



Exchange Regulation

Federal Act on Stock Exchanges and Securities Trading

(Stock Exchange Act, SESTA)

unofficial translation

Unrestricted

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Federal Act on Stock Exchanges and Securities Trading

954.1

(Stock Exchange Act, SESTA)
of March 24, 1995

Version: May 1, 2013

Unofficial translation

The Federal Assembly of the Swiss Confederation,

based on Art. 95 para. 1 and Art. 98 para. 1 and Art. 122 of the Federal Constitution^{1,2} and having considered the Dispatch of the Federal Council of 24 February 1993³,

decides:

Chapter 1: General Provisions

Art. 1 Objective

This Act sets the conditions for the establishment and operation of stock exchanges as well as for the professional trading in securities, in order to ensure transparency and equality of treatment of investors⁴. It provides the framework to ensure the proper functioning of the securities markets.

Art. 2 Definitions

For the purposes of this Act,

- a. *Securities* shall mean standardized certificates which are suitable for mass trading, rights not represented by a certificate with similar functions (book-entry securities) and derivatives;
- b. A *stock exchange* shall mean any organization which is set up for the purpose of securities trading and which enables the simultaneous exchange of offers of securities among a number of securities dealers, as well as the execution of transactions; trading systems which facilitate the exchange of electricity are also deemed to be stock exchanges;⁵

AS 1997 68

¹ SR 101

² Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS 2013 1103; BBl 2011 6873).

³ BBl 1993 I 1369

⁴ Alle Personenbezeichnungen des vorliegenden Gesetzes beziehen sich auf Personen beider Geschlechter.

⁵ Fassung gemäss Anhang Ziff. 4 des Stromversorgungsgesetzes vom 23. März 2007, in Kraft seit 1. Jan. 2008 (AS 2007 3425; BBl 2005 1611).

- c. *Listing* shall mean admission to trading on the principal or second exchange;
- d. A *securities dealer* shall mean any natural person, legal entity or partnership who buys and sells securities, in a professional capacity, on the secondary market, either for its own account with the intent of reselling them within a short period of time or for the account of third parties, or makes public offers of securities to the public on the primary market, or creates derivatives and offers them to the public;
- e. A *public offer* shall mean any offer to purchase or exchange shares, participation or bonus certificates or any other participation rights ("equity securities") which is made publicly to the holders of shares or other equity securities of Swiss companies whose equity securities are, in whole or in part, listed on an exchange in Switzerland.
- f. *Insider information* shall mean any confidential information whose disclosure may substantially influence the value of securities admitted to trading on a stock exchange or an institution which is similar to a stock exchange in Switzerland.⁶

Art. 2a⁷ Trading of Electricity on a Stock Exchange

¹ The Federal Council shall issue provisions concerning the trading of electricity on a stock exchange.

² It may empower the Swiss Financial Market Supervisory Authority (FINMA)⁸, in agreement with the Electricity Commission, to issue provisions on matters of limited scope, specifically on issues that are largely technical in nature.

Chapter 2: Stock Exchanges

Art. 3 Authorization

¹ The operation of a stock exchange is subject to authorization by FINMA.⁹

² Authorization shall be granted if:

- a. the stock exchange through regulations and its organizational structure ensures compliance with the provisions of this Act;
- b. the stock exchange and its senior officials are able to show that they have the necessary professional knowledge and give an assurance of proper business conduct;
- c. the governing bodies meet such minimum requirements as the Federal Council may set out.

³ The Federal Council shall set out the requirements to be met by foreign stock exchanges which intend to operate in Switzerland but have no registered office here.

⁶ Eingefügt durch Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁷ Eingefügt durch Anhang Ziff. 4 des Stromversorgungsgesetzes vom 23. März 2007, in Kraft seit 1. Jan. 2008 (AS **2007** 3425; BBl **2005** 1611).

⁸ Ausdruck gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829). Diese Änderung wurde im ganzen Erlass berücksichtigt.

⁹ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁴ The Federal Council may subject organizations which are similar to exchanges, in whole or in part, to this Act or exempt certain exchanges or similar organizations from the application of this Act whensoever justified by the objectives of the Act.

⁵ In the event that the requirements for authorization are altered subsequently, the stock exchange must seek the approval of FINMA for the continuation of its operations.

Art. 4 Self-regulation

¹ The stock exchange must undertake to ensure that it has an organizational structure in respect of its operations, administration and supervision that is appropriate to its activities.

² A stock exchange must submit its regulations and any amendments thereof to FINMA for approval.

Art. 5 Market Organization

¹ The stock exchange shall issue regulations which shall organize the market so as to achieve efficiency and transparency.

² The stock exchange shall maintain a daily chronological record of all transactions executed on it and of all transactions reported to it. In it, it shall in particular record the time of the transaction, the dealers who participated therein, the securities traded, the number or nominal value of the securities traded and the price.

³ The stock exchange shall ensure that all information necessary to maintain a transparent market is made public. This shall apply, in particular, to the prices at which securities have been traded, the volume of securities traded both on and off exchange, and the companies which are not subject to the obligation to make an offer pursuant to Articles 32 and 52 or for which the threshold has been raised above 33 1/3 percent.

Art. 6 Market Supervision

¹ The stock exchange shall supervise price formation, execution and settlement of transactions in such a manner so as to ensure that insider trading, price manipulation and other breaches of law may be detected.

² Whenever there is a suspicion of any breach of law or exchange regulations or any other irregularities, the stock exchange shall inform FINMA. FINMA shall order the necessary investigations.

Art. 7 Admission of Securities Dealers

The stock exchange shall issue regulations regarding the admission, duties and expulsion of securities dealers, which regulations shall reflect, in particular, the principle of equal treatment.

