

## Translation of Liechtenstein Law

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<b>English title:</b>	Law of 24 November 2006 against Market Abuse in the Trading of Financial Instruments (Market Abuse Act; MG)
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**Law**  
of 24 November 2006  
**against Market Abuse in the Trading of  
Financial Instruments  
(Market Abuse Act; MG)**

I hereby grant My consent to the following resolution adopted by Parliament:

**I. General provisions**

Article 1

*Purpose*

1) This Act serves to combat insider dealing and market manipulation (market abuse), with the purpose of safeguarding the integrity of the financial markets and public confidence in financial instruments.

2) It also serves to implement:

- a) Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (EEA Compendium of Laws: Annex IX - 29a.01);
- b) Commission Directive 2003/124/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the definition and public disclosure of inside information and the definition of market manipulation (EEA Compendium of Laws: Annex IX - 29ab.01);
- c) Commission Directive 2003/125/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the fair presentation of investment

- recommendations and the disclosure of conflicts of interest (EEA Compendium of Laws: Annex IX - 29ac.01); and
- d) Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions (EEA Compendium of Laws: Annex IX - 29f.01).

## Article 2

### *Scope*

1) Irrespective of whether or not the transaction itself actually takes place on one of the following markets, this Act shall apply to market and off-market trading of any financial instrument:

- a) traded on a supervised market; or
- b) for which a request for admission to trading on a supervised market has been made.<sup>1</sup>

1a) Articles 4, 5, 8 and 15 shall be applicable only to transactions with financial instruments admitted to trading on a regulated market in at least one Member State or for which a request for admission to trading on a regulated market has been made in at least one Member State.<sup>2</sup>

2) The prohibition of insider dealing (Article 23) shall also apply to any financial instrument not admitted to trading on a supervised market, but whose value depends on a financial instrument as referred to in paragraph 1.<sup>3</sup>

3) This Act shall apply to acts and omissions that are carried out or committed in Liechtenstein.

4) This Act shall not apply to transactions carried out in pursuit of monetary, exchange-rate or public debt-management policy by a Member State, by the European System of Central Banks, by a national central bank or by any other officially designated body, or by any person acting on their behalf.

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<sup>1</sup> Article 2(1) amended by LGBl. 2008 No. 225.

<sup>2</sup> Article 2(1a) inserted by LGBl. 2008 No. 225.

<sup>3</sup> Article 2(2) amended by LGBl. 2008 No. 225.

## Article 3

*Definitions; terminology*

1) For the purposes of this Act, the following terms shall have the following meanings:

- a) "financial instruments" means
1. transferable securities as defined in Annex 2, Section C, point 1 of the Banking Act;<sup>1</sup>
  2. units in undertakings for collective investment in transferable securities;
  3. money-market instruments;
  4. financial-futures contracts, including equivalent cash-settled instruments;
  5. forward interest-rate agreements;
  6. interest-rate, currency and equity swaps;
  7. options to acquire or dispose of any instrument falling within the scope of points 1 to 6, including equivalent cash-settled instruments; this category includes in particular options on currency and on interest rates;
  8. derivatives on commodities; and
  9. any other instrument traded on a supervised market or for which a request for admission to trading on such a market has been made;<sup>2</sup>
- b) "regulated market" means a multilateral system operated and/or managed by a market operator, which:<sup>3</sup>
1. brings together or facilitates the bringing together of multiple third-party buying and selling interests – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems;<sup>4</sup>
  2. is authorised; and<sup>5</sup>
  3. functions regularly and in accordance with the provision of Article 30s of the Banking Act;<sup>1</sup>

<sup>1</sup> Article 3(1)(a)(1) amended by LGBL 2008 No. 225.

<sup>2</sup> Article 3(1)(a)(9) amended by LGBL 2008 No. 225.

<sup>3</sup> Article 3(1)(b), introductory sentence amended by LGBL 2008 No. 225.

<sup>4</sup> Article 3(1)(b)(1) amended by LGBL 2008 No. 225.

<sup>5</sup> Article 3(1)(b)(2) amended by LGBL 2008 No. 225.

