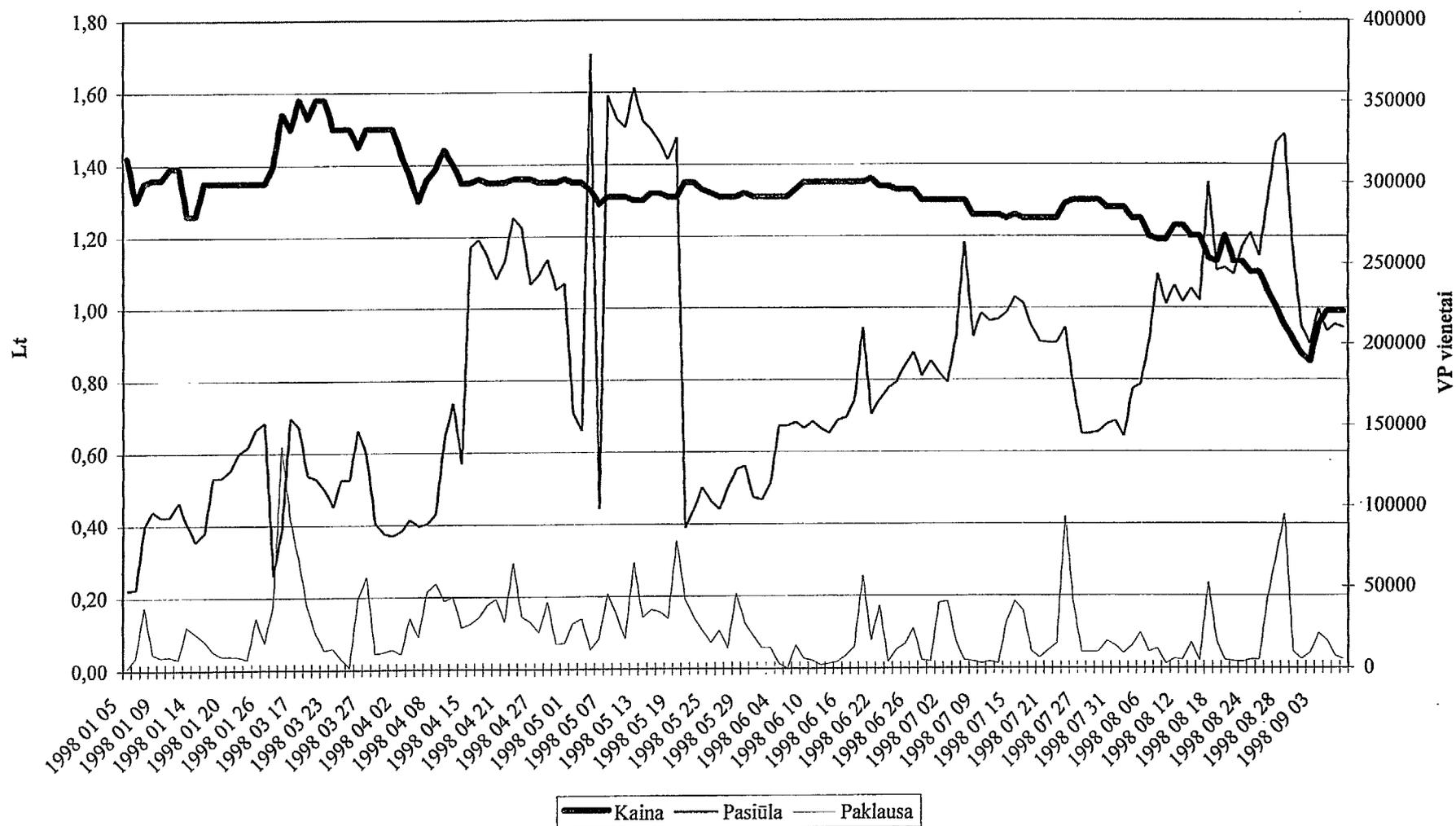
### Alytaus tekstilė PVA (Kaina ir paklausa/pasiūla)



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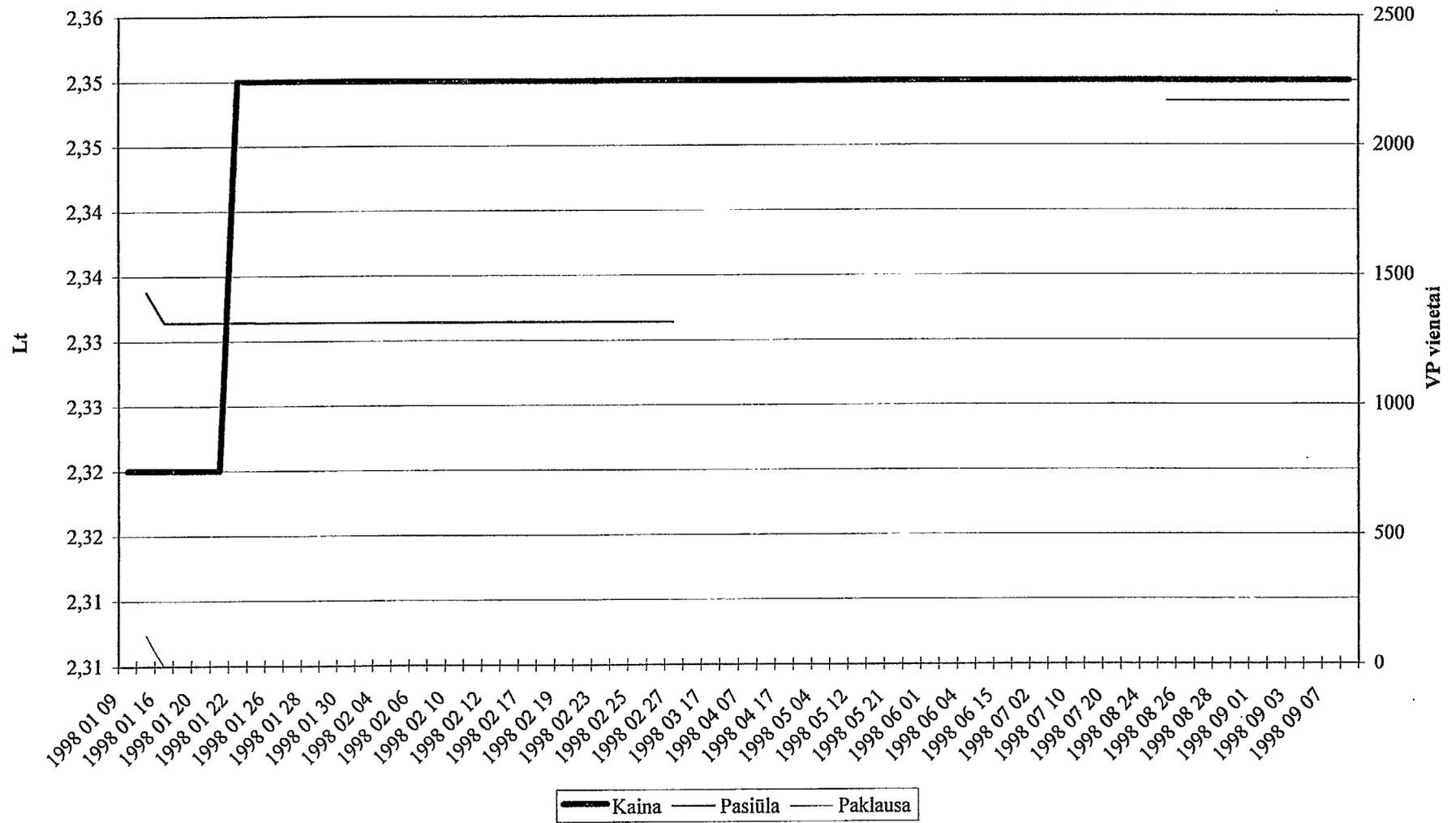
### Anykščių vynas PVA (Kaina ir paklausa/pasiūla)



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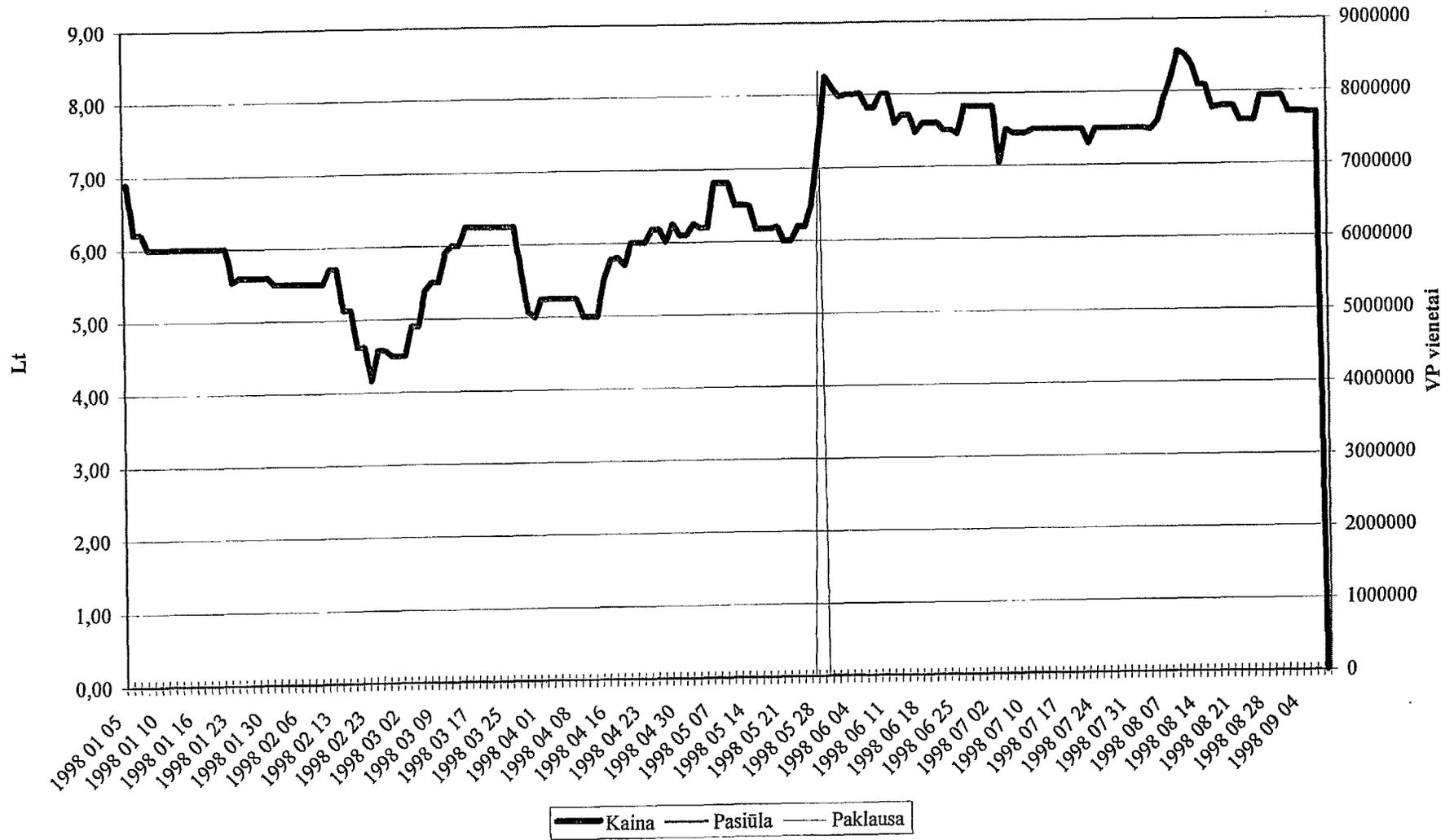
### Apranga PVA (Kaina ir paklausa/pasiūla)



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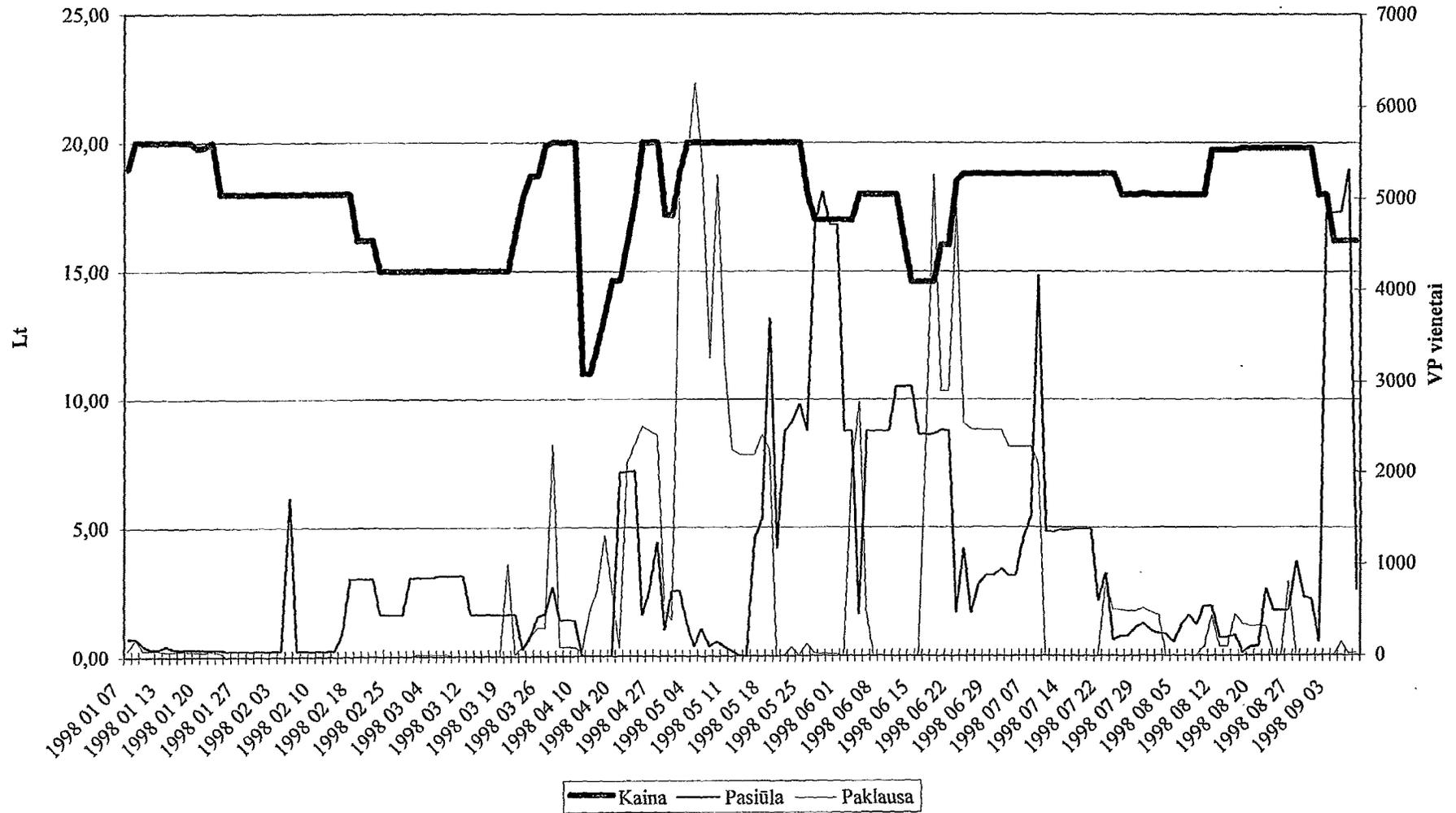
### Baltijos laivų statykla PVA (Kaina ir paklausa/pasiūla)