Art. 8 Admission of Securities

¹ The stock exchange shall issue regulations regarding the admission of securities to listing.

² The regulations shall contain provisions relating to the negotiability of securities and shall set out the information which shall be furnished to investors in order to enable them to form an opinion about the characteristics of the securities and the quality of the issuer.

³ The stock exchange shall take into account internationally recognized standards.

^{3bis} It shall make the admission of equity securities and bonds contingent up on compliance with Articles 7 and 8 of the Audit Oversight Act of 16 December 2005^{10, 11}

⁴ The stock exchange shall admit securities to listing upon the fulfillment of the conditions set out in the regulations.

Art. 9 Appeal Board

¹ The stock exchange shall set up an independent appeal board with which an appeal may be lodged regarding the rejection of an application for admission as a securities dealer or for the listing of securities or the expulsion of a securities dealer or the delisting of a security. The stock exchange shall set out rules governing the organization and procedures of such board.

² The organizational structure, the rules of procedure and the nomination of members shall be subject to the approval of FINMA.

³ The right to civil action, which may be taken only after the appeal procedure has been exhausted, remains reserved.

Chapter 3: Securities Dealers

Art. 10 Authorization

¹ Whosoever intends to carry out the activities of a securities dealer shall be subject to authorization by FINMA.

² Authorization shall be granted if :

- a. the organization and internal rules of the applicant are such as to ensure compliance with the duties under this Act;
- b. the applicant has the required minimum capital or has provided the required security;
- c. the applicant and its senior staff can show that they have the required professional knowledge; and
- d. the applicant, its senior staff and the principal shareholders can give an assurance of proper business conduct.

¹⁰ SR 221.302

¹¹ Eingefügt durch Anhang Ziff. 2 des Revisionsaufsichtsgesetzes vom 16. Dez. 2005, in Kraft seit 1. Sept. 2007 (AS 2007 3971; BBl 2004 3969).

³ The Federal Council shall set the minimum requirements for authorization to be granted. It shall, in particular, set the minimum capital requirement in respect of legal entities and the amount of the security required in respect of natural persons and partnerships.

⁴ The Federal Council shall set out the conditions for authorization to be granted to securities dealers who intend to operate in Switzerland but have neither a registered office nor a branch here.

⁵ If a securities dealer is part of a financial group or financial conglomerate, the conditions for authorization of the Banking Act of 8 November 1934¹² on financial groups and financial conglomerates apply mutatis mutandis.¹³

⁶ In the event that the conditions for such authorization are altered subsequently, the securities dealer shall seek the approval of FINMA for the continuation of its operations.

⁷ Only natural persons, legal entities or partnerships which have received authorization from FINMA to operate as securities dealers may use the term "securities dealer" in their company name or in the description of their business purpose or in any business advertisement.

Art. 10^{bis14} Payment Systems and Securities Settlement Systems

¹ FINMA may subject the operator of a system pursuant to Article 19 of the National Bank Act of 3 October 2003¹⁵ to the provisions of the Stock Exchange Act and issue that operator with a securities trading licence.

² It shall issue the securities trading licence only on condition that both the conditions for authorization of this Act and the extended duties to provide information and minimum requirements laid down by the National Bank are complied with on a permanent basis.

³ It may exempt a system operator from certain provisions of the Act and order that the operator be subject to more lenient or more stringent conditions to take account of the operator's particular business activities and risk situation.

Art. 11 Rules of conduct

¹ A securities dealer has vis à vis his clients :

- a. a duty of disclosure; he shall in particular inform them of the risks associated with certain types of transactions;
- b. a duty of diligence; he shall in particular ensure the best possible execution of his clients' orders and that they are able to retrace the steps taken in the execution of their orders;
- c. a duty of loyalty; he shall ensure that in the event of any potential conflict of interests his clients interests are not adversely affected.

¹² SR 952.0

¹³ Fassung gemäss Anhang Ziff. II 7 des Versicherungsaufsichtsgesetzes vom 17. Dez. 2004, in Kraft seit 1. Jan. 2006 (AS 2005 5269; BBl 2003 3789).

¹⁴ Eingefügt durch Anhang Ziff. II 6 des Nationalbankgesetzes vom 3. Okt. 2003, in Kraft seit 1. Mai 2004 (AS 2004 1985; BBl 2002 6097).

¹⁵ SR 951.11

² In discharging these duties the clients' business expertise and professional knowledge shall be taken into account.

Art. 11a¹⁶ Pledge agreements

Article 17¹⁷ of the Banking Act of 8 November 1934¹⁸ shall apply accordingly.

Art. 12 Own funds

¹ A securities dealer must have a sufficient amount of own funds available.

² The Federal Council shall set out the minimum own funds requirement, taking into account the risks associated with a securities dealer's operations, including off-balance sheet transactions. The Federal Council shall determine the extent to which banks must also meet the minimum own fund requirement.

Art. 13 Risk diversification

¹ A securities dealer must diversify his risks in an appropriate manner.

² The Federal Council shall set the limits of such risks and the add-ons to the own funds necessary to cover them and shall determine the extent to which such rules are applicable to banks.

Art. 14 Consolidation

The provisions of the Banking Act of 8 November 1934¹⁹ on financial groups and financial conglomerates apply mutatis mutandis.²⁰

Art. 15 Daily record and reporting requirements

¹ The securities dealer shall keep a daily record of orders received and of transactions carried out in which all information necessary to enable the reconstruction of the transactions and the supervision of his operations shall be recorded.

² The securities dealer must report all the information necessary to ensure a transparent market.

¹⁶ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBI **2006** 2829).