- c) "person" means a natural or legal person, a company, a trust, or other collective or asset entity;
- d) "competent authority" means
  1. in the European Economic Area: the competent authority designated by the Member States in accordance with Article 11 of Directive 2003/6/EC;
  2. in third States: the authority competent for combating market abuse;
- e) "person discharging managerial responsibilities within an issuer" means a person who:
  1. is a member of an administrative, management, or supervisory body of the issuer; or
  2. in a managerial position, though not a member of any of the bodies referred to in point 1, regularly has access to inside information with a direct or indirect connection to the issuer and who is authorised to make decisions for the undertaking with respect to future developments and business perspectives of this issuer;
- f) "person closely associated with a person discharging managerial responsibilities within an issuer of financial instruments" means
  1. the spouse of the person discharging these managerial responsibilities or another life companion who is deemed equivalent to a spouse under the law of an individual State;
  2. a child of the person discharging these managerial responsibilities who is deemed dependent under the law of an individual State;
  3. any other family member of the person discharging these managerial responsibilities who has lived with the person for at least one year prior to the transaction concerned; or
  4. a legal person, fiduciary institution or partnership whose managerial responsibilities are discharged by a person under subparagraph (e) or points 1 to 3, which is directly or indirectly controlled by such person, which was established for the benefit of such person, or whose economic interests largely correspond to those of such person;
- g) "persons who deal in financial instruments on a professional basis" means in particular, investment firms and credit institutions;

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<sup>1</sup> Article 3(1)(b)(3) amended by LGBl. 2011 No. 246.

- h) "investment firm" means an investment firm as defined in the Banking Act, an asset management company as defined in the Asset Management Act, or a local firm as defined in Article 4(1)(4) of Regulation (EU) No 575/2013;<sup>1</sup>
- i) "credit institution" means a bank as defined in the Banking Act;<sup>2</sup>
- k) "Member State" means a Contracting Party to the Agreement on the European Economic Area;
- l) "inside information" means information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of financial instruments or to one or more financial instruments and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments; such an effect is likely if a knowledgeable investor would probably take the information into account as part of his investment decisions. The following shall apply:
1. Information is deemed to be precise if it contains a number of already given facts and events or such facts and events of which it may be assumed to a sufficient degree of probability that these will occur in the future, and are moreover precise to a degree that would allow conclusions to be drawn regarding the possible effects of said facts and events on the prices of financial instruments and their derivatives.
  2. In the case of commodity derivatives, inside information is information of a precise nature that has not been disclosed to the general public and relates directly or indirectly to one or more such derivatives, and of which market participants in markets where such derivatives are traded would expect to receive such information in line with accepted market practices in the respective markets. The information referred to is regularly made available to market participants in such markets or said information must be disclosed under legal and administrative rules, trading rules, contracts or is accepted market practice in the markets on which such commodity derivatives are traded or on the respective underlying commodity exchanges.
  3. With respect to persons who are charged with the execution of orders in the relevant financial instruments, inside information shall also include information according to points 1 or 2 that has

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<sup>1</sup> Article 3(1)(h) amended by LGBl. 2014 No. 350.

<sup>2</sup> Article 3(1)(i) amended by LGBl. 2014 No. 350.

been received from a client and refers to the pending orders of said client.

m) "supervised market" means a market on which financial instruments are traded and which is supervised by authorities recognised by public bodies, operates regularly, and is accessible directly or indirectly to the public.<sup>1</sup>

2) The definitions of terms set out in Directive 2003/6/EC and the implementing acts issued herewith apply on a supplemental basis.

3) The designations used in this Act to denote persons and functions include persons of male and female gender.

## II. Reporting duties

### A. Reporting and disclosure of transactions

#### Article 4

##### *Reporting and disclosure duties*

1) Persons discharging managerial responsibilities within an issuer of financial instruments with its registered office in Liechtenstein and, if applicable, persons closely associated with them shall be required to:

- a) report to the FMA all transactions conducted on their own account in shares of the said issuer or financial instruments linked to such shares, in particular derivatives; and
- b) to disclose the content of a report under subparagraph (a) as soon as possible on the website of the issuer or via the FMA.

2) The report to the FMA must be made within five business days of the closing date, but may be prolonged until the total volume of the transactions conducted in accordance with paragraph 1 reaches the amount of 7,500 francs. Should this amount not yet be reached by the end of the calendar year, the report may be omitted.