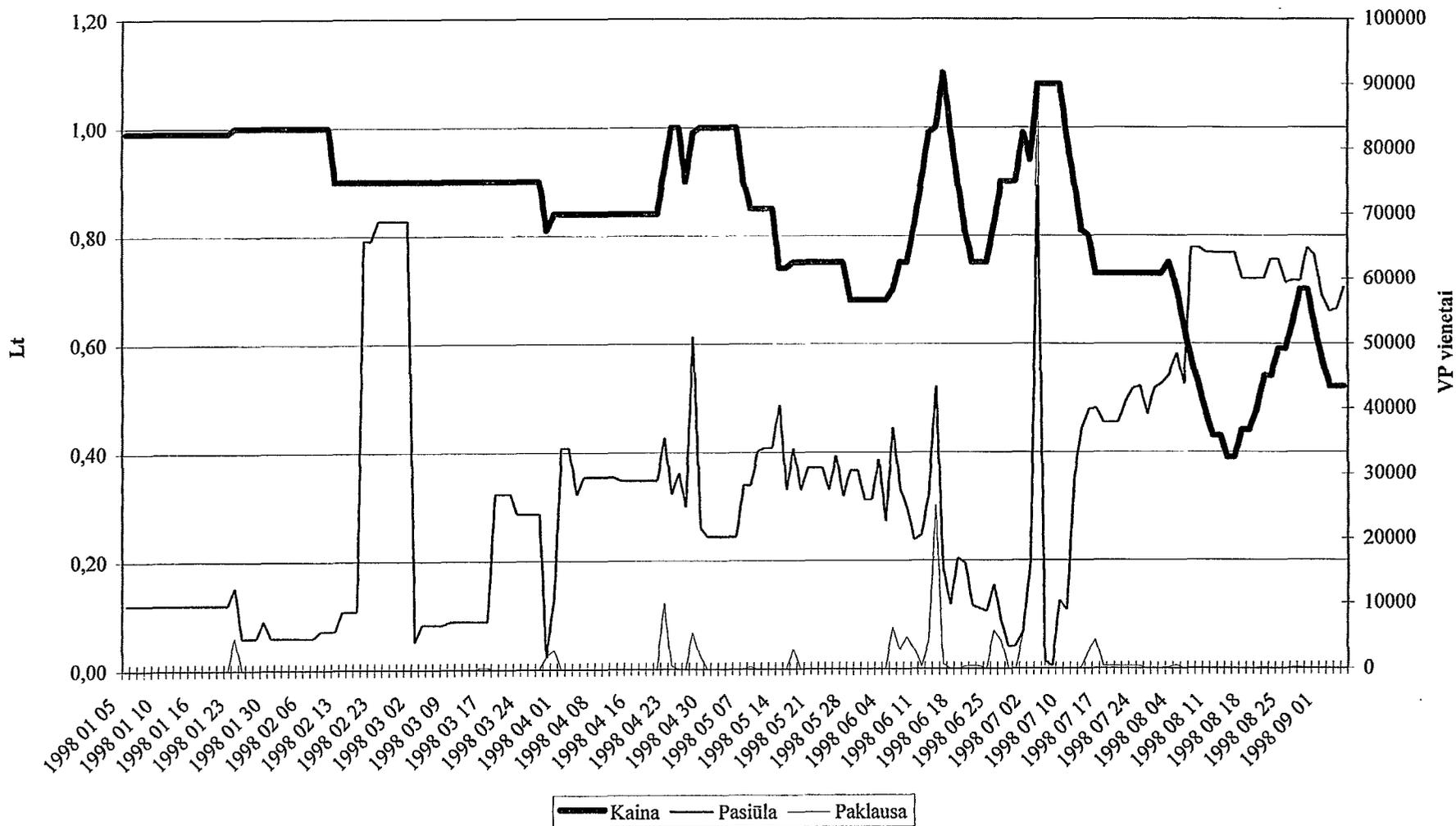
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Bankas Snoras PVA (Kaina ir paklausa/pasiūla)



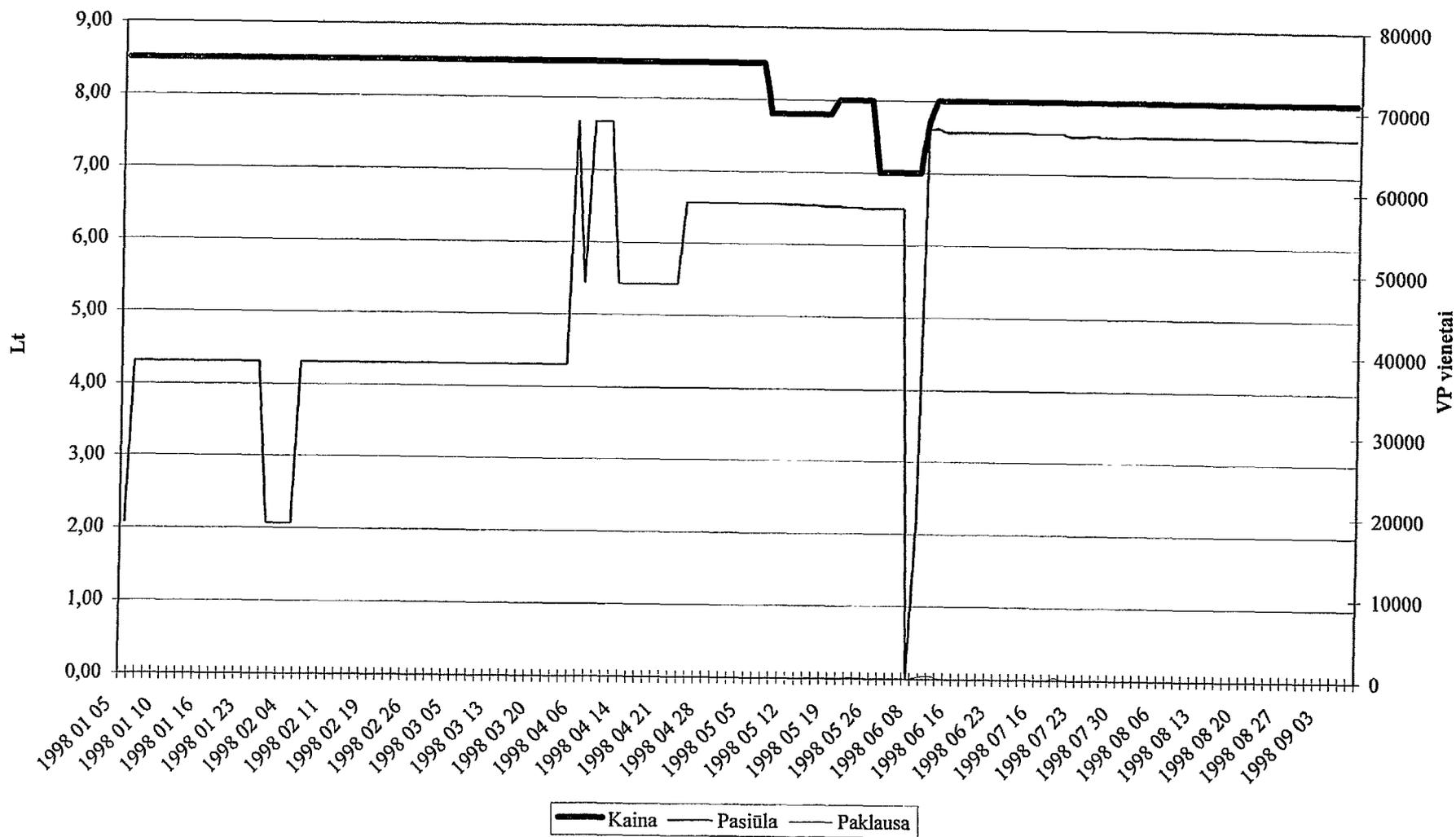
### Dirbtinis pluoštas PVA (Kaina ir paklausa/pasiūla)



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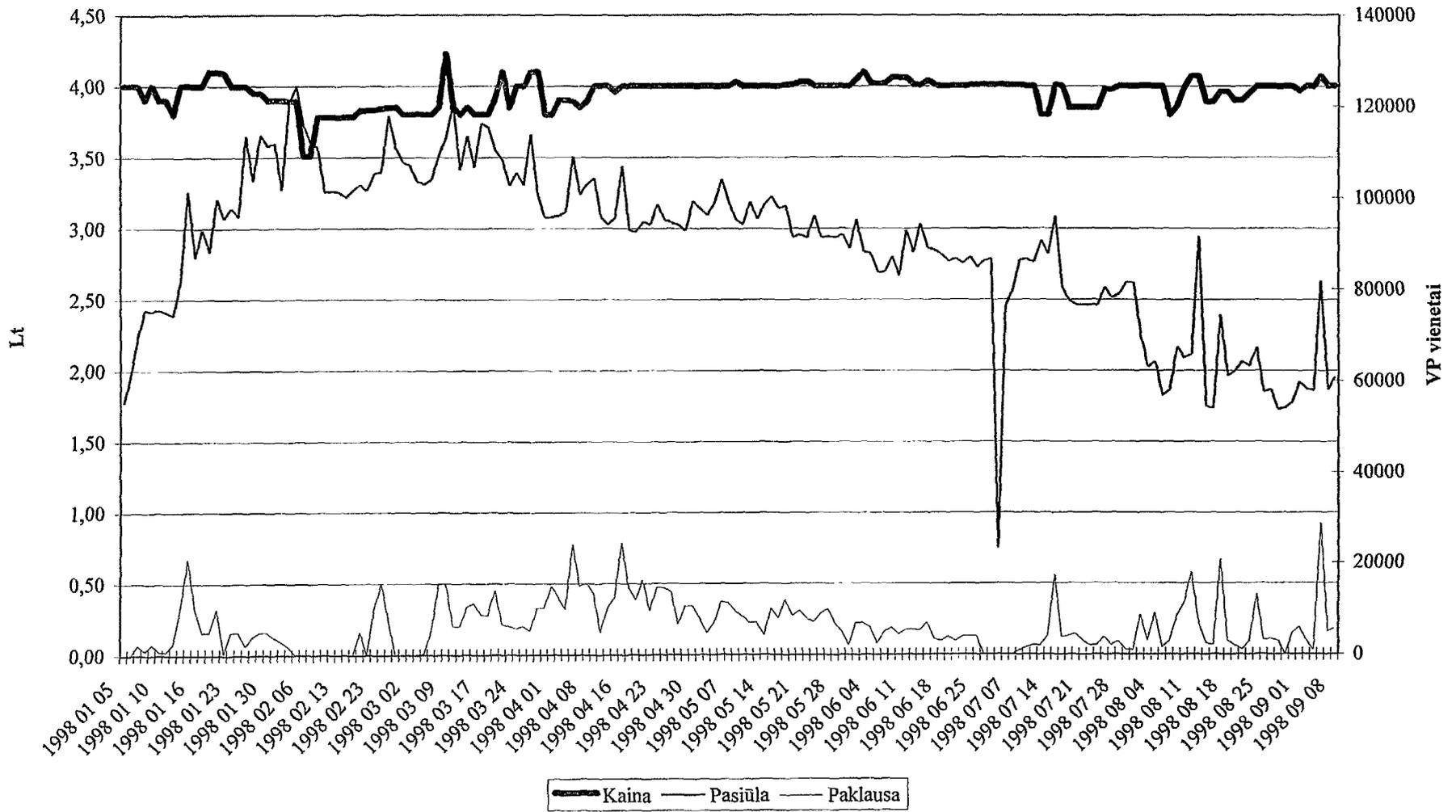
### Dvarčionių keramika PVA (Kaina ir paklausa/pasiūla)



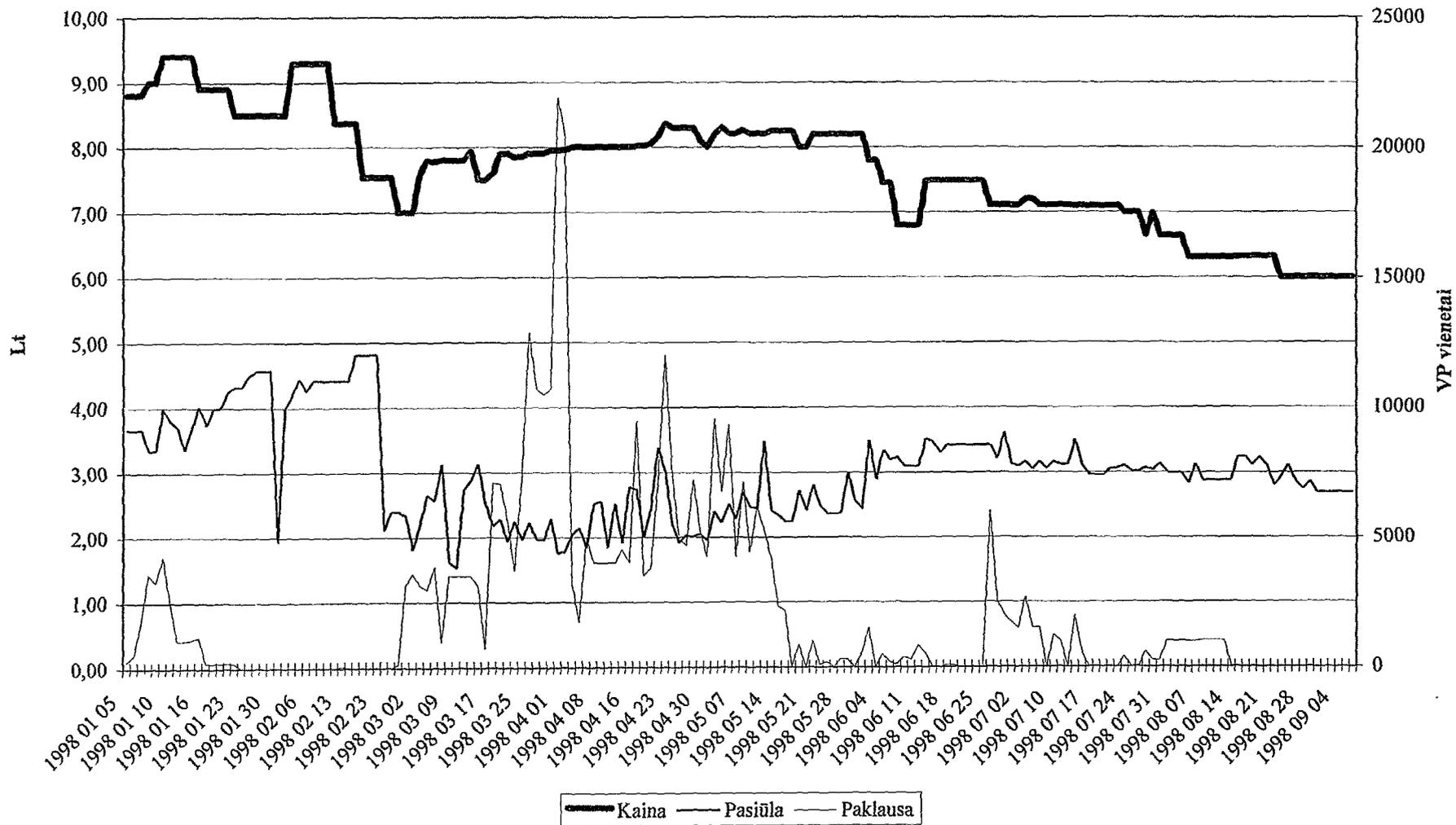
17

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Ekranas PVA (Kaina ir paklausa/pasiūla)