¹⁷ Dieser Artikel ist aufgehoben. Siehe heute: das Bucheffektengesetz vom 3. Okt. 2008 (SR **957.1**).

¹⁸ SR **952.0**

¹⁹ SR **952.0**

²⁰ Fassung gemäss Anhang Ziff. II 7 des Versicherungsaufsichtsgesetzes vom 17. Dez. 2004, in Kraft seit 1. Jan. 2006 (AS **2005** 5269; BBI **2003** 3789).

³ FINMA shall determine the type of information to whom it shall be reported and the manner in which it shall be communicated.

⁴ The Federal Council may impose the reporting requirement pursuant to para. 2 upon persons and companies which buy and sell securities in a professional capacity but without using a securities dealer when the objective of this Act so requires. Any such company must instruct a licensed audit company²¹ to examine as to whether the reporting requirement is complied with; the company must provide Supervisory Authority with the information it requires.

Art. 16²² Accounts

¹ The provisions of the Banking Act of 8 November 1934²³ on accounts for banks apply likewise to securities dealers.

² The Federal Council may derogate from paragraph 1 if the characteristics of the securities trading business justify this.

Art. 17²⁴ Audit

Articles 18 and 23 of the Banking Act of 8 November 1934²⁵ apply accordingly.

Art. 18 and Art. 19²⁶

Chapter 4: Disclosure of Shareholdings

Art. 20 Obligation to notify

¹ Whosoever directly or indirectly or acting in concert with third parties acquires or sells for their own account securities or purchase or sale rights relating to securities in a company domiciled in Switzerland whose equity securities are listed in whole or in part in Switzerland, or a company not domiciled in Switzerland whose equity securities are mainly listed in whole or in part in Switzerland, and thereby attains, falls below or exceeds the threshold percentages of 3, 5, 10, 15, 20, 25, 33⅓, 50 or 66⅔ of voting rights,

²¹ Ausdruck gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBI **2006** 2829). Diese Änderung wurde im ganzen Erlass berücksichtigt.

²² Fassung gemäss Anhang Ziff. 8 des BG vom 23. Dez. 2011 (Rechnungslegungsrecht), in Kraft seit 1. Jan. 2013 (AS **2012** 6679; BBI **2008** 1589).

²³ SR **952.0**

²⁴ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBI **2006** 2829).

²⁵ SR **952.0**

²⁶ Aufgehoben durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, mit Wirkung seit 1. Jan. 2009 (AS **2008** 5207 5205; BBI **2006** 2829).

whether or not such rights may be exercised, must notify the company and the stock exchanges on which the equity securities in question are listed.²⁷

² The conversion of participation or bonus certificates into shares and the exercise of conversion or share acquisition rights shall be considered equivalent to an acquisition for the purposes of this Act. Similarly, the exercise of sale rights shall be considered equivalent to a sale for the purposes of this Act.²⁸

^{2bis} Especially transactions involving financial instruments which economically enable the acquisition of equity securities in view of a public offer shall constitute an indirect acquisition.²⁹

³ A group organized pursuant to an agreement or otherwise shall comply with the obligation to notify laid down in para. 1 as a group and shall disclose:

- a. its total holdings;
- b. the identity of its members;
- c. the nature of the agreement;
- d. the representation.

⁴ If a company or stock exchange has reason to believe that a shareholder is in breach of the obligation to notify, it shall inform FINMA of such fact.

^{4bis} ... 30

⁵ FINMA shall issue rules relating to the scope of the obligation to notify, the treatment of share acquisition and sale rights, the calculation of voting rights and the time limits within which the obligation to notify must be fulfilled and a company must publish changes in its ownership structure pursuant to para. 1. The Takeover Board shall have the right to put forward proposals. Taking into account internationally recognised standards, FINMA may provide for exceptions to reporting or publication obligations for banks and securities dealers.³¹

⁶ Whosoever intends to acquire securities may obtain a ruling from FINMA as to whether or not they will be subject to the obligation to notify.

Art. 21 Duty of the company to inform

The company shall be obliged to publish the information which it receives in respect of changes in the voting rights.

²⁷ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

²⁸ Fassung gemäss Ziff. I des BG vom 22. Juni 2007, in Kraft seit 1. Dez. 2007 (AS **2007** 5291; BBl **2006** 2829).

²⁹ Eingefügt durch Ziff. I des BG vom 22. Juni 2007, in Kraft seit 1. Dez. 2007 (AS **2007** 5291; BBl **2006** 2829).

³⁰ Eingefügt durch Ziff. I des BG vom 22. Juni 2007 (AS **2007** 5291; BBl **2006** 2829). Aufgehoben durch Ziff. I des BG vom 28. Sept. 2012, mit Wirkung seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

³¹ Fassung gemäss Ziff. I des BG vom 22. Juni 2007, in Kraft seit 1. Dez. 2007 (AS **2007** 5291; BBl **2006** 2829).

Chapter 5: Public Offers

Art. 22 Scope of the Act

¹ The provisions of this chapter and of Articles 52 and 53 apply to public offers for investments in offeree companies:

- a. domiciled in Switzerland whose equity securities are in whole or in part listed in Switzerland;
- b. not domiciled in Switzerland whose equity securities are in whole or in part mainly listed in Switzerland.³²

^{1bis} If both Swiss law and a foreign law are simultaneously applicable to a public offer, the provisions of Swiss law may be relinquished providing that:

- a. the application of Swiss law would lead to a conflict with the foreign law, and
- b. the protection provided by the foreign law to the investor is equivalent to that provided by Swiss law.³³

² Companies may, prior to their equity securities being admitted to official listing on a stock exchange in accordance with para. 1, state in their articles of association that an offeror shall not be bound by the obligation to make a public offer pursuant to Articles 32 and 52.