3) When determining the total amount of transactions conducted, such transactions in accordance with paragraph 1 placed by persons discharging managerial responsibilities within an issuer of financial

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<sup>1</sup> Article 3(1)(m) inserted by LGBL 2008 No. 225.

instruments with its registered office in Liechtenstein and by persons closely associated with them shall be added.

4) The Government shall provide further details by ordinance, in particular regarding the form of the disclosure under paragraph 1(b).

#### Article 5

##### *Content of the report*

The report under paragraph 4 must contain the following information:

- a) the name of the person discharging managerial responsibilities within an issuer of financial instruments, or the name of the person closely associated with such a person;
- b) the reason for the reporting duty;
- c) the name of the respective issuer;
- d) the description of the financial instrument;
- e) the type of transaction (e.g. sell or buy);
- f) the closing date and the place of execution of the transaction; and
- g) the price and volume of transactions.

### **A<sup>bis</sup>. Reporting and publication of inside information<sup>1</sup>**

#### Article 5a<sup>2</sup>

##### *Reporting and publication duties*

1) Issuers of financial instruments shall inform the public as soon as possible of inside information which directly concerns the said issuers. They shall, for an appropriate period, post on their websites all inside information that they are required to disclose publicly as well as all material changes to inside information already disclosed. An issuer may under the issuer's own responsibility delay the public disclosure of inside information:

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<sup>1</sup> Heading preceding Article 5a inserted by LGBI. 2014 No. 363.

<sup>2</sup> Article 5a inserted by LGBI. 2014 No. 363.



- a) such as not to prejudice the issuer's legitimate interests provided that such omission would not be likely to mislead the public,
- b) provided that the issuer is able to ensure the confidentiality of that information, and
- c) provided that the issuer without delay informs the FMA of the decision to delay public disclosure of inside information.

2) Whenever an issuer, or a person acting on the issuer's behalf or for the issuer's account, discloses any inside information to any third party in the normal exercise of his employment, profession, or duties, he must make complete and effective public disclosure of that information, simultaneously in the case of an intentional disclosure and promptly in the case of a non-intentional disclosure. The publication duty does not apply if the person receiving the information owes a duty of confidentiality, regardless of whether such duty is based on a law, on regulations, on articles of association, or on a contract.

3) Issuers, or persons acting on their behalf or for their account, shall draw up a list of those persons working for them, under a contract of employment or otherwise, who have access to inside information. Issuers and persons acting on their behalf or for their account shall regularly update this list and transmit it to the FMA whenever the latter requests it.

4) The list referred to in paragraph 3 must in particular contain:

- a) the particulars of all persons who have regular or case-related access to inside information with a direct or indirect link to the issuer;
- b) the reason for including these persons in the list;
- c) the preparation and update dates of the list.

5) Paragraphs 1 to 4 do not apply to issuers who have not requested or approved admission of their financial instruments to trading on a regulated market in Liechtenstein or another Member State.

6) The issuer shall not combine, in a manner likely to be misleading, the provision of inside information to the public under paragraph 1 with the marketing of the issuer's activities. Issuers shall take reasonable care to ensure that the disclosure of inside information to the public is synchronised as closely as possible between all categories of investors in the other Member States in which those issuers have requested or approved the admission to trading of their financial instruments on a regulated market.

7) The Government may provide further details by ordinance, especially regarding:

- a) the means and deadlines of public disclosure under paragraph 1;
- b) the existence of a legitimate interest under paragraph 1(a);
- c) the assurance of confidentiality in accordance with paragraph 1(b);
- d) notification of the FMA in accordance with paragraph 1(c);
- e) the content, form, and maintenance of the list in accordance with paragraphs 3 and 4.

## B. Reporting of suspicious cases

### Article 6

#### *Duty to report to the FMA and prohibition to disclose information<sup>1</sup>*

1) Persons with their registered office or a branch in Liechtenstein that carry out transactions with financial instruments on a professional basis must report to the FMA immediately if they have the suspicion that a transaction using financial instruments might constitute market abuse.<sup>2</sup>

2) Persons who file a report with the FMA shall be prohibited from informing other persons that a report has been filed, in particular the persons on whose behalf a transaction has been executed or persons closely associated with such persons, unless this is done pursuant to a legal provision. There shall be no right to compensation for damages should no such information be provided if a person has acted in good faith.<sup>3</sup>

3) Repealed<sup>4</sup>

4) The FMA shall immediately communicate suspicious transactions reported to it to the authorities of other States responsible for the supervised markets concerned. With respect to client-related information, this shall be without prejudice to the provisions on administrative assistance.<sup>5</sup>

<sup>1</sup> Article 6 heading amended by LGBl. 2016 No. 34.

