Translation of Liechtenstein Law

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Act
of 23 October 2008
on the Disclosure of Information concerning Issuers of Securities (Disclosure Act; OffG)

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

I. General Provisions

Art. 1

Object and Purpose

1) The purpose of this Act is to ensure protection of investors and transparency on the securities markets.

2) This Act establishes the requirements for the publication of regular and up-to-date information about issuers of securities, in particular:

a) the publication of financial reports and interim reports;

b) information to holders of securities concerning the exercise of their rights;

c) disclosure of the acquisition or sale of significant holdings.

3) This Act shall serve to implement:

a) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (EEA Compendium of Laws: App. IX - 29g.01);

b) Directive 2007/14/EC of the Commission of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (OJ. L 69 of 9.3.2007, p. 27).

Art. 2

Validity

1) This Act applies to:

a) issuers whose securities are traded on a supervised market;

b) shareholders of issuers, whose shares are traded on a supervised market;

c) holders of financial instruments that confer upon their holders the right to acquire the shares referred to in b) unilaterally, under a binding agreement in accordance with the applicable law.

2) The obligations set out in Art. 4 to 24 and also in Art. 34 shall only apply to issuers whose securities are admitted to trading on a regulated market in the European Economic Area (EEA) for whom Liechtenstein is the home Member State.

3) The obligations set out in Art. 25 to 33 shall only apply to:

a) shareholders of issuers whose shares are admitted to trading on a regulated market in the EEA and for whom Liechtenstein is the home Member State;[1]

b) holders of financial instruments that confer upon their holders the right to acquire such shares unilaterally under a binding agreement in accordance with the applicable law.

4) This Act shall not apply to units of undertakings for collective investment in transferrable securities under the UCITSG, investment undertakings under the IUG and alternative investment funds under the

1 Art. 2 (3) a) amended by LGBl. 2010 no. 249.

AIFMG, other than the closed-end type or to units acquired or disposed of within these undertakings.[2]

Art. 3

Definition of terms; designations

1) For the purposes of this Act the following definitions shall apply:

a) "securities": transferable securities of all classes that are traded on the capital market - with the exception of money market instruments as referred to in Annex 2 Section C no. 2 of the Banking Act - , such as:
   1. shares and other securities equivalent to shares or units in companies, partnerships or other legal entities, including certificates (depository receipts) for such securities;
   2. bonds or other forms of securitised debt, including certificates (depository receipts) for such securities;
   3. all other securities, that grant a right to purchase or sell securities or lead to a cash payment, determined on the basis of transferable securities, currencies, interest rates or interest income or other indices or measured quantities;

b) "shares": equity securities carrying voting rights;

c) "debt securities": bonds or other forms of transferable securitised debt, with the exception of securities that are equivalent to shares or which, if converted or the rights conferred by them are exercised, give rise to a right to acquire shares or securities equivalent to shares;

d) "regulated market: a multi-lateral system operated and/or managed by a market operator that:
   1. brings together or facilitates the bringing together of the interests of multiple third parties within that system in accordance with its non-discretionary rules, in a way that results in the conclusion of a contract in respect of financial instruments that are admitted to trading in accordance with the rules and/or the systems of the market;
   2. has been granted a licence; and
   3. operates correctly;

e) "supervised market": a market on which financial instruments are traded and which is under the supervision of an officially approved

2 Art. 2 (4) amended by LGBl. 2016 no. 50.

body, is operated correctly and is directly or indirectly accessible to the public;

f) "issuer": a natural person, or a legal entity governed by private or public law, including a State, whose securities are admitted to trading on a regulated market, or any other person who has applied for the admission of securities to trading on a regulated market without the issuer's consent. In the case of certificates admitted to trading on a regulated market, the issuer means the issuer of the securities represented, whether or not those securities are admitted to trading on a regulated market;[3]

g) "shareholder": any private individual or legal entity governed by private or public law, who holds, directly or indirectly:

   1. shares of an issuer in his or its own name and for his or its own account;
   2. shares of an issuer in his or its own name, but on behalf of a third party;
   3. certificates, in respect of which the holder of the certificates is deemed to be the shareholder of the underlying shares represented by the certificate;

h) "controlled undertaking": any undertaking,

   1. in which a private individual or legal entity holds a majority of the voting rights;
   2. in which a private individual or legal entity has the right to appoint or remove the majority of the members of the administrative, management or supervisory body and is at the same time a shareholder or partner of the undertaking concerned. This shall also include the rights of any other undertaking controlled by the shareholder and the rights of any private individual or legal entity, acting in his or its own name, but on the instructions of the shareholder or any other undertaking controlled by the shareholder;
   3. in which a private individual or legal entity is a shareholder or partner and on the basis of an agreement with other shareholders or members of the undertaking in question alone controls the majority of the voting rights of shareholders or partners; or
   4. over which a private individual or legal entity has the ability to exercise or actually exercises dominant influence or control;

i) "Member State": a state that is a member of the European Economic Area;

3 Art. 3 (1) f) amended by LGBl. 2016 no. 149.

k) "home Member State":[4]

1. in the case of an issuer of debt securities the denomination per unit of which is less than EUR 1,000 or the equivalent amount in another currency as at the date of issue, or an issuer of shares:
   - where the issuer's registered office is in a Member State, the State in which it has its registered office,
   - where the issuer's registered office is in a third country, the Member State chosen by the issuer from amongst the Member States where its securities are admitted to trading on a regulated market. The choice of home Member State shall remain valid unless the issuer has chosen a new home Member State under no. 3 and has disclosed the choice;
2. for any issuer not covered by no. 1, the Member State chosen by the issuer from amongst the Member States in which the issuer has its registered office and those Member States where its securities are admitted to trading on a regulated market. The issuer may choose only one Member State as its home Member State. Its choice shall remain valid for at least three years unless its securities are no longer admitted to trading on any regulated market in the EEA or unless the issuer becomes covered by no. 1 or 3 during the three-year period;
3. for an issuer whose securities are no longer admitted to trading on a regulated market in its home Member State as defined by the second indent of no. 1 or by no. 2 but instead are admitted to trading in one or more other Member States, such new home Member State as the issuer may choose from amongst the Member States where its securities are admitted to trading on a regulated market and, where applicable, the Member State where the issuer has its registered office.

The Government shall establish more specific details concerning the choice of the home Member State by ordinance;

l) "host Member State": a Member State in which securities are admitted to trading on a regulated market, if different from the home Member State;

m) "third country": a State that is not a member of the European Economic Area;

n) "electronic means": electronic equipment for the processing (including digital compression), storage and transmission of data by wire, radio, optical technologies or other electro-magnetic processes;

4 Art. 3 (1) k) amended by LGBl. 2016 no. 149.

o) "trading day": day on which trading takes place on the regulated market in Liechtenstein on which the securities of an issuer are admitted to trading and which is published as such by the FMA on its website. For securities that are not admitted to trading on a regulated market in Liechtenstein and for which Liechtenstein is the home Member State, the normal bank business days applying in Liechtenstein shall be deemed trading days;

p) "regulated information": all information that an issuer is required to disclose under this Act and under Art. 19 of Regulation (EU) no. 596/2014;[5]

q) "market makers": private individuals or legal entities, who continuously advertise on the financial markets that they are willing to deal on their own account, by buying or selling financial instruments, using their own capital, at prices defined by them;

r) "securities issued in a continuous or repeated manner": debt securities issued as perpetual issues of one and the same issuer or at least two separate issues of securities of similar type and/or class.

s) "formal agreement": an agreement which is binding under the applicable law;[6]

t) "financial institution": a financial institution as defined in Art. 4 (1) no. 26 of Regulation (EU) no. 575/2013.[7]

2) In other respects the definitions of terms of the applicable EEA statutory provisions, in particular Directives 2004/109/EC and 2007/14/EC shall additionally apply.