³ A company may at any time adopt a provision pursuant to para. 2 in its articles of association, provided that this does not prejudice the interests of shareholders within the meaning of Article 706 of the Code of Obligations³⁴

Art. 23 Takeover Board

¹ FINMA shall after consulting the stock exchanges, appoint a commission for public offers (Takeover Board). This Takeover Board shall consist of expert representatives of securities dealers, listed companies and investors. The organizational structure and procedures of the Takeover Board shall be submitted to FINMA for approval.

² The rules which are to be issued by the Takeover Board pursuant to this Act shall be submitted to the approval of FINMA.

³ The Takeover Board shall, in each case, ensure compliance with the rules applicable to public offers.³⁵

⁴ It shall report to FINMA once a year on its activities.³⁶

⁵ The stock exchanges shall bear the costs of the Takeover Board. The Takeover Board may levy fees on the offeror and offeree companies and on shareholders who are parties.³⁷

³² Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

³³ Eingefügt durch Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

³⁴ SR **220**

³⁵ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

³⁶ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

³⁷ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

Art. 24 Duties of the offeror

- ¹ The offeror shall publish the offer in a prospectus containing true and complete information.
- ² The offeror shall treat all holders of equity securities of the same class equally.
- ³ The offeror's obligations shall be incumbent upon all who act in concert with the former.

Art. 25 Review of the offer

- ¹ The offeror shall, prior to publication, submit the offer to an auditing company licensed by FINMA or to a securities dealer for review.
- ² The reviewing entity shall verify that the offer is in conformity with the law and the implementing provisions.

Art. 26 Right of rescission of the seller

The seller may repudiate a contract or rescind an executed sale if such contracts were concluded or fulfilled pursuant to a prohibited offer.

Art. 27 Announcement of the result of the offer and extension of the offer period

- ¹ The offeror shall publish the result of the public offer upon expiry of the offer period.
- ² In the event that the conditions of the offer are met, the offeror shall be under an obligation to extend the offer period for those holders of shares and other equity securities who have not yet accepted the offer.

Art. 28 Additional rules

The Takeover Board shall set out additional rules relating to:

- a. the announcement of an offer prior to its publication;
- b. the contents and the publication of the prospectus as well as the conditions to which an offer can be subjected;
- c. the rules of fairness applicable to public offers;
- d. the review of the offer by an auditing company or a securities dealer;
- e. the offer period and any extension thereof, the conditions under which the offer may be withdrawn or modified and the period within which a seller may withdraw;
- f. actions taken in concert with third parties;
- g. its procedures³⁸.

³⁸ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

Art. 29 Duties of the offeree companies

¹ The board of directors of the offeree company (Art. 22 para. 1) shall submit a report to the holders of equity securities setting out its position in relation to the offer. The information provided by the offeree company shall be true and complete. The board of directors of the offeree company shall publish such report.

² From the moment an offer is published until the result is announced, the board of directors of the offeree company shall not enter into any legal transactions which would have the effect of altering significantly the assets or liabilities of the company. Decisions taken by the general meeting of shareholders are not subject to this restriction and may be implemented irrespective of whether they were adopted before or after publication of the offer.

³ The Takeover Board shall issue rules concerning the report to be issued by the board of directors of the offeree company and any measures which are directed, in an improper manner, at frustrating an offer or preventing it from being successful.

Art. 30 Competing offers

¹ If competing offers are made for the equity securities of the offeree company, the holders of equity securities in the offeree company must be free to choose which offer they accept.

² The Takeover Board shall issue rules relating to competing offers and their effect upon the first offer.

Art. 31 Obligation to notify

¹ The offeror or whosoever has, directly, indirectly or acting in concert with third parties, holdings which give him at least 3 percent of the voting rights, whether or not such rights may be exercisable, of the offeree company or, as the case may be, of another company whose equity securities are being offered in exchange shall, from the time an offer is published until the expiry of the offer period, be obliged to notify the Takeover Board and the stock exchanges on which the securities are listed of any acquisition or sale of equity securities of such company.³⁹

² A group organized pursuant to an agreement or otherwise shall comply with the obligation to notify referred to in para. 1 as a group.

³ The Takeover Board may subject any person to the same obligation who, from the time an offer is published until the expiry of the offer period, purchases or sells, directly, indirectly or acting in concert with third parties, a certain percentage of the equity securities of the offeree company or of another company whose equity securities are being offered in exchange.

⁴ In the event that the company or the stock exchanges have reason to believe that a shareholder is in breach of his obligation to notify, they shall inform the Takeover Board of such fact.

⁵ The Takeover Board shall issue rules as to the form and time limit allowed for notification and as to the percentage relevant for the application of para. 3.

³⁹ Fassung gemäss Ziff. I des BG vom 22. Juni 2007, in Kraft seit 1. Dez. 2007 (AS 2007 5291; BBl 2006 2829).

Art. 32 Obligation to make an offer

¹ Whosoever, directly, indirectly or acting in concert with third parties, acquires equity securities which, added to equity securities already owned, exceed the threshold of 33 1/3 percent of the voting rights of an offeree company whether or not such rights may be exercisable shall be under an obligation to make an offer to acquire all listed equity securities of the company. An offeree company may raise this threshold in its articles of association to 49 percent of the voting rights.

² In justified cases, the Takeover Board may grant exemptions from the obligation to make an offer, in particular in the following cases:⁴⁰

- a. where the transfer of voting rights occurs within a group organized pursuant to an agreement or otherwise. In such a case, only the group as such shall be subject to the obligation to make an offer;
- b. where the threshold is exceeded as a result of a decrease in the total number of voting rights of the company;
- c. where the threshold is exceeded only temporarily;
- d. where the securities have been acquired without consideration or on exercise of pre-emptive rights pursuant to a share capital increase;
- e. where the securities have been acquired for reorganization purposes.