<sup>2</sup> Article 6(1) amended by LGBl. 2016 No. 34.

<sup>3</sup> Article 6(2) amended by LGBl. 2016 No. 34.

<sup>4</sup> Article 6(3) repealed by LGBl. 2016 No. 34.

<sup>5</sup> Article 6(4) amended by LGBl. 2016 No. 34.

5) The FMA shall be prohibited from informing other persons, in particular the persons on whose behalf a transaction has been executed, of the name of the person who reported these transactions. This shall be without prejudice to forwarding the name in the context of preliminary criminal proceedings.<sup>1</sup>

6) Anyone who files a report under paragraph 1 with the FMA, with respect to which it turns out that it was not justified, shall be exempt from any civil or criminal liability, unless he has acted wilfully.<sup>2</sup>

7) The Government may provide further details by ordinance.

8) The FMA may issue guidelines specifying fact patterns that might constitute indicators of market abuse.

#### Article 7

##### *Content and form of the report*

1) The persons subject to the reporting duty must transmit the following information to the FMA:<sup>3</sup>

- a) a description of the transactions including the type of order (e.g. limit order, market order, or other execution attributes) and type of trading (e.g. block trade);
- b) the grounds for the suspected market abuse;
- c) information for identifying persons on whose behalf transactions have been executed as well as any other persons involved in such transactions;
- d) the function of the persons subject to the reporting duty (e.g. in own name or for the account of a third party); and
- e) any other information that could be of relevance for the evaluation of suspicious transactions.

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<sup>1</sup> Article 6(5) amended by LGBL 2016 No. 34.

<sup>2</sup> Article 6(6) amended by LGBL 2016 No. 34.

<sup>3</sup> Article 7(1) introductory sentence amended by LGBL 2016 No. 34.

2) Should the information not be available at the time the report is made, then at least the reasons must be stated that have led the person filing the report to suspect market abuse. Any other information must be communicated to the FMA as soon as it is available.<sup>1</sup>

3) The report may be submitted by regular mail or electronically, by fax or by telephone; in the case of a report by telephone, a written confirmation must be submitted afterwards.

### III. Analysis of financial instruments

#### Article 8

##### *Duties when preparing financial analyses*

1) Persons who, as part of their professional or business activities, prepare information on financial instruments or their issuers that directly or indirectly contains a recommendation on a particular investment decision and that is to be made available to an indeterminate circle of persons (financial analysis) must ensure that the information is presented appropriately and that any interests or conflicts of interest in connection with the financial instruments to which the information relates are disclosed.

2) An appropriate presentation of the information shall entail in particular that information concerning facts and value judgments of third parties (e.g. interpretations or estimates) and own value judgments (e.g. projections, predictions, and price targets) are carefully distinguished from each other and indicated. The essential foundations and measures of own value judgments shall be provided.

3) With the participation of the persons concerned, the FMA shall issue a guideline on the preparation of financial analyses, in particular:

- a) further details on the appropriate preparation and presentation of a financial analysis and its circulation;
- b) the circumstances or relationships that may give rise to conflicts of interest, and the disclosure thereof.

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<sup>1</sup> Article 7(2) amended by LGBL 2016 No. 34.

## IV. Organisation and implementation

### A. Supervision

#### Article 9<sup>1</sup>

##### *Competent authority*

Without prejudice to the competence of the courts and the prosecution authorities, the FMA shall monitor execution of this Act and the ordinances issued in connection herewith.

#### Article 10

##### *Powers*

1) In the framework of its responsibilities relating to execution of this Act, the FMA shall in particular have the right to:

- a) have access to any document in any form whatsoever, and to receive a copy of it;
- b) demand information from any person, including those who are successively involved in the transmission of orders or conduct of the operations concerned, as well as their principals, and if necessary, to summon and hear any such person;
- c) carry out on-site inspections;
- d) require existing telephone and existing data traffic records;
- e) require the cessation of any practice that is contrary to this Act;
- f) temporarily suspend trading of the financial instruments concerned;
- g) request the Office of the Public Prosecutor to apply for measures to secure forfeiture of assets in accordance with the Code of Civil Procedure.<sup>2</sup>

2) For the duration of the proceedings relating to market abuse, the FMA may request any entity authorised accordingly by special legislation to impose a temporary ban on exercising a profession, or if the FMA is competent to do so, it may impose such a ban itself, if:

- a) the accused is strongly suspected of having committed an offence;

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<sup>1</sup> Article 9 amended by LGBl. 2016 No. 34.