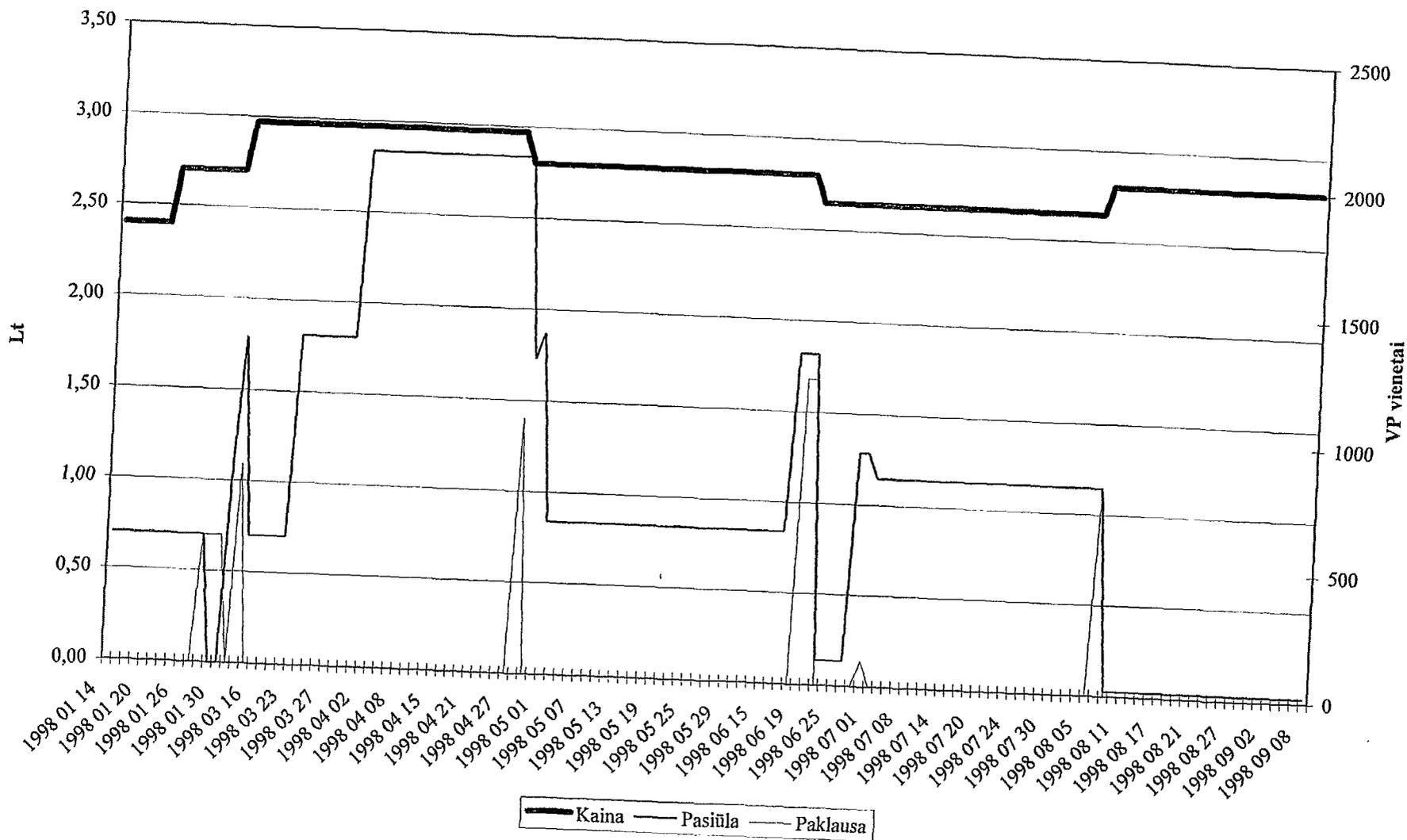
Endokrininiai preparatai PVA (Kaina ir paklausa/pasiūla)



AK

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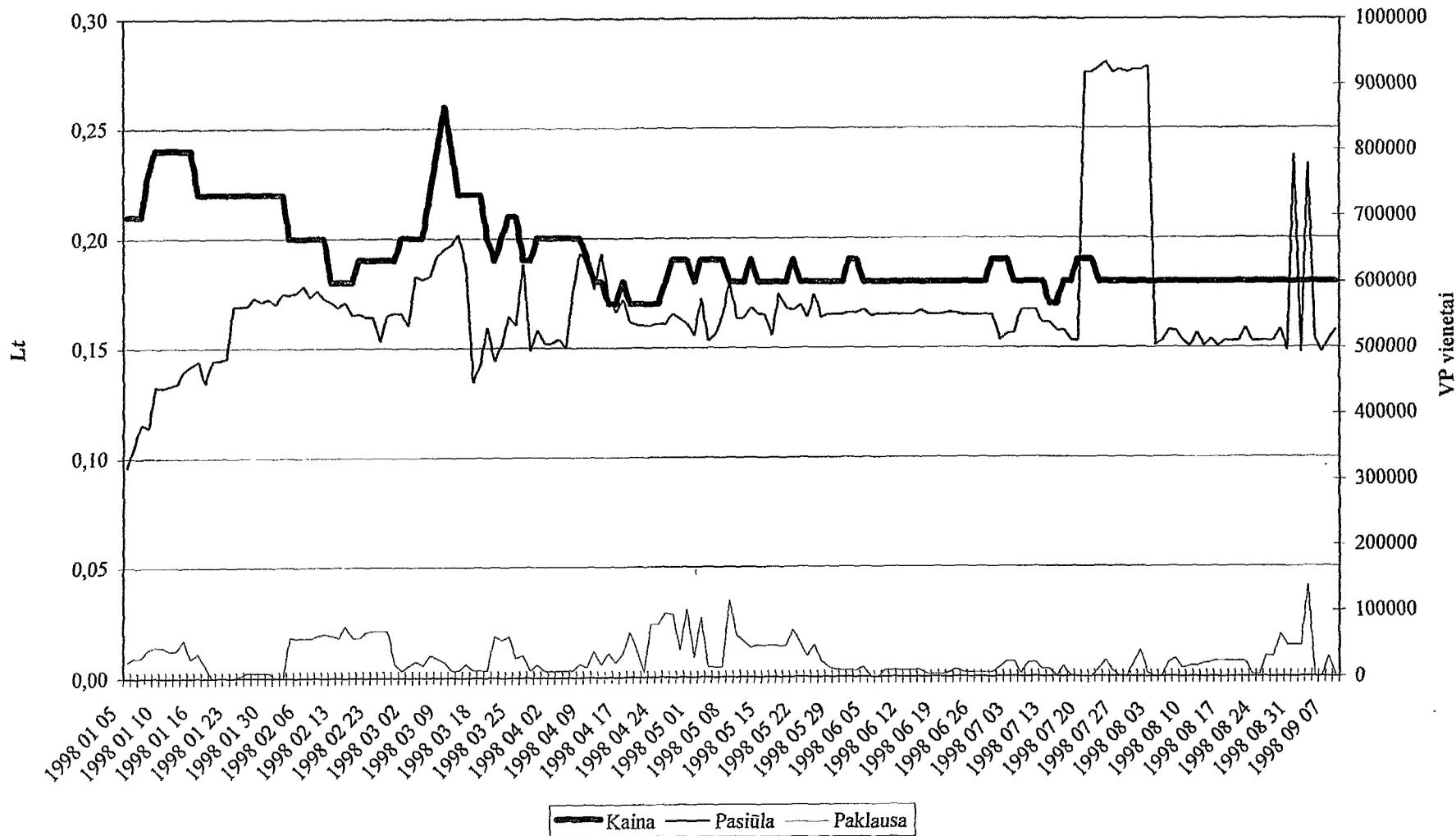
Grafobal Vilnius PVA (Kaina ir paklausa/pasiūla)



MS

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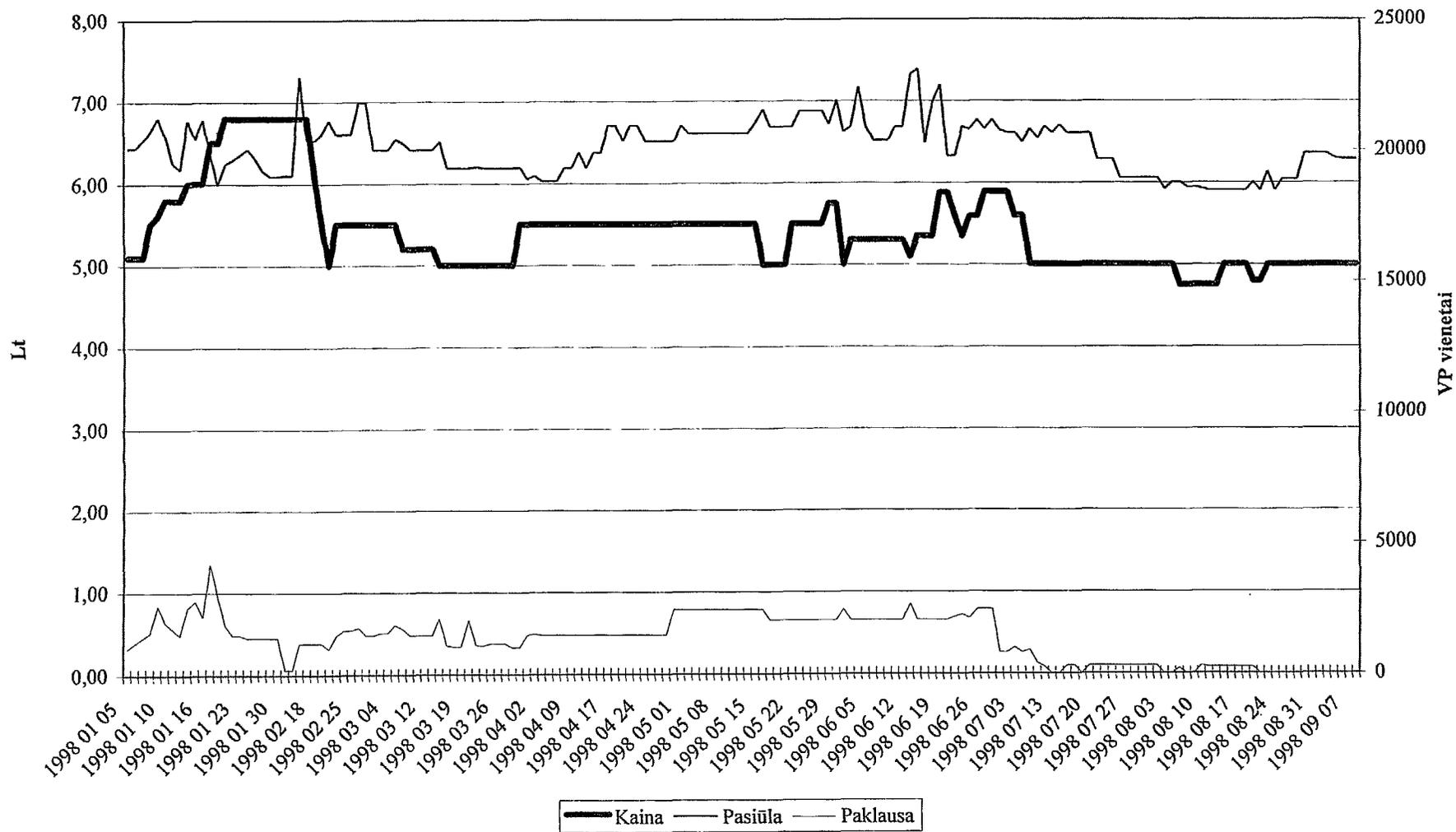
Grikiškės PVA (Kaina ir paklausa/pasiūla)



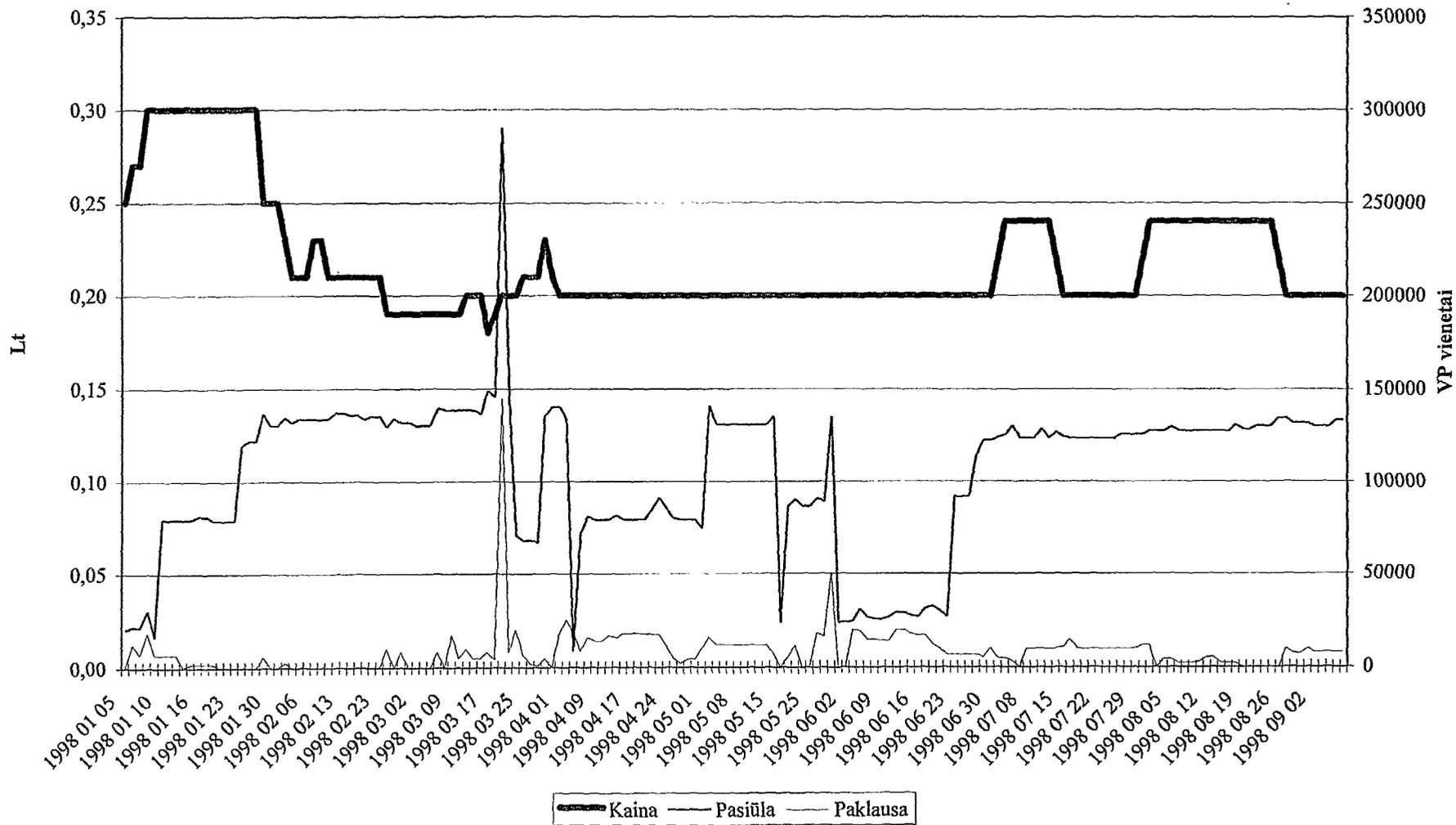
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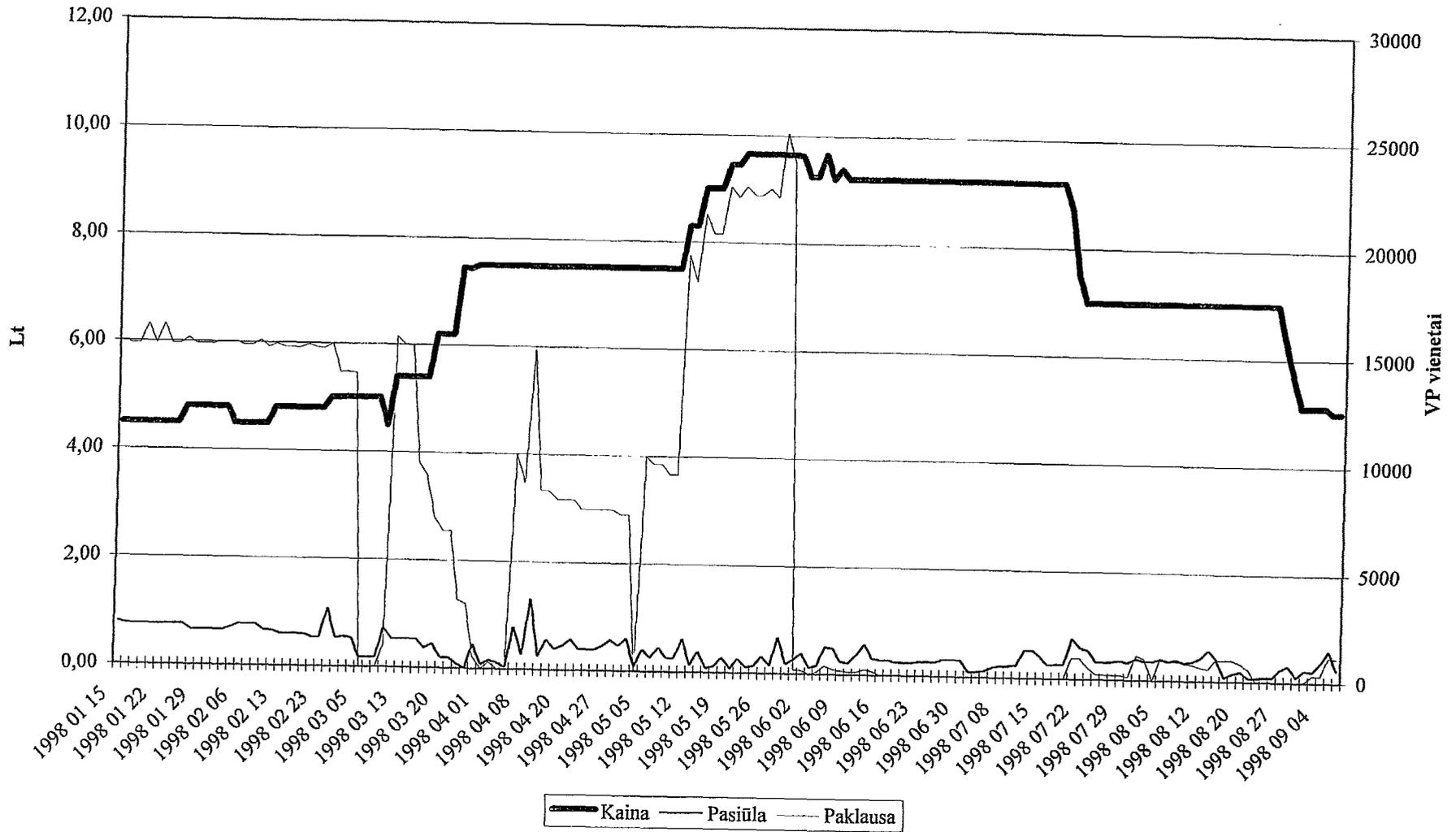
### Gubernija PVA (Kaina ir paklausa/pasiūla)