³ The obligation to make an offer shall not apply if the voting rights have been acquired as a result of a donation, succession or partition of an estate, matrimonial property law or execution proceedings.

⁴ The price offered shall be at least as high as the higher of the following two amounts:

- a. the stock exchange price;
- b. the highest price that the offeror has paid for equity securities of the offeree company in the previous twelve months.⁴¹

⁵ If the offeree company has issued several classes of equity securities, there must be an appropriate relationship among the prices offered for the various classes of equity securities.

⁶ FINMA shall issue rules relating on the obligation to make an offer. The Takeover Board shall have the right to put forward proposals.

⁷ If there are sufficient indications that a person has not met their obligations to make an offer, the Takeover Board can, until the obligation to make an offer has been cleared or, as appropriate, met:

- a. suspend the voting rights and associated rights of this person, and
- b. forbid this person directly or indirectly or acting in concert with third parties to acquire securities or purchase or sale rights relating to securities in the offeree company.⁴²

⁴⁰ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁴¹ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁴² Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

Art. 33 Cancellation of outstanding equity securities

¹ An offeror, who upon expiry of the offer period, holds more than 98 percent of the voting rights of the offeree company may, within three months petition the court to cancel the outstanding equity securities. For this purpose, the offeror shall commence an action against the company. The remaining shareholders may participate in these proceedings.

² The company shall reissue such equity securities and allot them to the offeror either against payment of the offer price or fulfilment of the exchange offer in favour of the holders of the equity securities which have been cancelled.

Art. 33a⁴³ Duties of the Takeover Board

¹ The Takeover Board shall issue the decisions necessary for the enforcement of the provisions of this chapter and its implementing provisions and shall monitor compliance with the statutory and regulatory provisions. It may publish the decisions.

² Persons and companies subject to an obligation to notify pursuant to Article 31, as well as persons and companies who pursuant to Article 33b paras 2 and 3 may have the status of party, must provide all information and surrender any documents to the Takeover Board which the latter requires to perform its duties.

³ If the Takeover Board becomes aware of breaches of the provisions of this chapter or of other irregularities, it will ensure that an orderly situation is restored and that the irregularities are remedied.

⁴ If the Takeover Board becomes aware of any common law crimes and offences or infringements of this Act, it shall notify the competent prosecuting authorities.

Art. 33b⁴⁴ Procedures before the Takeover Board

¹ Subject to the following exceptions, the procedures of the Takeover Board are governed by the provisions of the Federal Act on Administrative Proceedings of 20 December 1968⁴⁵.

² In procedures with regard to public offers, the following have party status:

- a. the offeror;
- b. persons who act in concert with the offeror; and
- c. the offeree company.

³ Shareholders holding at least three percent of the voting rights of the offeree company, whether exercisable or not, also qualify as parties if they claim such status from the Takeover Board.⁴⁶

⁴³ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁴⁴ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁴⁵ SR **172.021**

⁴⁶ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁴ The statutory provisions on legal holidays do not apply to procedures of the Takeover Board regarding public offers.

⁵ The submission of legal documents by fax or by electronic means is permitted in correspondence with the Takeover Board and is recognized with regard to the meeting of time limits.

Art. 33c⁴⁷ Appeal procedure before FINMA

¹ An appeal against decisions of the Takeover Board may be lodged with FINMA within a period of five trading days.

² The appeal must be made in writing to FINMA, stating the grounds. In the event of an appeal, the Takeover Board will forward its files to FINMA.

³ Article 33b paras 1, 4 and 5 are applicable to the procedure for appeals lodged with FINMA.⁴⁸

Art. 33d⁴⁹ Appeal procedure before the Federal Administrative Court

¹ An appeal against decisions of FINMA regarding public offers may be lodged with the Federal Administrative Court in accordance with the Administrative Court Act of 17 June 2005⁵⁰.

² The appeal must be lodged within ten days of notification of the decision. The appeal has no suspensive effect.

³ The legal provisions regarding the suspension of periods does not apply to proceedings regarding public offers with the Federal Administrative Court.⁵¹

5a. Chapter:⁵² Inadmissible Market Behaviour

Art. 33e Exploitation of Insider Information

¹ Whosoever has information which they know or must know is an insider information behaves inadmissibly when he or she:

- a. exploits it to acquire or sell securities admitted to trading on a stock exchange or an institution which is similar to a stock exchange in

⁴⁷ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBI **2006** 2829).

⁴⁸ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBI **2011** 6873).

⁴⁹ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBI **2006** 2829).

⁵⁰ SR **173.32**

⁵¹ Eingefügt durch Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBI **2011** 6873).

⁵² Eingefügt durch Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBI **2011** 6873).

Switzerland or to use financial instruments derived from such securities;

- b. discloses it to another;
- c. exploits it to recommend to another to acquire or sell securities admitted to trading on a stock exchange or an institution which is similar to a stock exchange in Switzerland or to use financial instruments derived from such securities.

² The Federal Council shall issue rules regarding the admissible use of insider information, in particular in connection with:

- a. securities transactions in preparation of a public offer;
- b. a special legal status on the part of the recipient of the information.

Art. 33f Market Manipulation

¹ A person behaves inadmissibly when he or she:

- a. publicly disseminates information which he or she knows or must know gives false or misleading signals regarding the supply, demand or price of securities admitted to trading on a stock exchange or a institution which is similar to a stock exchange in Switzerland;
- b. carries out transactions or purchase or sales orders which he or she knows or must know gives false or misleading signals regarding the supply, demand or price of securities admitted to trading on a stock exchange or an institution which is similar to a stock exchange in Switzerland.