<sup>2</sup> Article 10(1)(g) amended by LGBl. 2016 No. 161.

- b) the exercise of this profession is related to the offence that is the object of the proceedings; and
- c) the danger exists that the accused might repeat the offence.

3) Requirements concerning professional secrecy pursuant to other laws shall not be affected by paragraph 1, to the extent that such provisions release the person from the duty to give testimony in court.

4) The FMA may publicly announce legally binding measures or sanctions pursuant to this Act on its website, to the extent that doing so is useful and necessary for remedying or preventing abuses under this Act, unless such a publication would substantially endanger the financial markets or lead to disproportionate damage to those involved.

5) The FMA may process personal data only for purposes of fulfilling its supervisory responsibilities and for purposes of administrative assistance in accordance with Articles 12 to 18.

#### Article 11

##### *Duty of confidentiality*

1) The persons employed at the FMA and the persons mandated by the FMA may not, without authorisation, disclose or utilise the facts that have become known to them in the course of their activities, especially business and trade secrets and personal data, even if they are no longer employed by the FMA or have terminated their activities.

2) The following acts shall not be deemed unauthorised disclosure or utilisation within the meaning of paragraph 1:

- a) forwarding facts to the Office of the Public Prosecutor or the Court of Justice pursuant to a legal requirement;
- b) forwarding facts to the competent institutions of the Member States or of third States within the framework of cooperation under Articles 13 to 18; or
- c) publicly announcing facts within the framework of Article 10(4).

## B. Administrative assistance

### 1. Cooperation with other Liechtenstein authorities

#### Article 12

##### *Basic principle*

Within the framework of supervision, the FMA shall work together with other Liechtenstein authorities to the extent necessary for combating market abuse.

### 2. Cooperation with competent authorities of other Member States

#### Article 13

##### *Basic principle*

1) The FMA shall work together with the competent authorities of other Member States to the extent necessary for combating market abuse.

2) The FMA must render administrative assistance to the competent authorities of other Member States and may in return request administrative assistance.

3) The FMA shall notify the competent authorities of other Member States of infringements (Article 15), exchange information with them (Article 16), and work together with them with respect to on-site investigations (Article 17).

4) These provisions are without prejudice to further provisions on international cooperation concerning the FMA contained in other laws and the provisions of the Mutual Legal Assistance Act.

#### Article 14

##### *Refusal to cooperate*

1) If a request by the FMA under Article 16 or 17 is not acted upon within a reasonable time or if the request is rejected without sufficient justification, the FMA may bring that non-compliance to the attention of the Committee of European Securities Regulators.

2) The FMA may refuse to act on a request by the competent authority of another Member State under Article 16 or 17 only if:

- a) the request might adversely affect the sovereignty, security, or public order of Liechtenstein;
- b) proceedings have already been initiated in respect of the same facts against the affected persons before a Liechtenstein court; or
- c) a final judgment has already been delivered by a Liechtenstein court in respect of the same facts against the affected persons.

3) If the FMA rejects a request under Article 16 or 17 pursuant to paragraph 2, it shall notify the requesting competent authority immediately and explain the reasons. In the case of refusal under paragraph 2(b) or (c), precise information concerning the judicial proceedings or the final judgment shall be transmitted.

#### Article 15

##### *Communication of infringements*

1) If the FMA has a well-founded reason to suspect that acts contrary to Directive 2003/6/EC are being or have been carried out on the territory of another Member State, it shall communicate this to the competent authority of the other Member State as precisely as possible.

2) If the FMA receives a corresponding communication from the competent authority of another Member State, it must take appropriate measures. The FMA shall inform the notifying authority of the outcome.

#### Article 16

##### *Exchange of information*

1) The FMA may request the competent authorities of other Member States to transmit all information that is necessary for fulfilment of its responsibilities under this Act.