Invalida PVA (Kaina ir paklausa/pasiūla)



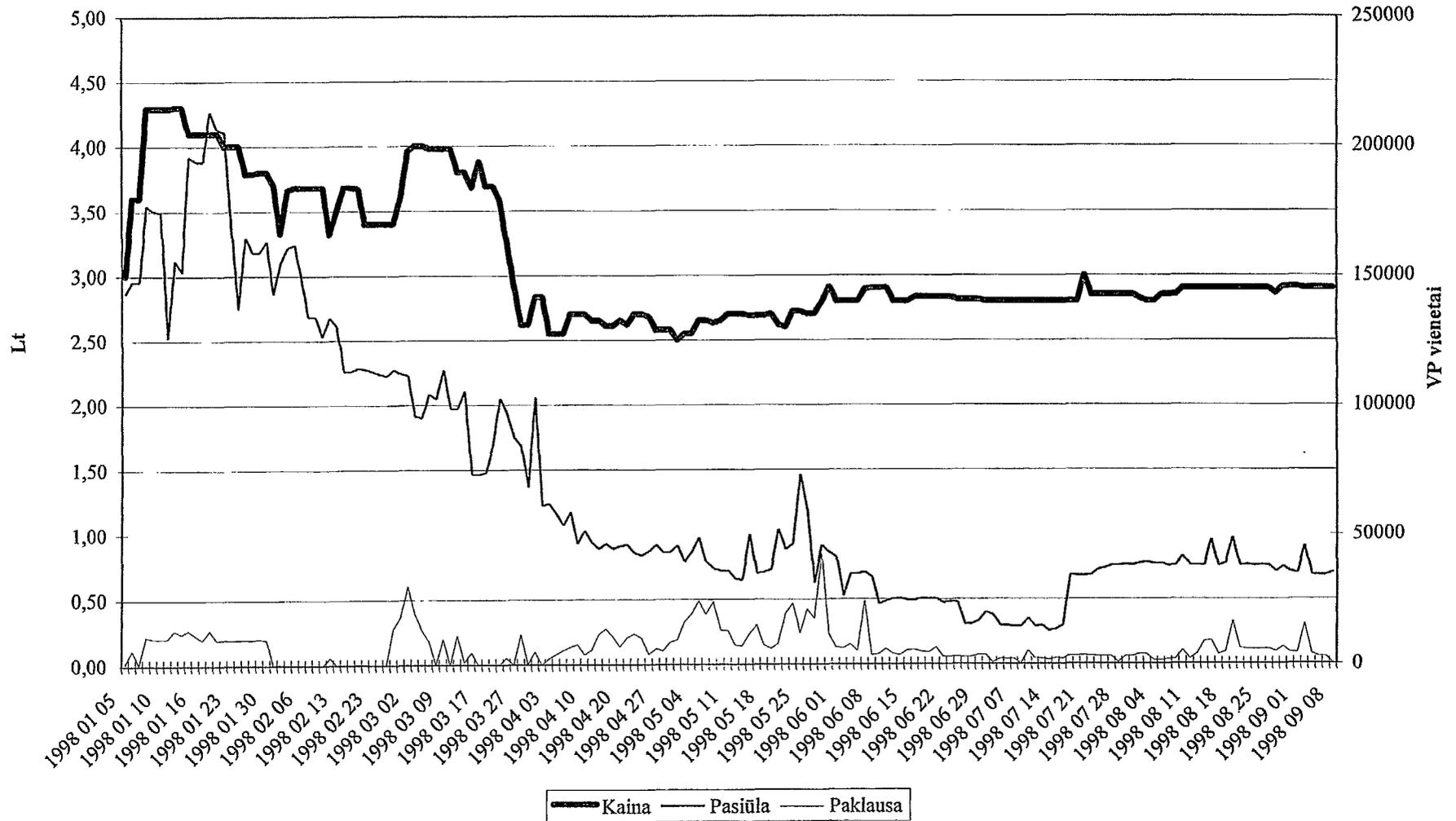
### Investicijos fondas PVA (Kaina ir paklausa/pasiūla)



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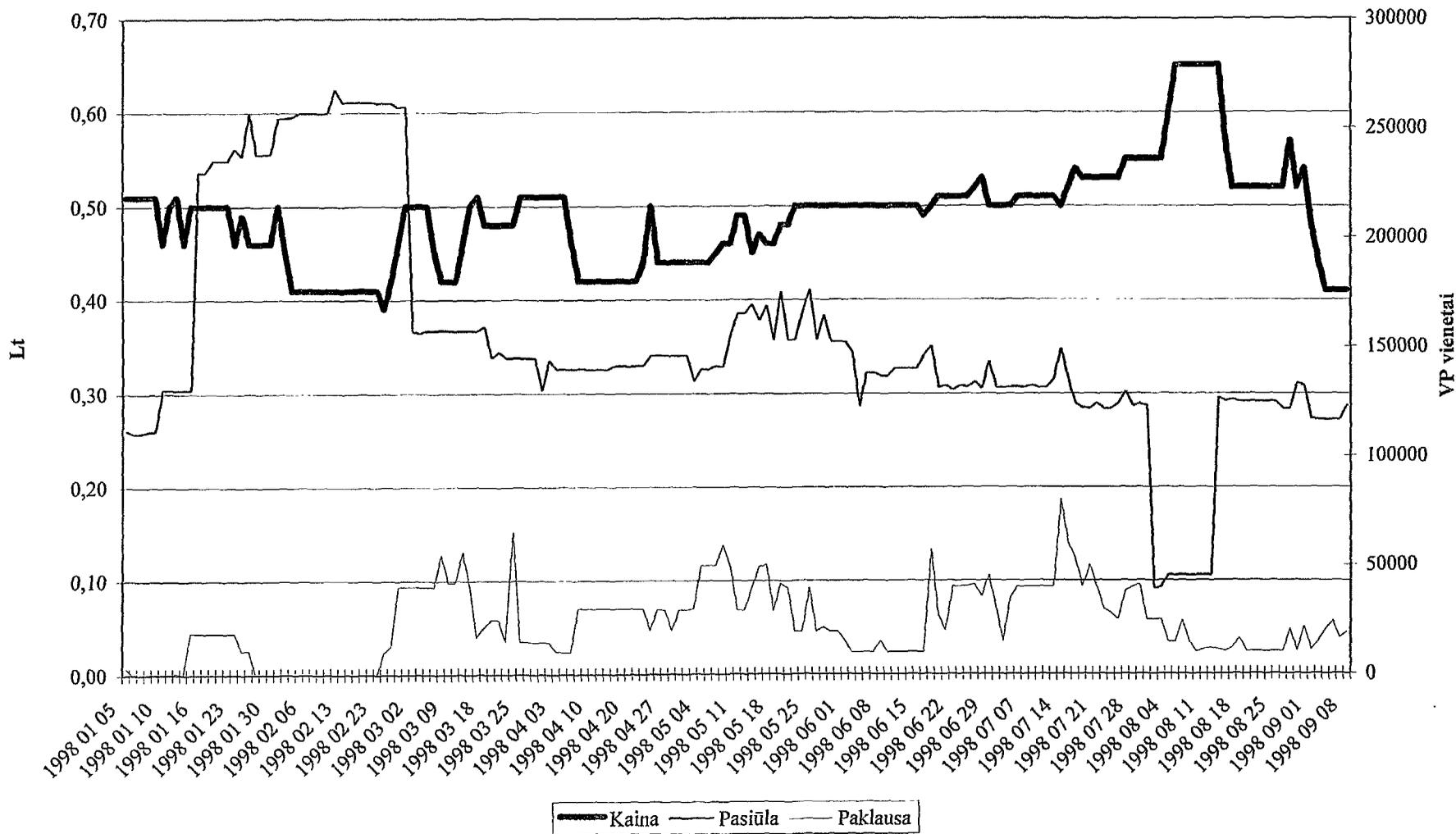
Panevėžio pienas PVA (Kaina ir paklausa/pasiūla)



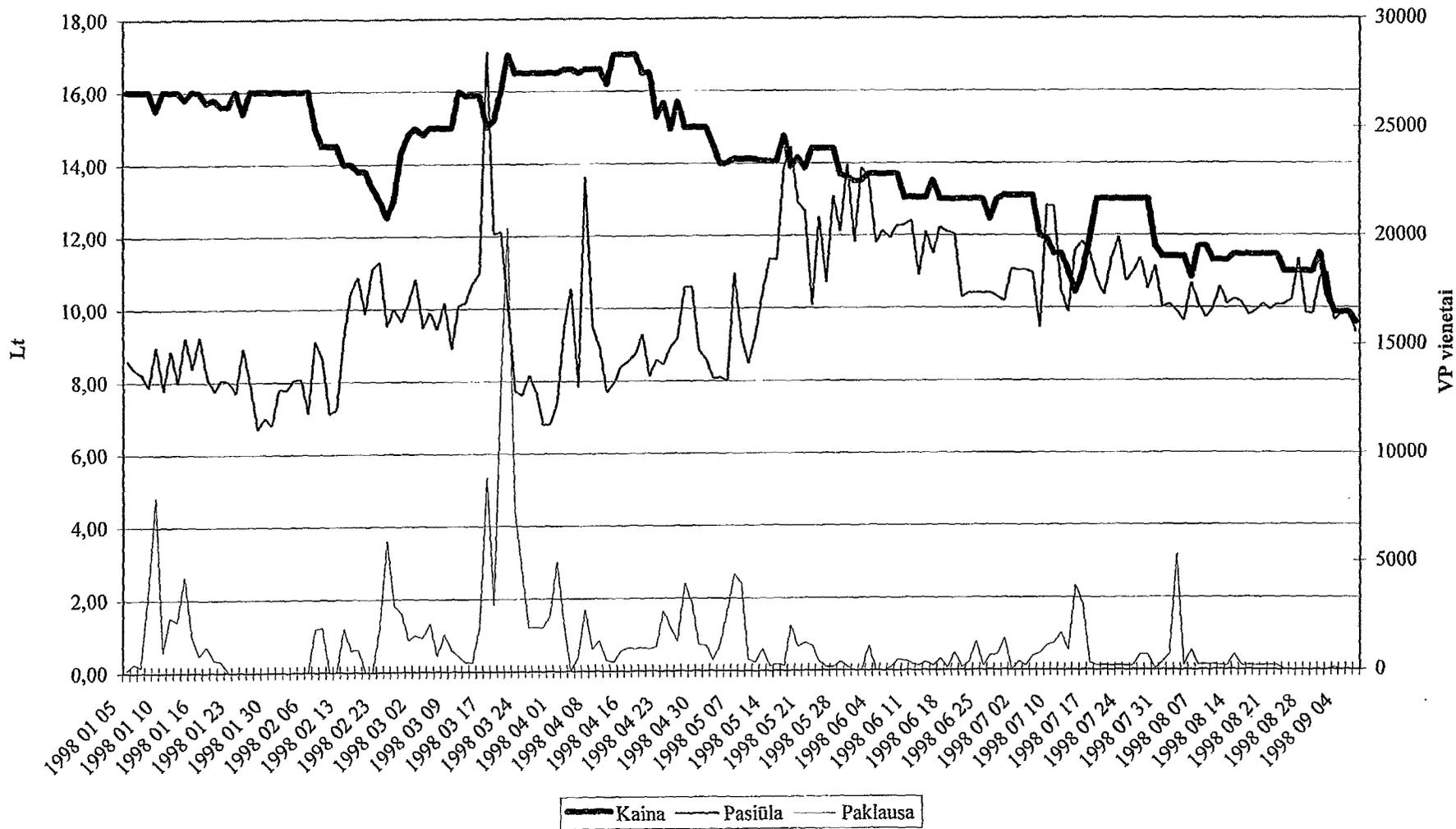
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Panevėžio statybos trestas PVA (Kaina ir paklausa/pasiūla)