² The Federal Council shall issue rules regarding the admissible behavior, in particular in connection with:

- a. securities transactions for the purposes of price management and price stabilisation;
- b. buyback programs for a company's own securities.

Chapter 6: Supervision⁵³

Art. 34⁵⁴ Supervisory Instruments

The supervisory instruments detailed in Art. 29 para. 1 and Articles 30, 32, 34 and 35 of the Financial Market Supervision Act of 22 June 2007⁵⁵ apply to all persons who have contravened Art.s 20, 21, 33e or 33f.

Art 34a⁵⁶ Cooperation with other Supervisory Authorities and the Swiss National Bank

¹ FINMA has the power to transmit information and documentation that are not in the public domain to the other Swiss financial market supervisory

⁵³ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁵⁴ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁵⁵ SR **956.1**

⁵⁶ Ursprünglich Art. 34bis. Eingefügt durch Anhang Ziff. II 6 des Nationalbankgesetzes vom 3. Okt. 2003, in Kraft seit 1. Mai 2004 (AS **2004** 1985; BBl **2002** 6097).

authorities and to the Swiss National Bank where required by these institutions to fulfil their remit.

² The Supervisory Authority shall collaborate with the National Bank in supervising the operators of payment and securities settlement systems that are subject to the present Act. It shall coordinate its activities with the National Bank and shall hear the latter's view before issuing a decision.

Art 34b⁵⁷ Suspension of Voting Rights and Purchase Ban

If there are sufficient indications that a person has not met their obligations to notify, FINMA can, until the obligation to notify has been cleared or, as appropriate, met

- a. suspend the voting rights and associated rights of this person, and
- b. forbid this person directly or indirectly or acting in concert with third parties to acquire securities or purchase or sale rights relating to securities in the offeree company.

Art. 35⁵⁸ Duty to provide information

Persons subject to an obligation to notify pursuant to Article 31, as well as persons who pursuant to Article 33b paras 2 and 3 may have the status of party, must provide all information and surrender any documents to FINMA which the latter requires to perform its duties.

Art. 35a⁵⁹ Ban on performing securities trading activities

FINMA may permanently or temporarily ban from performing securities trading activities persons who in their capacity as responsible employees of a securities dealer engage in securities trading and grossly infringe this Act, the implementing provisions or internal rules.

Art. 36⁶⁰ Consequences of the withdrawal of authorization

If FINMA withdraws from a securities dealer the authorization to conduct business, in the case of legal entities and general or limited partnerships this shall result in dissolution, and in the case of sole proprietorships in cancellation of their entry in the commercial register. FINMA shall appoint a liquidator and supervise his activities. FINMA may resolve not to order the dissolution of securities dealers which are also subject to the Banking Act of

⁵⁷ Eingefügt durch Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁵⁸ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁵⁹ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁶⁰ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

8 November 1934⁶¹, provided that their banking license does not also have to be withdrawn.

Art. 36a⁶² Application of the Provisions on Bank Insolvency

Articles 25–39 of the Banking Act of 8 November 1934⁶³ apply accordingly.

Chapter 7: International Relations

Art. 37 Authorization of foreign stock exchanges and securities dealers

Authorization of a foreign stock exchange or of a stock exchange controlled by foreign domiciles may be refused if the countries in which the foreign stock exchange has its registered office or the controlling foreign persons are domiciled do not afford Swiss stock exchanges genuine access to their markets and do not offer them the same competitive opportunities as they do to the local stock exchange. The same rule shall apply for the authorization of securities dealers.

Art. 38⁶⁴ Administrative Assistance

¹ FINMA may request from foreign financial market supervisory authorities such information and documents as may be necessary for the enforcement of this Act.

² It may forward publicly inaccessible information and case-related documents to foreign financial market supervisory authorities only where:

- a. this information is used solely to enforce regulations governing stock markets, securities trading and securities traders, or is forwarded to other authorities, courts or bodies for this purpose;
- b. the applicant authorities are bound by official or professional secrecy, notwithstanding provisions on the public nature of proceedings and the notification of the general public about such proceedings.

³ Subject to paras. 4 and 5, should the information that FINMA is to pass on concern individual clients of securities traders, the Federal Act on Administrative Proceedings of 20 December 1968⁶⁵ shall apply.

⁶¹ SR 952.0

⁶² Eingefügt durch Ziff. II 2 des BG vom 3. Okt. 2003 (AS 2004 2767; BBl 2002 8060).
Fassung gemäss Anhang Ziff. 4 des BG vom 18. März 2011 (Sicherung der Einlagen), in Kraft seit 1. Sept. 2011 (AS 2011 3919; BBl 2010 3993).

⁶³ SR 952.0

⁶⁴ Fassung gemäss Ziff. I des BG vom 7. Okt. 2005, in Kraft seit 1. Febr. 2006 (AS 2006 197, BBl 2004 6747).

⁶⁵ SR 172.021

⁴ Administrative assistance proceedings shall be carried out swiftly. FINMA shall observe the principle of proportionality. The transmission of information on persons evidently not involved in the matter under investigation is prohibited.

⁵ The decision of FINMA on the transmission of information to the foreign financial market supervisory authority may be challenged by the client before the Federal Administrative Court within ten days. Article 22a of the Federal Act on Administrative Proceedings of 20 December 1968 does not apply.⁶⁶

⁶ Provided judicial assistance in criminal matters is permitted, FINMA may, in agreement with the Federal Office of Justice, consent that transmitted information may be forwarded to criminal prosecution authorities for a purpose other than that stated in para. 2a. The Federal Act on Administrative Proceedings of 20 December 1968 is applicable.