2) Subject to Article 14, the FMA shall transmit all information to the competent authorities of the other Member States upon their request that is necessary to combat market abuse. If the FMA is unable to supply the requested information immediately, it shall communicate the reasons to the requesting competent authority.

3) The information transmitted to the FMA by the competent authorities of other Member States shall be subject to the duty of confidentiality under Article 11.

4) Without prejudice to its obligations in the context of pending criminal proceedings, the FMA may use the information received from the competent authorities of other Member States only for purposes of combating market abuse and in administrative and judicial proceedings specifically related to the exercise of those functions. However, where the competent authority communicating information consents thereto, the FMA may use it for other purposes relating to financial market supervision or forward it to other States' competent authorities for the same purposes. This shall apply *mutatis mutandis* to the information communicated by the FMA to the competent authorities of other Member States; the consent of the FMA shall be granted in the form of a decree.

5) The Government may provide further details by ordinance.

#### Article 17

##### *On-site inspections*

1) The FMA may request that inspections be carried out by the competent authority of another Member State on the latter's territory. It may further request that members of its own personnel be allowed to accompany the personnel of the competent authority of that other Member State during the course of the inspections.

2) Subject to Article 14, the FMA must comply with requests by the competent authorities of other Member States within the meaning of paragraph 1.

3) The inspections shall be fully subject to the control of the Member State on whose territory it is conducted.

4) The Government may provide further details by ordinance.

### 3. Cooperation with competent authorities of third States

#### Article 18

##### *Exchange of information with third States*

1) The FMA may request the competent authorities of third States to transmit all information that is necessary for fulfilment of its responsibilities under this Act.

2) The FMA may transmit information to the competent authorities of third States on their request if:

- a) the information is necessary for purposes of combating market abuse; and
- b) the employed and mandated persons of the competent authority of the third State are subject to a duty of confidentiality equivalent to Article 11, without prejudice to provisions concerning public proceedings and information provided to the public with respect to such proceedings.

3) The FMA may refuse to act on a request under paragraph 2 if:

- a) the request might adversely affect the sovereignty, security, or public order of Liechtenstein;
- b) proceedings have already been initiated in respect of the same facts against the affected persons before a Liechtenstein court; or
- c) a final judgment has already been delivered by a Liechtenstein court in respect of the same facts against the affected persons.

4) If the FMA is unable to supply the requested information, it must communicate the reasons to the requesting competent authority.

5) The information transmitted to the FMA by the competent authorities of third States shall be subject to the duty of confidentiality under Article 11.

6) Without prejudice to its obligations in the context of pending criminal proceedings, the FMA may use the information received from the competent authorities of third States only for purposes of combating market abuse and in administrative and judicial proceedings specifically related to the exercise of those functions. However, where the competent authority communicating information consents thereto, the FMA may use it for other purposes relating to financial market supervision or forward it to other States' competent authorities for the same purposes. This shall apply *mutatis mutandis* to the information communicated by the FMA to

the competent authorities of third States; the consent of the FMA shall be granted in the form of a decree.

7) These provisions are without prejudice to further provisions on international cooperation concerning the FMA contained in other laws and the provisions of the Mutual Legal Assistance Act.

8) The Government may provide further details by ordinance.

### C. Publication of statistics

#### Article 19

##### *Basic principle*

Public institutions publishing statistics likely to have a significant effect on financial markets must publish them in a fair and transparent way. In particular, it must be ensured that publication cannot generate any information advantages for third parties.

## V. Legal remedies and procedures

#### *Legal remedies*

#### Article 20

##### *a) in general*

1) Decisions and decrees of the FMA may be appealed within 14 days of service to the FMA Complaints Commission, subject to Article 21.

2) Decisions and decrees of the FMA Complaints Commission may be appealed within 14 days of service to the Administrative Court.

#### Article 21

##### *b) in the context of administrative assistance*

1) Decisions and decrees issued by the FMA in the context of administrative assistance granted to Member States or third States may be appealed to the Administrative Court within 14 days of service.

2) In the context of administrative assistance, appeals must be lodged exclusively by way of the transmission procedure.

3) The appeal proceedings pursuant to paragraph 1 shall be conducted rapidly.