2a) References in this Act to legal entities shall be understood as including registered partnerships without legal personality and undertakings for collective investment.[8]

3) Terms used to designate persons, functions or professions in this Act are to be understood as referring to both the male and female genders.

5 Art. 3 (1) p) amended by LGBl. 2020 no. 159.
6 Art. 3 (1) s) inserted by LGBl. 2016 no. 149.
7 Art. 3 (1) t) inserted by LGBl. 2016 no. 149.
8 Art. 3 (2a) inserted by LGBl. 2016 no. 149.

II. Transparency requirements imposed upon issuers

A. Regular information

Art. 4

Annual financial report

1) An issuer shall draw up an annual financial report at the end of each financial year and publish it within four months from the end of each financial year at the latest. The issuer shall ensure that the report remains publicly available for at least ten years.[9]

2) The annual financial report shall comprise:

a) the annual financial statements;

b) the annual report; and

c) a declaration from responsible persons acting for the issuer confirming the accuracy of the annual financial statements.

3) The Government shall provide more specific details concerning the required content of the annual financial report by ordinance. It may specifically issue regulations on the following:

a) the applicable accounting regulations, including the rules governing consolidation;

b) the auditing process;

c) the reporting of commercial and financial developments in the issuer's business and the issuer's business and financial situation;

d) the procedure for the confirmation to be provided by the persons responsible for the annual financial reports.

e) the reporting format.[10]

Art. 5

Half-yearly financial report

1) An issuer of shares and debt securities shall publish a half-yearly financial report in respect of the first six months of the financial year and shall ensure that it remains publicly available for at least ten years. The

9 Art. 4 (1) amended by LGBl. 2016 no. 149.

10 Art. 4 (3) e) inserted by LGBl. 2016 no. 149.

report shall be published as soon as possible but no later than three months from the end of the reporting period.[11]

2) The half-yearly financial report shall comprise:

a) the interim financial statements;

b) the interim report; and

c) a declaration from responsible persons acting for the issuer confirming the accuracy of the interim financial statements.

3) The Government shall provide more specific details concerning the required content of the half-yearly financial report by ordinance. It may specifically issue regulations on the following:

a) the applicable accounting regulations, including consolidation;

b) the auditing process;

c) the reporting of commercial and financial developments in the issuer's business and the issuer's business and financial situation;

d) the procedure for the confirmation to be provided by the persons responsible for the half-yearly financial reports.

Art. 6[12]

Report on payments to governments

An issuer active in the extractive or logging of primary forest industries, as defined in Art. 41 no. 1 and 2 of Directive 2013/34/EU, shall prepare on an annual basis, in accordance with Chapter 10 of that Directive, a report on payments made to governments. The report shall be made public at the latest six months after the end of each financial year and shall remain publicly available for at least ten years. Payments to governments shall be reported at consolidated level.

Art. 7

Exemptions

1) The following are exempt from the obligation to publish and ensure public access to reports and statements as referred to in Art. 4 and 5:[13]

11 Art. 5 (1) amended by LGBl. 2016 no. 149.
12 Art. 6 amended by LGBl. 2016 no. 149.
13 Art. 7 (1) introductory sentence amended by LGBl. 2016 no. 149.

a) States, regional and local authorities, public international bodies to which at least one Member State belongs, the European Central Bank (ECB) and the national central banks of the Member States, irrespective of the type of securities they issue;

b) issuers exclusively of debt securities admitted to trading on a regulated market, the denomination per unit of which is at least EUR 100,000, or of debt securities in a currency other than euro, the value of such denomination per unit of which is, at the date of the issue, equivalent to at least EUR 100,000.[14]