Art. 38a⁶⁷ Cross-Frontier Inspections

¹ Insofar as foreign supervisory authorities responsible for stock exchanges and securities dealers wish, in the course of direct inspections within Switzerland, to have access to information which concerns individual clients of securities dealers, FINMA shall gather such information itself and shall transmit it to the applicant authorities.

² The procedure is in accordance with the Federal Act on Administrative Proceedings of 20 December 1968⁶⁸.

³ The transmission of information on persons evidently not involved in the matter under investigation is prohibited.

⁶⁶ Fassung gemäss Ziff. I 17 der V der BVers vom 20. Dez. 2006 über die Anpassung von Erlassen an die Bestimmungen des Bundesgerichtsgesetzes und des Verwaltungsgerichtsgesetzes (AS **2006** 5599; BBl **2006** 7759).

⁶⁷ Eingefügt durch Anhang des BG vom 22. April 1999 (AS **1999** 2405; BBl **1998** 3847). Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁶⁸ SR **172.021**

Chapter 8: ...

Art. 39⁶⁹

Chapter 9: Penal Provisions

Art. 40⁷⁰ Exploitation of Insider Information

¹ Whosoever as a body or a member of a managing or supervisory body of an issuer or of a company controlling or controlled by him or her, or as a person who due to his or her holding or activity has legitimate access to insider information, is liable to imprisonment of up to three years or a fine if he or she gains a pecuniary advantage for him- or herself or for another with insider information by:

- a. exploiting it to acquire, sell securities admitted to trading on a stock exchange or an institution which is similar to an exchange in Switzerland or to use financial instruments derived from such securities;
- b. disclosing it to another;
- c. exploiting it to recommend to another to acquire or sell securities admitted to trading on a stock exchange or an institution which is similar to an exchange in Switzerland or to use financial instruments derived from such securities.

² Whosoever through activities as detailed in para. 1 gains a pecuniary advantage of more than one million Swiss Francs is liable to imprisonment of up to five years or a fine.

³ Whosoever gains a pecuniary advantage for him- or herself or for another by exploiting insider information disclosed to them by a person as detailed in para. 1 or acquired through a crime or an offence to acquire or sell securities admitted to trading on a stock exchange or an institution which is similar to an exchange in Switzerland or to use financial instruments derived from such securities is liable to a imprisonment of up to one year or a fine.

⁴ Whosoever does not belong to the persons referred to in para.s 1-3 yet who gains a pecuniary advantage for him- or herself or for another by exploiting insider information to acquire or sell securities admitted to trading on a stock exchange or an institution which is similar to an exchange in Switzerland or to use financial instruments derived from such securities is liable to a fine.

Art. 40a⁷¹ Price Manipulation

¹ Whosoever substantially influences the price of securities admitted to trading on a Swiss stock exchange or similar institution which is similar to an

⁶⁹ Aufgehoben durch Anhang Ziff. 146 des Verwaltungsgerichtsgesetzes vom 17. Juni 2005, mit Wirkung seit 1. Jan. 2007 (AS **2006** 2197 1069; BBl **2001** 4202).

⁷⁰ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁷¹ Eingefügt durch Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

exchange in Switzerland with the intention of gaining a pecuniary advantage for him- or herself or for another is liable to a imprisonment of up to three years or a fine if he or she:

- a. disseminate false or misleading information against their better knowledge;
- b. effects purchases and sales of such securities directly or indirectly for the benefit of the same person or persons connected for this purpose.

² Whosoever gains a pecuniary advantage of more than one million Swiss Francs through such activities is liable to a imprisonment of up to five years or a fine.

Art. 41 Breach of obligations to notify

¹ Whosoever intentionally:

- a. fails to notify a qualified shareholding in a listed company (Art. 20);
- b. as the owner of a qualified shareholding in the offeree company fails to disclose the purchase or sale of equity securities of that company (Art. 31),⁷²

shall be punished with a fine of up to 10 million Swiss Francs.

² The amount of the fine shall not be more than double the purchase price or the sale proceeds. The amount of the fine shall be calculated based upon the difference between the new shareholding held by the person who is subject to an obligation to notify and the last shareholding declared.

² ...⁷³

³ Whosoever acts negligently shall be punished with a fine of up to CHF 1,000,000.⁷⁴

⁴ In the event of a repeat breach within five years of the legally binding conviction, the fine shall amount to at least CHF 10,000.⁷⁵

Art. 41a⁷⁶ Breach of Obligation to Make an Offer

Whosoever intentionally fails to comply with a legally binding obligation to make an offer (Art. 32) is liable to a fine of up to 10 million Swiss Francs.

Art. 42⁷⁷ Breach of duty by the offeree company

¹ Whosoever intentionally:

⁷² Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁷³ Aufgehoben durch Ziff. I des BG vom 28. Sept. 2012, mit Wirkung seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁷⁴ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁷⁵ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁷⁶ Eingefügt durch Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS **2013** 1103; BBl **2011** 6873).

⁷⁷ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

- a. fails to submit the mandatory report to the holders of equity security setting out his position in relation with the offer or fails to publish such a report (Art. 29 para 1);
- b. includes untrue or incomplete information in such report (Art. 29 para 1)

shall be punished with a fine of up to CHF 500,000.

² Whosoever acts negligently shall be punished with a fine of up to CHF 150,000.

³ In the event of a repeat breach within five years of the legally binding conviction, the fine shall amount to at least CHF 10,000.

Art. 42a⁷⁸ Breach of securities dealer's duties

¹ Whosoever intentionally:

- a. fails to keep an orderly daily record pursuant to Article 15 or does not retain books of account, vouchers and documents as prescribed by the regulations;
- b. breaches the reporting obligation to which he is subject pursuant to Article 15

shall be punished with a fine of up to CHF 500,000.