4) Repealed<sup>1</sup>

#### Article 22

##### *Proceedings*

To the extent not otherwise specified by this Act, the National Administration Act applies to the proceedings.

## **VI. Penalties and special provisions for criminal proceedings**

### **A. Penalties**

#### Article 23

##### *Abuse of inside information (insider dealing)*

1) The Court of Justice shall punish with a custodial sentence of up to three years, however in case the economic advantage obtained through the offence exceeds 75,000 francs with a custodial sentence of six months to up to five years, anyone who as an insider uses inside information with the intent to obtain an economic advantage for himself or a third party by:

- a) purchasing or selling thereby affected financial instruments or by offering or recommending such financial instruments to a third party for purchase or sale; or
- b) making such information available to a third party without being obliged to do so.

2) Anyone who is not an insider and who uses inside information that was disclosed to him or that he otherwise gained knowledge of with the intent to obtain an economic advantage for himself or a third party in a

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<sup>1</sup> Article 21(4) repealed by LGBl. 2009 No. 128.

way described in paragraph 1 shall be punished by the Court of Justice with a custodial sentence of up to one year or a monetary penalty of up to 360 daily penalty units, however in case the economic advantage obtained through the offence exceeds 75,000 francs with a custodial sentence of up to three years.

3) Anyone who otherwise is an insider or not an insider and who uses information, of which he knows or grossly negligently does not know that it is inside information, in a way described in paragraph 1 but without the intent to obtain an economic advantage for himself or a third party, shall be punished by the Court of Justice with a custodial sentence of up to six months or a monetary penalty of up to 360 daily penalty units.

4) Insider shall mean a person who by virtue of his membership of the administrative, management, or supervisory bodies of the issuer or otherwise due to his profession, occupation, his responsibilities, or his interest in the capital of the issuer has access to inside information. Insider shall further mean a person who has obtained the information by committing offences. In case the person is a legal person, any natural person who takes part in the decision to execute the transaction for the account of the legal person shall be considered an insider.

5) Paragraphs 1 to 3 shall not apply to:

- a) transactions that are carried out to fulfil an obligation that has become due to purchase or sell financial instruments, if such obligation is pursuant to an agreement concluded before the person concerned received the inside information;
- b) dealing in own shares (purchase and sale) in the context of buy-back programmes and price stabilisation measures for a financial instrument, if such transactions are conducted in compliance with Commission Regulation (EC) No. 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council (EEA Compendium of Laws: Annex IX – 29aa.01).

#### Article 24

##### *Market manipulation*

1) The Court of Justice shall punish with a fine of up to 50,000 francs, or in the event the fine cannot be collected with a custodial sentence of up to six months, anyone who:

- a) performs transactions, buy orders, or sell orders which:

1. send or could send false or misleading signals regarding the supply of, demand of, or the price of financial instruments, or
  2. influence or have the capacity to influence the price of one or several financial instruments placed by one person or several persons acting in collaboration in the intent to drive up prices to an abnormal or artificial level;
- b) performs trades or places buy or sell orders under false pretences or by any other deceitful actions; or
- c) disseminates information via the media including the internet or through other channels that send or could send false or misleading signals with respect to the financial instruments, among other things, by disseminating rumours and false or misleading news if the person who disseminated this information knew or should have known that the information was false or misleading. Journalists who disseminate such information in the line of duty shall be judged by the standards applicable to their profession unless these persons gain an advantage or a pecuniary benefit directly or indirectly from the dissemination of the respective information.

2) Paragraph 1(a) shall not apply if the action conforms to accepted market practices in the supervised market concerned or with respect to the off-market trade concerned and the person has legitimate reasons for the action. Accepted market practices are only such practices that one may reasonably expect to find on one or more financial markets and are recognised by the FMA as such. A market practice, especially a new or emerging market practice, shall not be considered unacceptable on the grounds that it was not expressly accepted previously.<sup>1</sup>

3) Paragraph 1 shall not apply to dealing in own shares (purchase and sale) in the context of buy-back programmes and price stabilisation measures for a financial instrument, if such transactions are conducted in compliance with Commission Regulation (EC) No. 2273/2003.

4) The Government shall provide further details by ordinance, especially concerning:

- a) the circumstances to be taken into account when judging transactions or buy and sell orders as market manipulation;
- b) the consultation procedure and the announcement of the decision concerning acceptance of a market practice and the factors to be taken into account when judging a market practice.