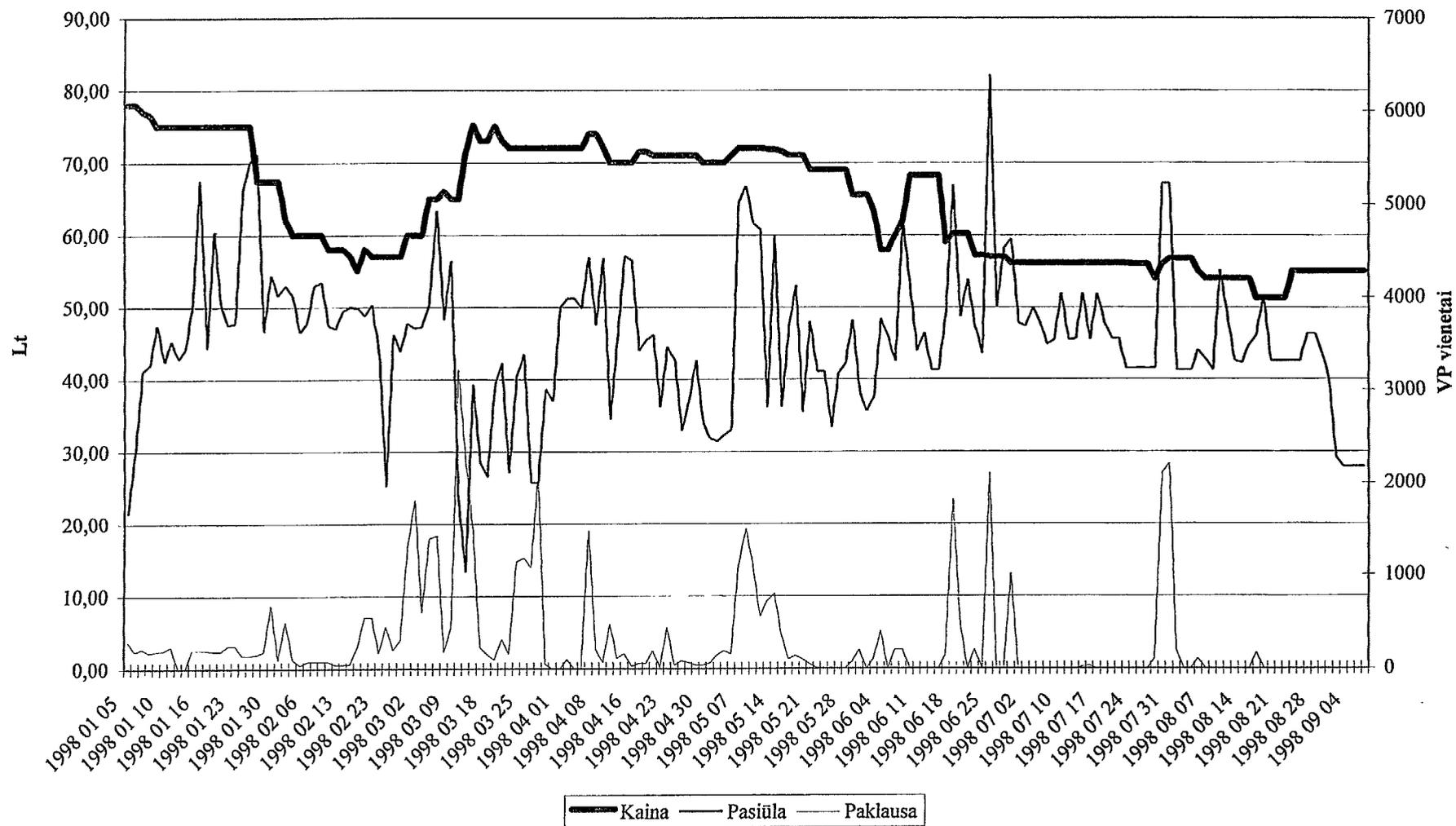
Ragutis PVA (Kaina ir paklausa/pasiūla)



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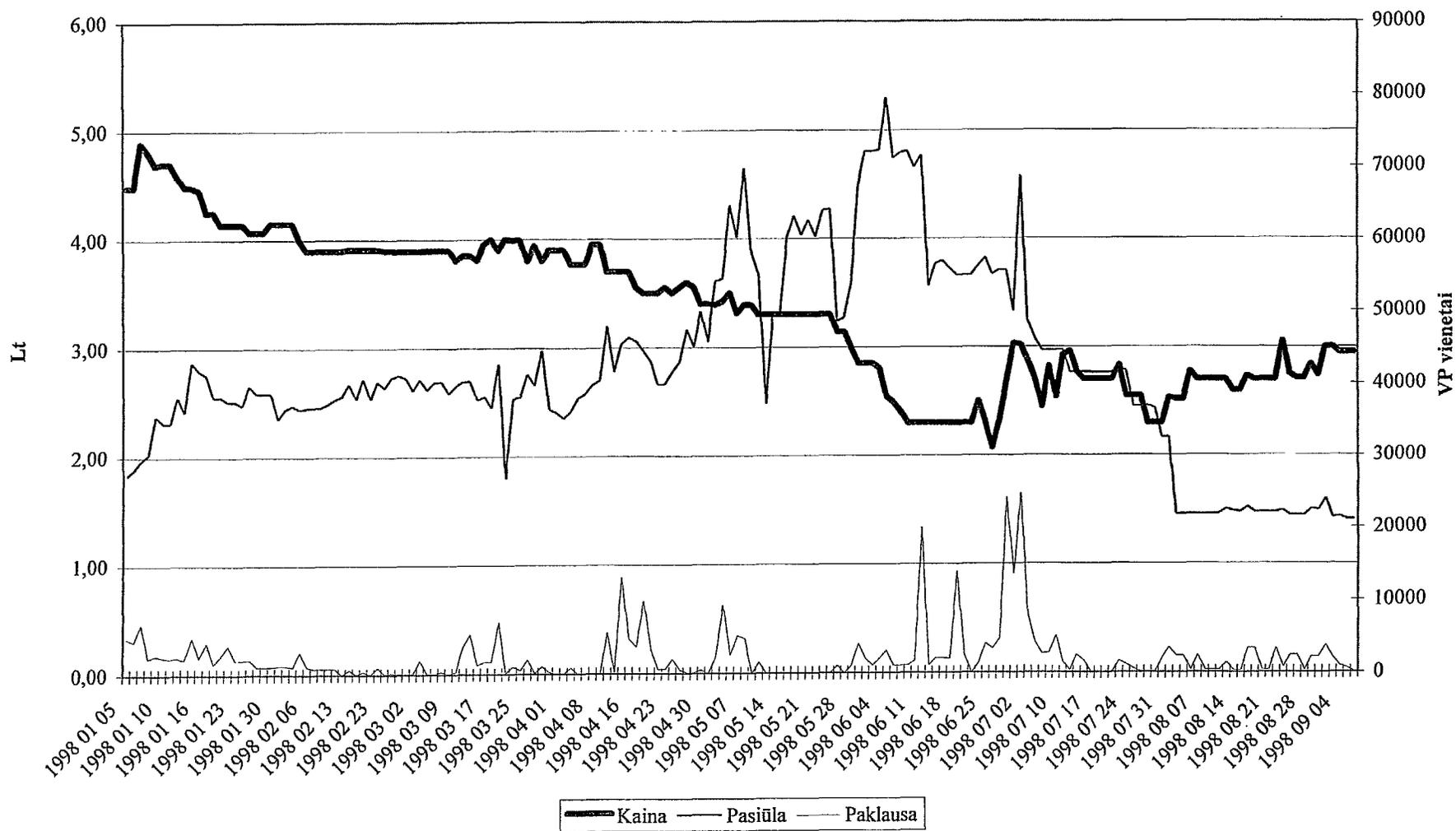
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### Sanitas PVA (Kaina ir paklausa/pasiūla)



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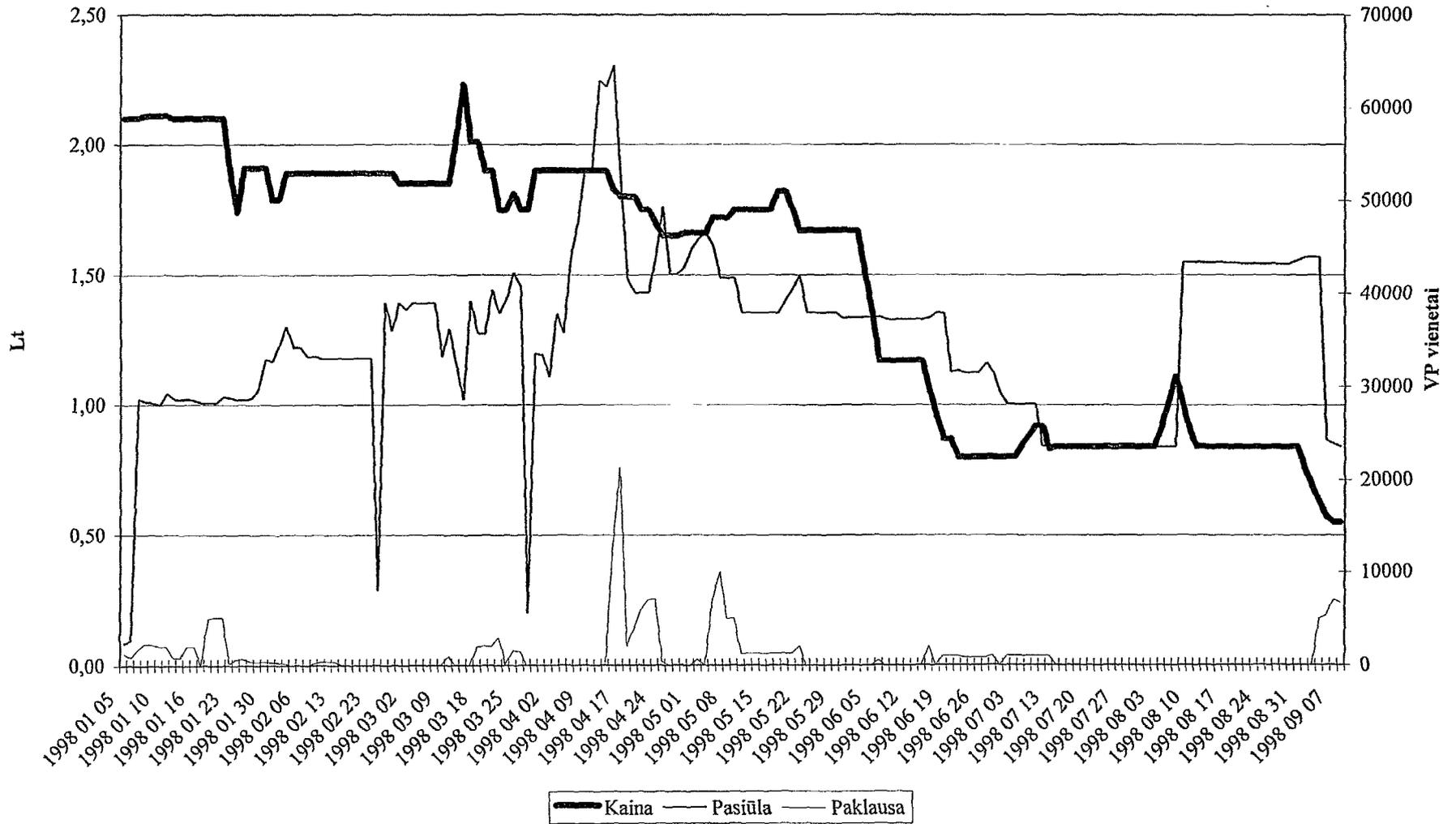
### Sema PVA (Kaina ir paklausa/pasiūla)



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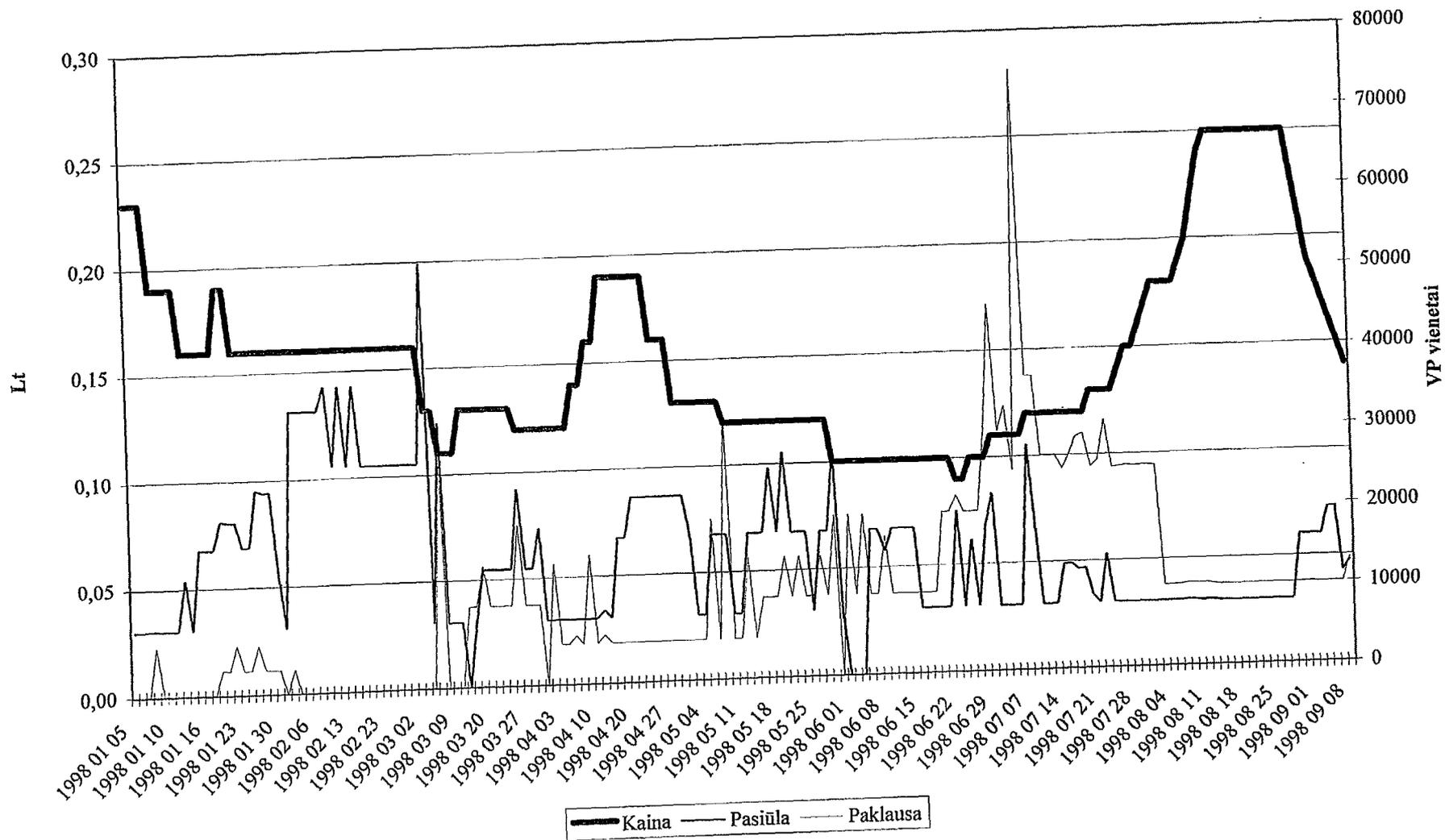
Stumbras PVA (Kaina ir paklausa/pasiūla)