² Whosoever acts negligently shall be punished with a fine of up to CHF 150,000.

³ In the event of a repeat breach within five years of the legally binding conviction, the fine shall amount to at least CHF 10,000.

Art. 43⁷⁹ Breach of professional secrecy

¹ Whosoever intentionally:

- a. discloses a secret which has been confided to him in his capacity as an organ, employee, mandatory or liquidator of a stock exchange or a securities dealer, as an organ or employee of an auditing company, or of which he has become aware in any such capacity;
- b. attempts such breach of professional secrecy by inducement

shall be punished by imprisonment of up to three years or pecuniary penalty.

² Whosoever acts negligently shall be punished with a fine of up to CHF 250,000.

³ In the event of a repeat breach within five years of the legally binding conviction, the pecuniary penalty shall amount to at least 45 daily rates.

⁴ Whosoever breaches professional secrecy after termination of office or his employment, shall nevertheless remain liable to punishment.

⁵ The federal and cantonal provisions relating to the duty to testify and the duty to provide information to the authorities remain reserved.

⁶ The cantons shall be responsible for the prosecution and adjudication of any breaches of this provision. The general provisions of the Swiss Penal Code⁸⁰ shall apply.

⁷⁸ Eingefügt durch Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

⁷⁹ Fassung gemäss Anhang Ziff. 16 des Finanzmarktaufsichtsgesetzes vom 22. Juni 2007, in Kraft seit 1. Jan. 2009 (AS **2008** 5207 5205; BBl **2006** 2829).

Art. 44⁸¹ Jurisdiction

¹ Prosecution and adjudication of offenses under Articles 40 and 40a are subject to Federal jurisdiction.

² The transfer of jurisdiction to cantonal authorities is not permitted.

Chapter 10: Final Provisions

Art. 45 Implementing provisions

The Federal Council shall issue implementing provisions to this Act.

Art. 46 Amendment to the Penal Code

...⁸²

Art. 47 Amendment to the Banking Act

....⁸³

Art. 48 Cantonal laws

¹ Upon the coming into force of this Act, any cantonal provisions restricting the right to establish new stock exchanges shall be repealed.

² The cantonal provisions relating to securities trading shall cease to be applicable to stock exchanges or securities dealers which have been granted authorization under this Act.

³ The cantonal provisions relating to stock exchanges shall be repealed within one year and the cantonal provisions relating to securities dealers shall be repealed within three years of the coming into force of this Act.

Art. 49 Transitional provisions relating to stock exchanges

¹ Existing stock exchanges shall report to FINMA within three months of the coming into force of this Act and submit their internal regulations to it.

² FINMA shall, in principle, take a decision with respect to authorization within one year of the coming into force of the Act.

⁸⁰ SR 311.0

⁸¹ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS 2013 1103; BBl 2011 6873).

⁸² Die Änderung kann unter AS 1997 68 konsultiert werden.

⁸³ Die Änderung kann unter AS 1997 68 konsultiert werden.

Art. 50 Transitional provisions relating to securities dealers

¹ Existing securities dealers shall report to FINMA within three months from the coming into force of this Act, and shall comply with the requirements set out in the Act within two years of its coming into force. FINMA may on a case by case basis extend or shorten this period if special circumstances so require.

² FINMA shall, in principle, take a decision with respect to authorization within three years of the coming into force of this Act.

³ Any foreign person or foreign-controlled securities dealer which was admitted to a Swiss stock exchange on 31 December 1992, shall not be subject to the reciprocity requirement set out in Article 37.

Art. 51⁸⁴

Art. 52 Obligation to make an offer

Whosoever, upon the coming into force of this Act, owns directly, indirectly or acting in concert with third parties equity securities which give him more than 33 1/3 percent but less than 50 percent of the voting rights of an offeree company, shall, if he acquires equity securities and thereby exceeds the threshold of 50 percent of the voting rights, be under an obligation to make an offer to acquire all the equity securities listed.

Art. 53⁸⁵ Transitional Provisions to Amendment of 28 September 2012

¹ Whosoever holds investments in a company upon the coming into force of the amendment of 28 September 2012 which are recognized under Art. 20 for the first time must report these investments within a year.

² Art. 52 also applies to investments which upon the coming into force of the amendment of 28 September 2012 are recognized under the provisions of Chapter 5 for the first time.

Art. 54⁸⁶

Art. 55 Referendum and coming into force

¹ This Act is subject to an optional referendum.

⁸⁴ Aufgehoben durch Ziff. I des BG vom 28. Sept. 2012, mit Wirkung seit 1. Mai 2013 (AS 2013 1103; BBl 2011 6873).

⁸⁵ Fassung gemäss Ziff. I des BG vom 28. Sept. 2012, in Kraft seit 1. Mai 2013 (AS 2013 1103; BBl 2011 6873).

⁸⁶ Aufgehoben durch Ziff. I des BG vom 28. Sept. 2012, mit Wirkung seit 1. Mai 2013 (AS 2013 1103; BBl 2011 6873).

² The Federal Council shall determine the date upon which this Act shall enter into force.

Coming into force: 1 February 1997⁸⁷

Coming into force of Article 2 letter e, 20 paras 1-4 and 6, 21, 22, 23 paras 3-5, 24-27, 29 paras 1 and 2, 30 paragraph 1, 31 paras 1-4, 32 paras 1-5 and 7, 33, 35 paragraph 2 letters d and e, 41 paragraph 1 letters a and b and paragraph 2, 42 and 51-54:1 January 1998⁸⁸

⁸⁷ BRB vom 2. Dez. 1996

⁸⁸ Art. 1 der V vom 13. Aug. 1997 (AS **1997** 2044).