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<sup>1</sup> Article 24(2) amended by LGBL 2008 No. 225.

## Article 25

*Violation of the duty of confidentiality*

Anyone who, without authorisation, discloses or utilises facts, especially business and trade secrets and personal data, in violation of Article 11 shall be punished by the Court of Justice with a custodial sentence of up to six months or with a monetary penalty of up to 360 daily penalty units.

## Article 26

*Administrative contraventions*

The FMA shall punish with a fine of up to 30,000 francs for committing an administrative contravention anyone who:

- a) in violation of Articles 4, 5, and 5a fails to make or make up for a report or disclosure or makes such a report or disclosure incorrectly, incompletely, or late;<sup>1</sup>
- b) in violation of Article 6(1) and Article 7, fails to submit a suspicious transaction report or submits such a report incorrectly, incompletely, or late;
- c) in violation of Article 6(2), informs another person of the suspicious transaction report submitted under Article 6(1);
- d) in violation of Article 8(1) and (2), fails to present a financial analysis appropriately or fails to disclose conflicts of interest; or
- e) violates a measure ordered by the FMA under Article 10 or fails to comply with such a measure.

**B. Special provisions on criminal proceedings for market abuse**

## Article 27

*Basic principle*

1) To the extent not otherwise ordered in the following provisions, the provisions of the Code of Criminal Procedure (StPO) apply to criminal proceedings for market abuse.

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<sup>1</sup> Article 26(a) amended by LGBI. 2014 No. 363.

2) The special rules for criminal proceedings for market abuse shall apply to the proceedings for an offence with respect to which a suspicion of market abuse and a suspicion of an act of another kind subject to judicial penalty exist at the same time.

#### Article 28

##### *Cooperation in preliminary proceedings*

1) As soon as a particular person is suspected of an offence under Article 23 or 24, the FMA shall file a complaint with the Office of the Public Prosecutor. The Office of the Public Prosecutor shall decide on the necessary investigation measures.

2) The Office of the Public Prosecutor shall inform the FMA about the initiation of preliminary proceedings concerning offences under Article 23 or 24. Employees of the FMA may be consulted as experts in the preliminary proceedings.

3) At all times, the FMA shall grant the Office of the Public Prosecutor and the Court of Justice access to files and shall provide all necessary information.

4) The FMA shall execute tasks assigned by the Office of the Public Prosecutor or the Court of Justice as rapidly as possible, and it shall immediately inform the Office of the Public Prosecutor or the Court of Justice of any obstacles encountered.

5) The Office of the Public Prosecutor and the Court of Justice shall, upon request, grant the FMA access to files, unless interests worthy of protection of the affected person stand in the way, or the success of the investigations would be endangered.

## VII. Final provisions

#### Article 29

##### *Advisory committee*

Prior to significant amendments to this Act, the Government shall appoint and consult an advisory committee to safeguard the interests of the affected market participants.



## Article 30

*Implementing ordinances*

The Government shall issue the ordinances necessary to implement this Act.

## Article 31

*Entry into force*

This Act shall enter into force on 1 February 2007, provided that the referendum deadline passes without a referendum being called, and otherwise on the day of its promulgation.

Representing the Reigning Prince:  
signed *Alois*  
Hereditary Prince

signed *Otmar Hasler*  
Prime Minister

## Transitional provisions

- 954.3** Law against Market Abuse in the Trading of  
Financial Instruments (Market Abuse Act; MG)

**Liechtenstein Law Gazette**

Year 2008

No. 225

published on 26 August 2008

**Law**  
of 26 June 2008  
**amending the Market Abuse Act**

...

**II.****Transitional provision**

The new law shall apply to administrative assistance proceedings pending at the time of entry into force<sup>1</sup> of this Act.

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<sup>1</sup> Entry into force: 26 August 2008.

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**Liechtenstein Law Gazette**

Year 2014

No. 363

published on 23 December 2014

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**Law**  
of 7 November 2014  
**amending the Market Abuse Act**

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**II.**

**Transitional provision**

Issuers or persons acting on their behalf or for their account must transmit the list referred to in Article 5a(3) to the FMA for the first time at the latest six months after entry into force<sup>1</sup> of this Act.

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<sup>1</sup> Entry into force: 1 January 2015.