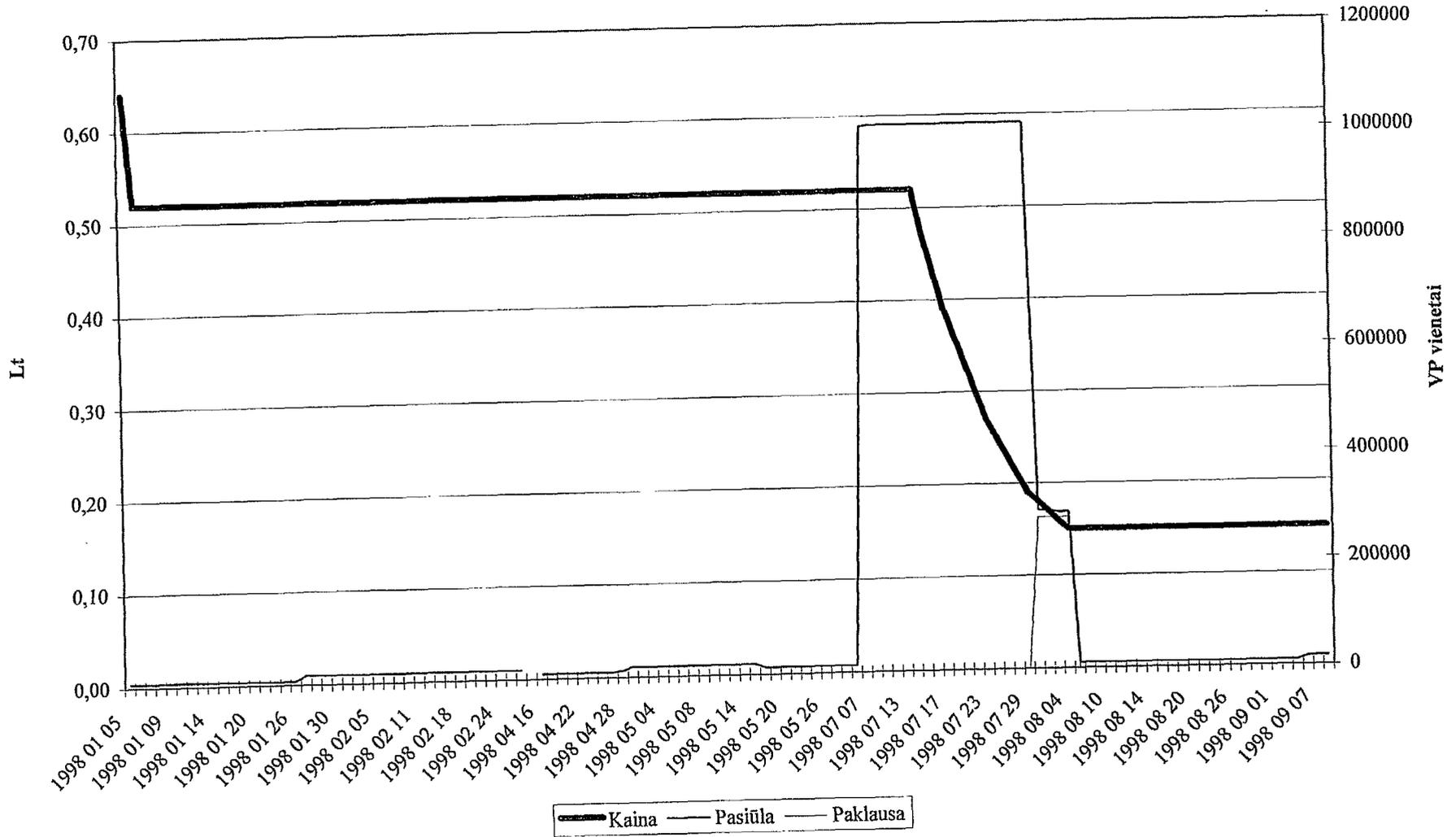
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### Šiaulių pienas PVA (Kaina ir paklausa/pasiūla)



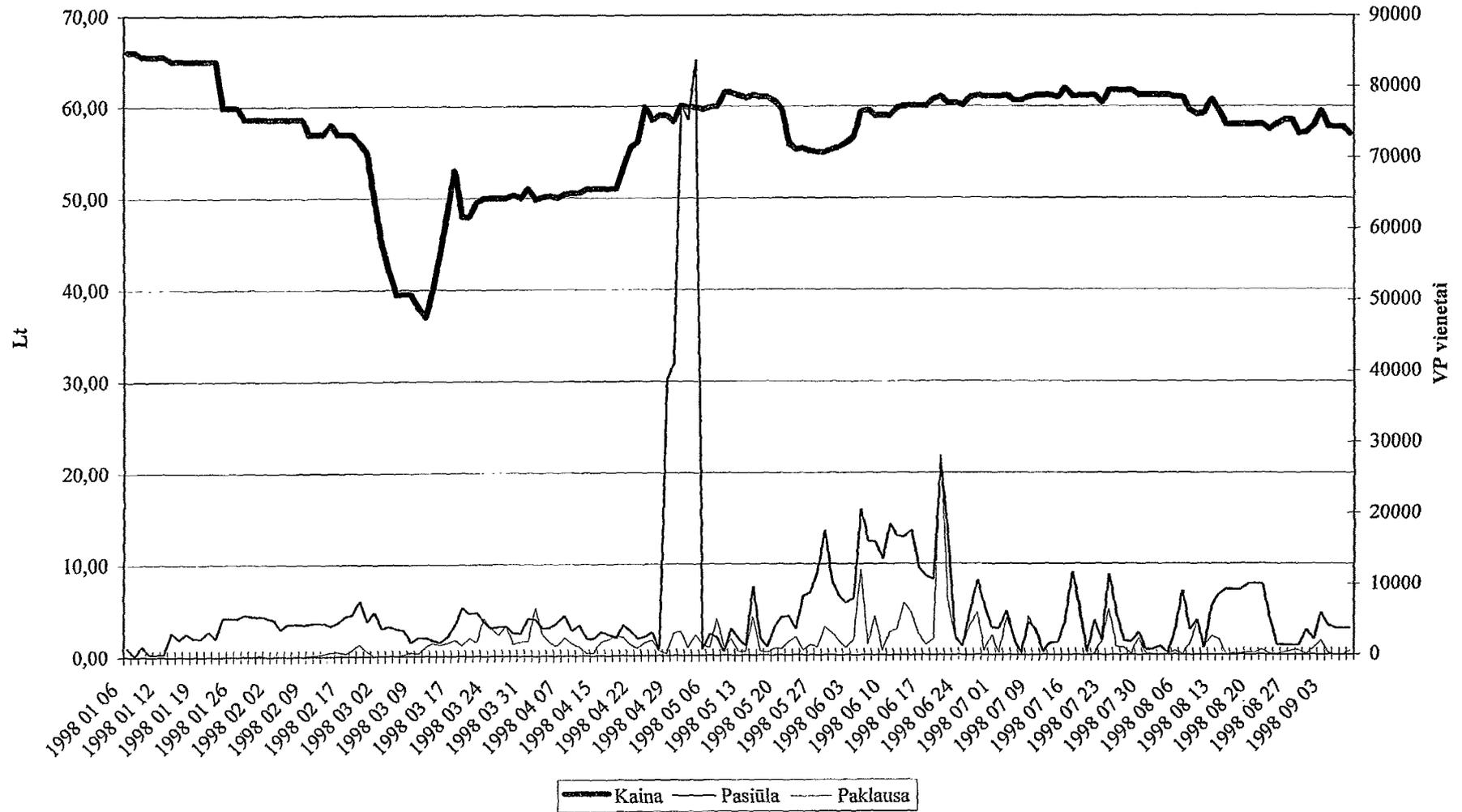
Šiaulių stumbras PVA (Kaina ir paklausa/pasiūla)



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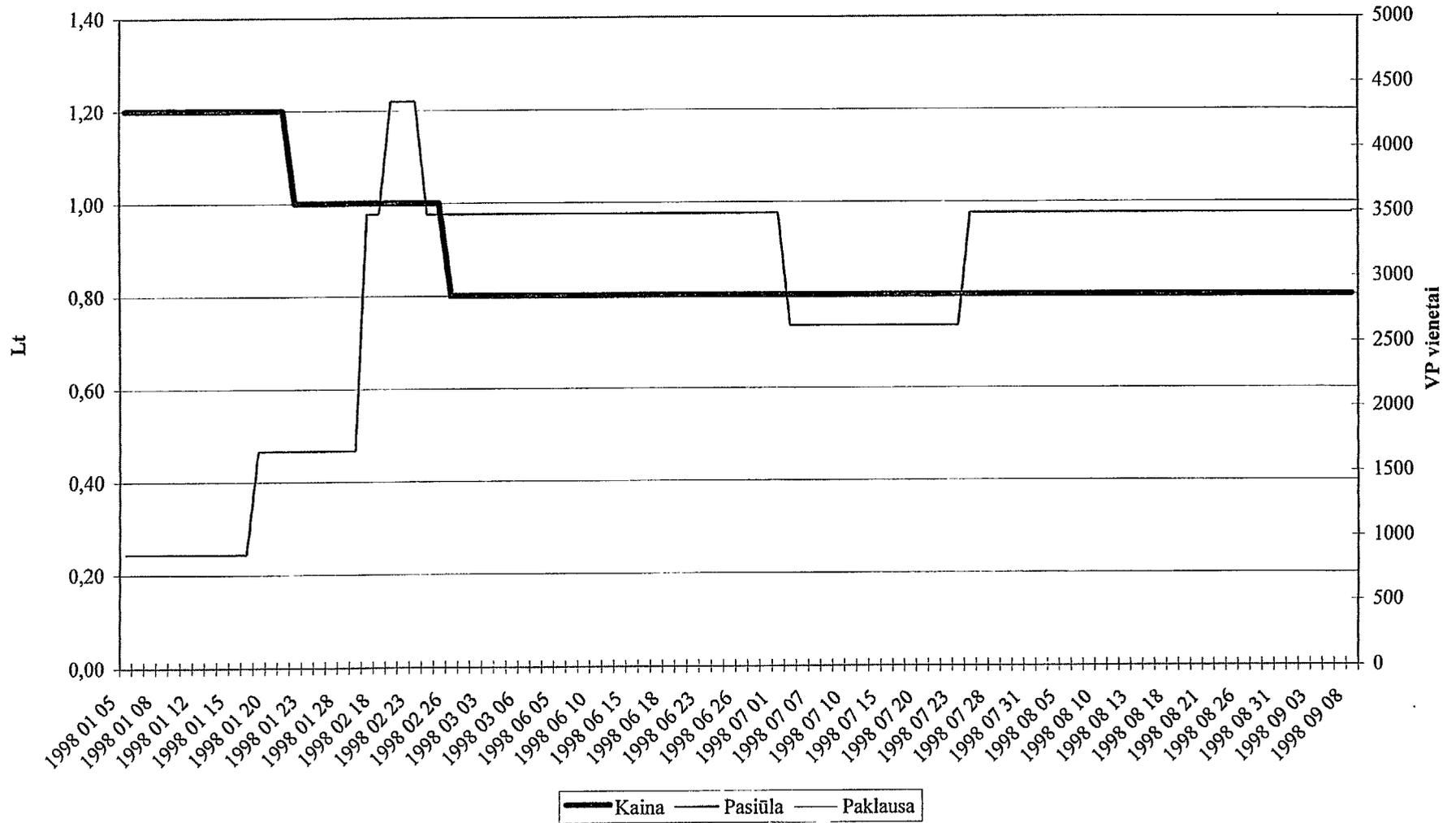
Švyturys PVA (Kaina ir paklausa/pasiūla)



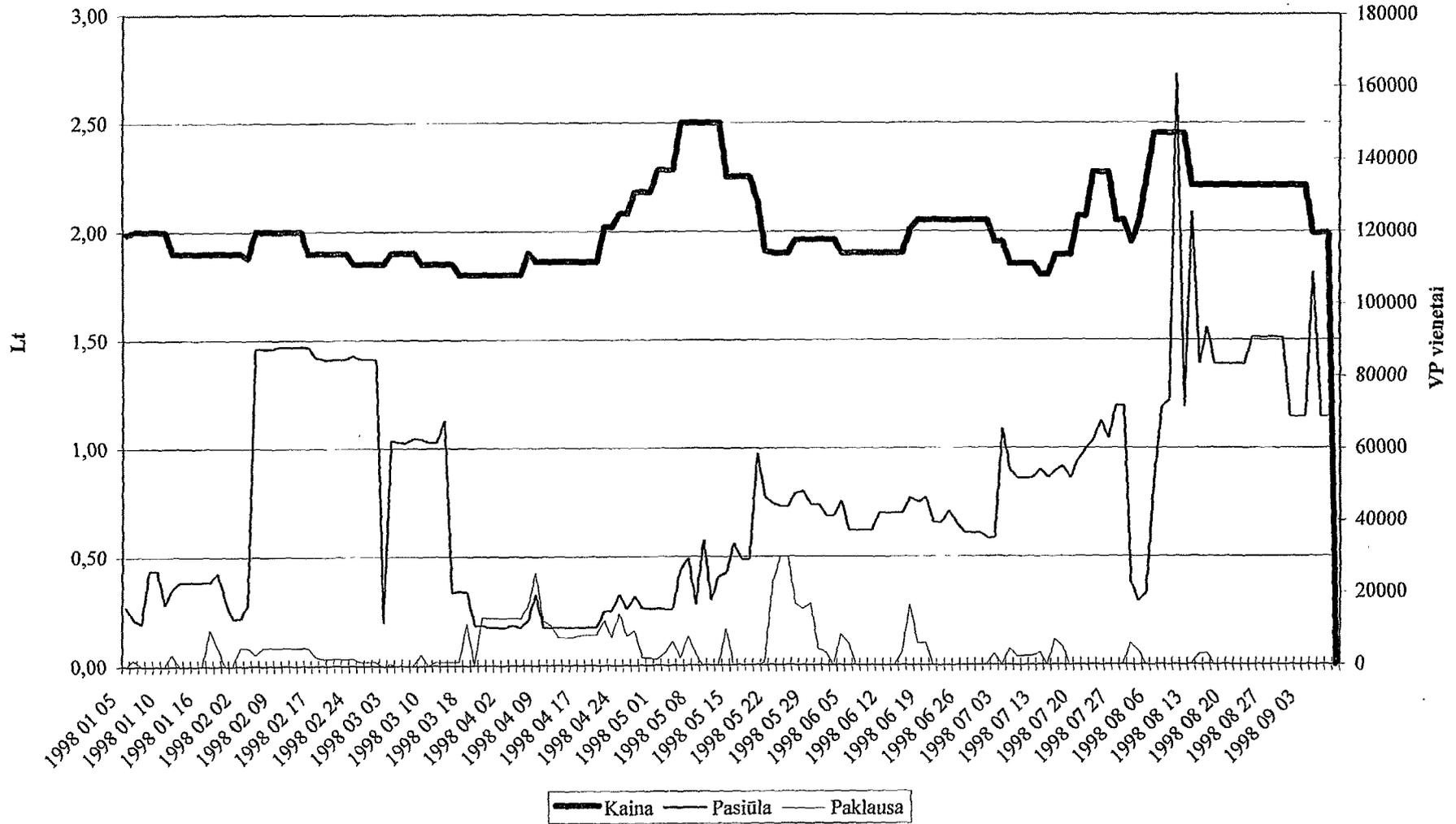
182

182

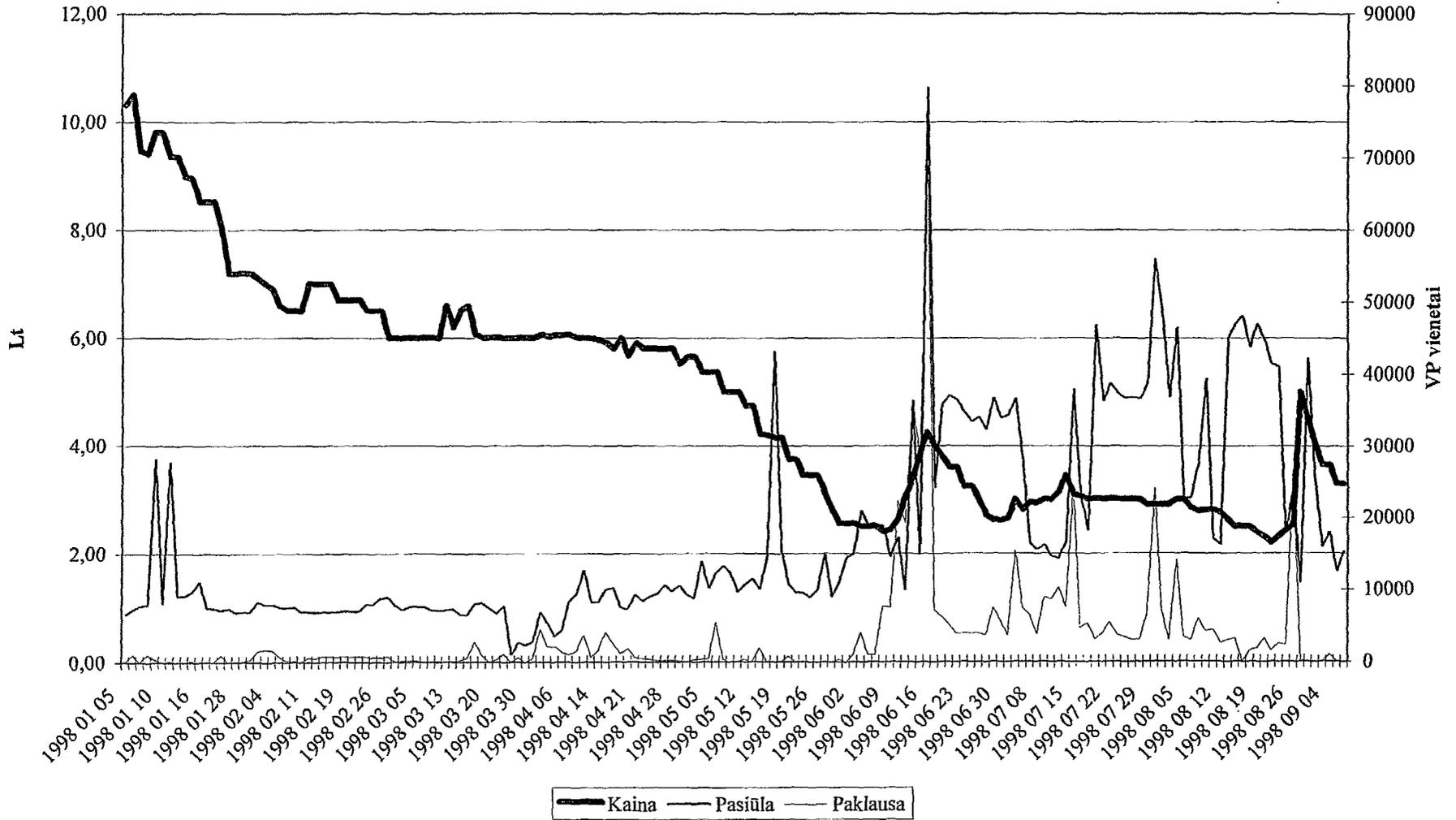
Trinyčiai PVA (Kaina ir paklausa/pasiūla)



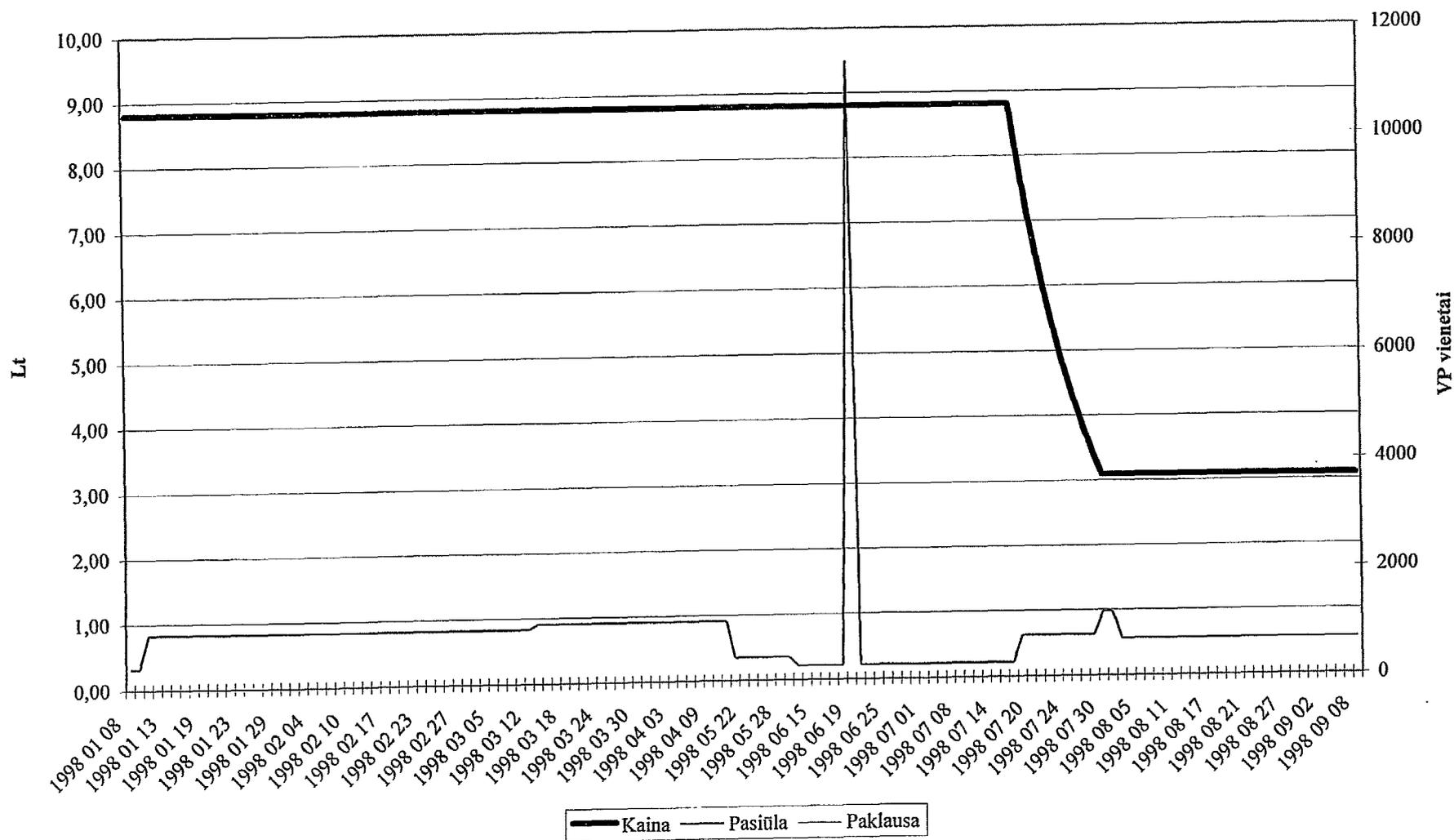
Utenos trikotažas PVA (Kaina ir paklausa/pasiūla)



Ūkio bankas PVA (Kaina ir paklausa/pasiūla)

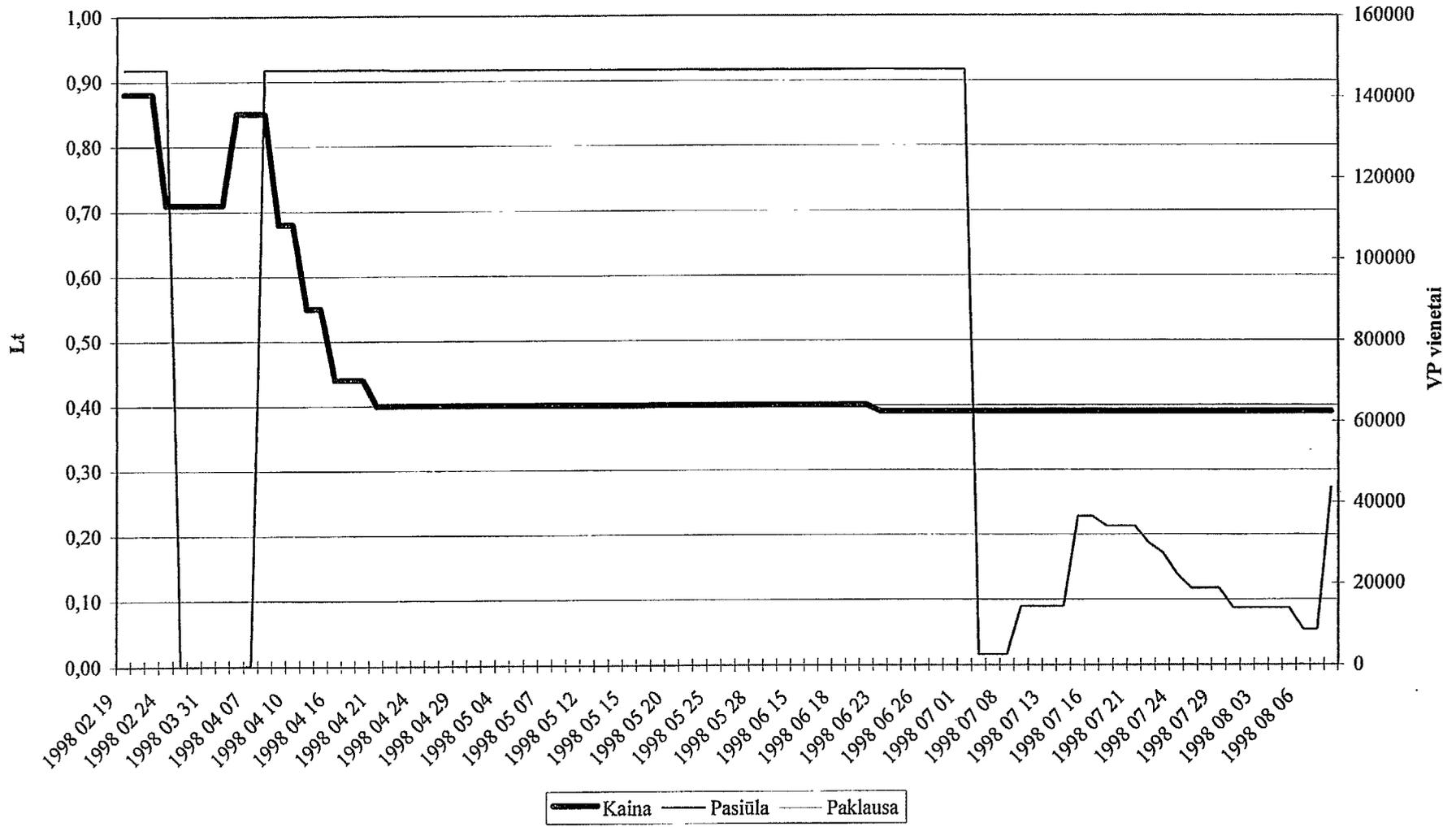


### Vilija PVA (Kaina ir paklausa/pasiūla)



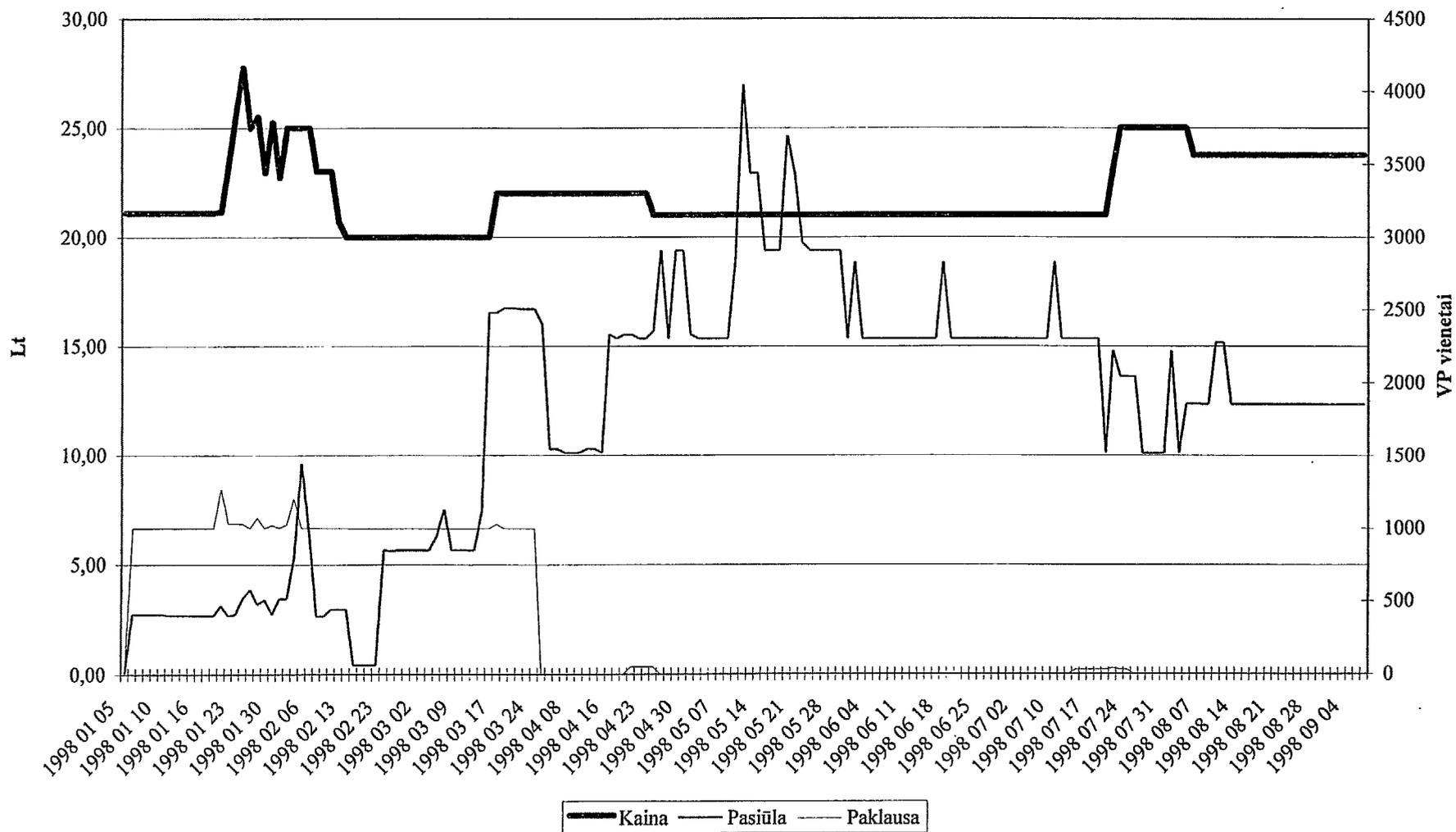
ab1

Vilkas PVA (Kaina ir paklausa/pasiūla)



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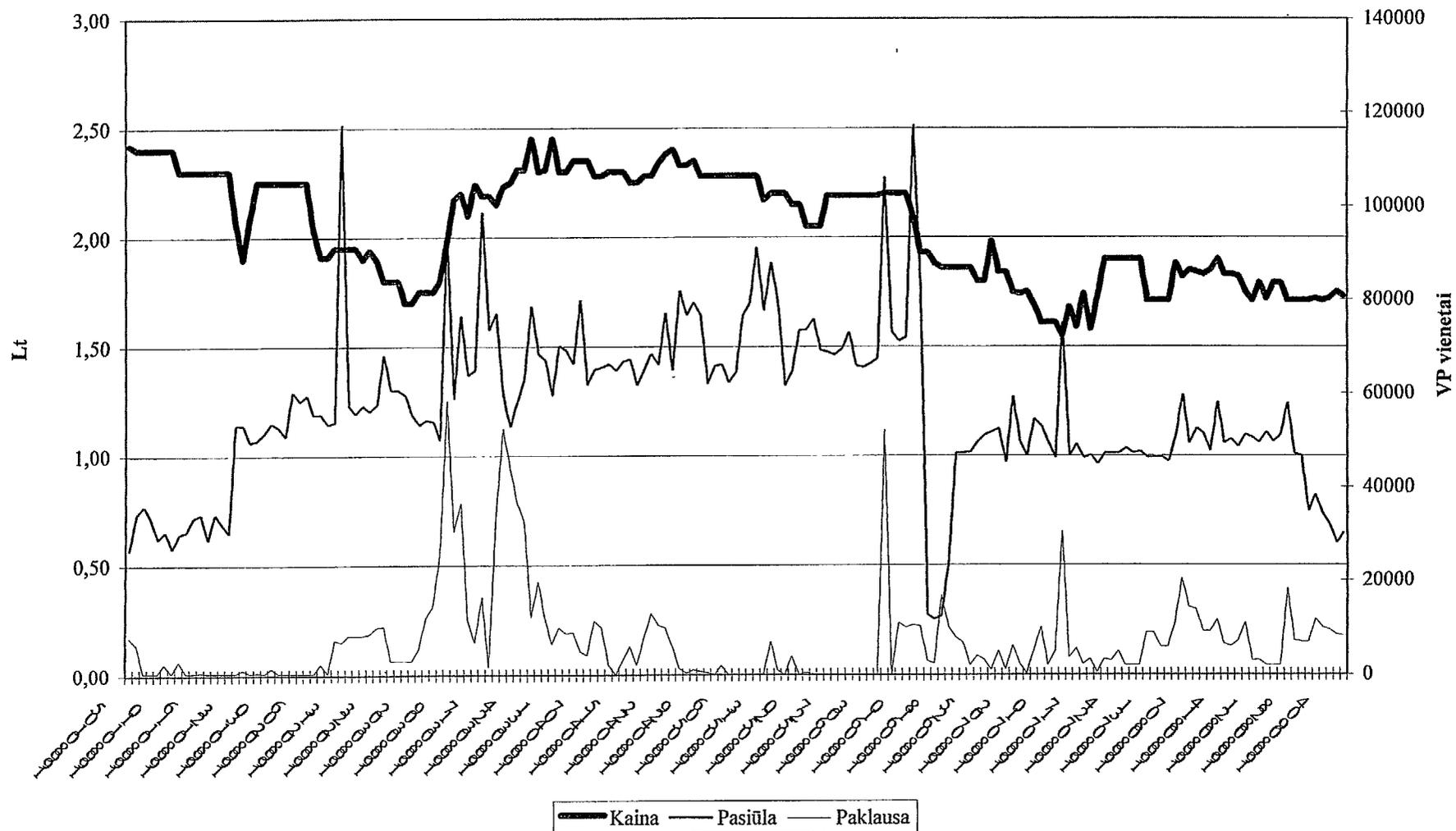
### Vilniaus pergalė PVA (Kaina ir paklausa/pasiūla)



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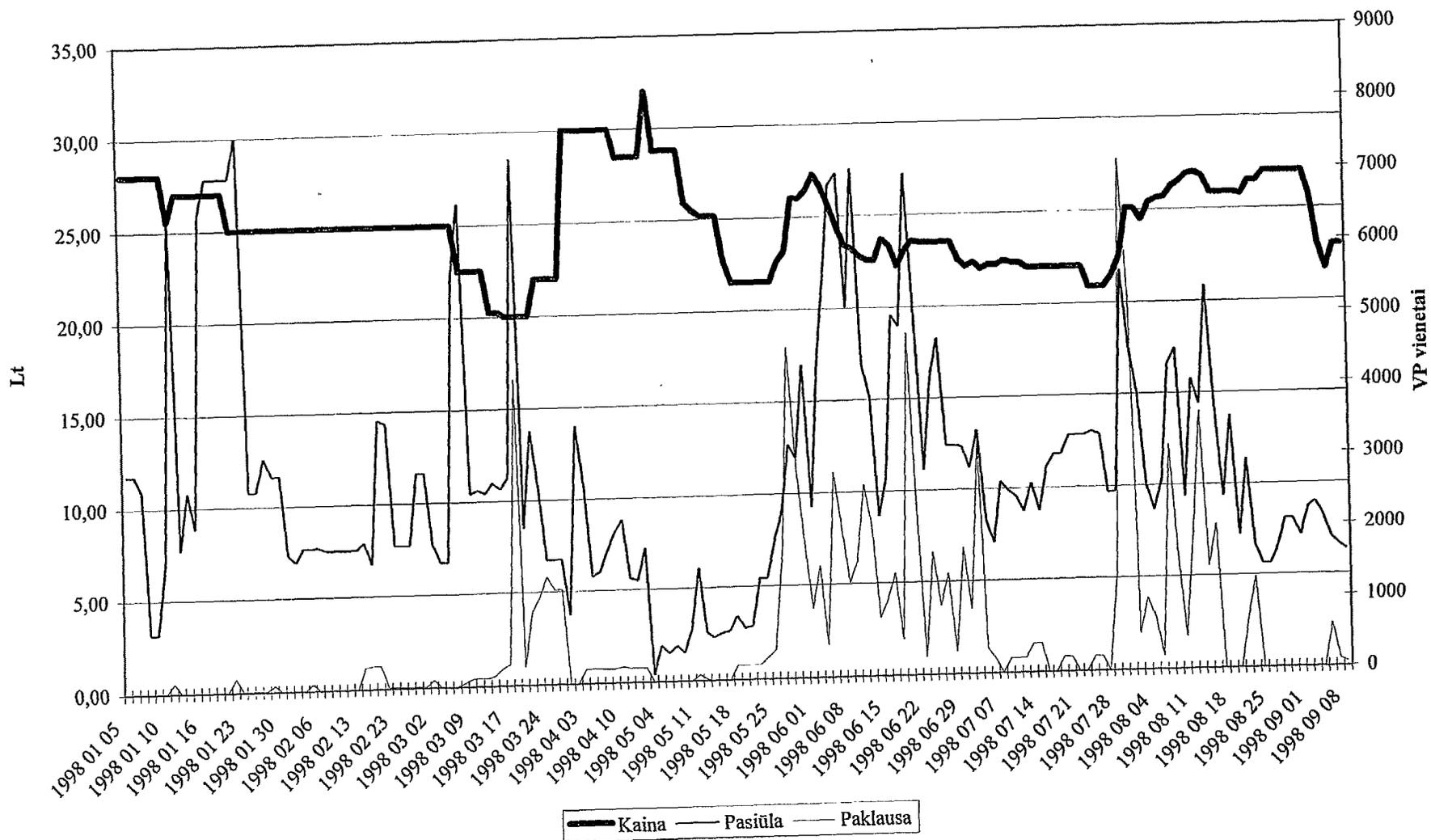
Vilniaus vingis PVA (Kaina ir paklausa/pasiūla)



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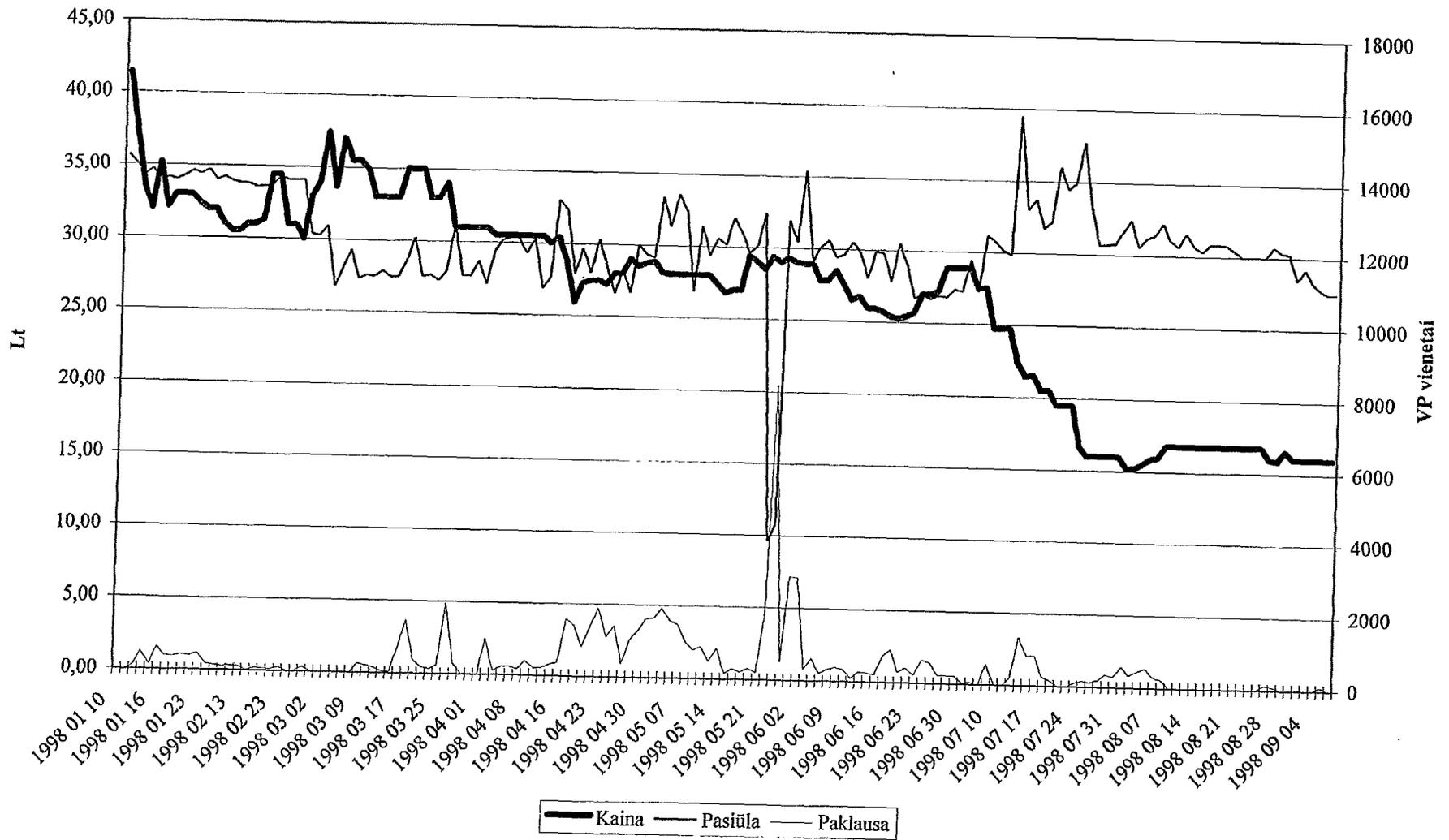
### Žemaitijos pienas PVA (Kaina ir paklausa/pasiūla)



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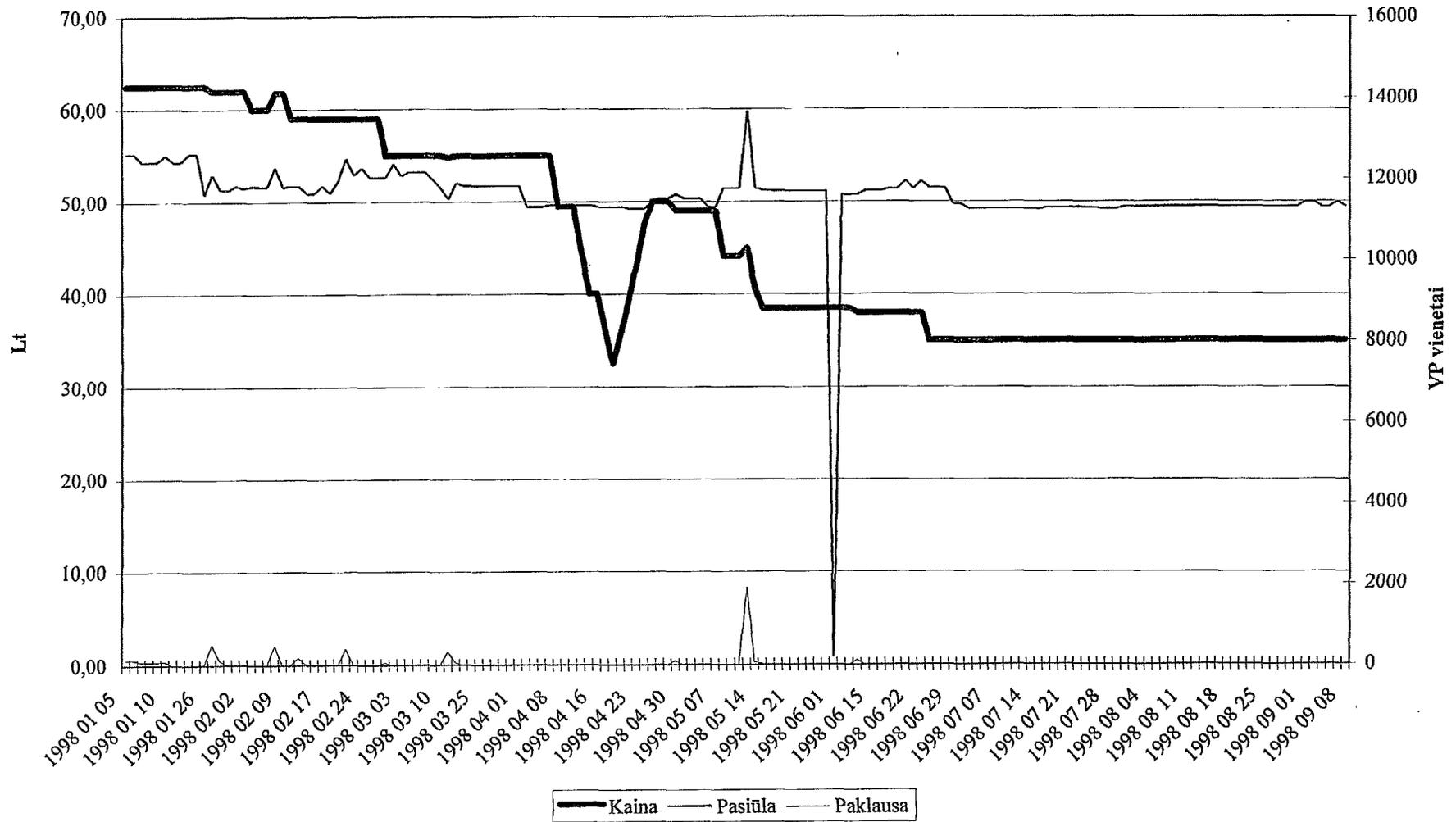
### Naftotiekis PVA (Kaina ir paklausa/pasiūla)



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Naftos terminalas PVA (Kaina ir paklausa/pasiūla)



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