2) The following are exempt from the obligation to publish and ensure public access to the half-yearly financial reports referred to in Art. 5:

a) banks, of which the shares are not admitted to trading on a regulated market which have exclusively issued debt securities in a continuous or repeated manner, provided that the total nominal amount of the debt securities issued is below EUR 100 million or the equivalent in another currency and no prospectus has been published pursuant to the Securities Prospectus Act or the equivalent regulations of another Member State;

b) issuers already existing at the date of entry into force of Regulation (EU) 2017/1129 who exclusively issue debt securities on a regulated market that are unconditionally and irrevocably guaranteed by the home Member State or one of its regional or local authorities.[15]

3) By way of derogation from (1) b) of this Article, Art. 4 and 5 shall not apply to issuers exclusively of outstanding debt securities the denomination per unit of which is at least EUR 50,000 or the equivalent amount in another currency, as at the date of issue, that have already been admitted to trading on a regulated market before 31 December 2010.[16]

B. Ongoing information

Art. 8

Equal treatment requirement

1) An issuer of shares shall treat all shareholders who are in the same position equally.

14 Art. 7 (1) b) amended by LGBl. 2016 no. 149.
15 Art. 7 (2) b) amended by LGBl. 2019 no. 162.
16 Art. 7 (3) inserted by LGBl. 2016 no. 149.

2) An issuer of debt securities must ensure that all holders of debt securities ranking pari passu are given equal treatment in respect of all rights attaching to these debt securities.

3) In other respects the requirement for equal treatment is governed by the provisions of the Liechtenstein Persons and Companies Act, in particular its final chapter.

Art. 9

Duty of disclosure to shareholders

1) An issuer of shares shall ensure that all facilities and information that shareholders require in order to exercise their rights are available in Liechtenstein and that the integrity of the data is guaranteed. An issuer shall in particular:

a) provide information about the venue, time and agenda of General Meetings of Shareholders and likewise the total number of shares and voting rights, together with the rights of shareholders to participate in General Meetings, in particular with regard to the possibility of having their rights exercised by a proxy;

b) send a proxy form, in either a printed version or electronically, to any person who is entitled to attend and vote at a General Meeting together with the invitation to the General Meeting, or on request;

c) appoint a financial institution as an authorised agent through which shareholders can exercise their financial rights; and[17]

d) publish notices or distribute circulars announcing the allocation and payment of dividends and the issue of new shares and providing information about any agreements with reference to the allocation, subscription, retirement or conversion of shares.

Art. 10

Duty of disclosure to holders of debt securities

1) An issuer of debt securities shall ensure that all facilities and information that holders of debt securities require in order to exercise their rights are available in the home Member State and that the integrity of the data is guaranteed. An issuer shall in particular:

17 Art. 9 (1) c) amended by LGBl. 2016 no. 149.

a) publish notices or distribute circulars providing information about the venue, time and agenda of the meeting of creditors, as well as interest payments and the exercise of conversion, exchange, subscription, cancellation and repayment rights as well as the rights of the holders of debt securities to participate in the meetings, in particular with regard to the possibility of having their rights exercised by a proxy;

b) send a proxy form, in either a printed version or electronically, to any person who is entitled to attend and vote at a meeting of creditors together with the invitation to attend the meeting of creditors, or on request;

c) appoint a financial institution as an authorised agent through which holders of debt securities can exercise their financial rights.[18]

2) The State of Liechtenstein and the municipalities are exempt from the obligations set out in (1).

3) If only holders of debt securities having a minimum denomination of EUR 100,000, or the equivalent amount in another currency, as at the date of issue are invited to a meeting of creditors, an issuer is at liberty to select the venue for the meeting in any Member State, provided that all the facilities and information referred to in (1) that the holders of such debt securities require in order to exercise their rights are available there. This shall also apply to outstanding debt securities with a minimum denomination of EUR 50,000 or the equivalent amount in another currency, as at the date of issue, that were already admitted to trading on a regulated market in the EEA prior to 31 December 2010.[19]

Art. 10a[20]

Duty to inform the competent authority

1) An issuer shall disclose its home Member State to the FMA in accordance with the procedure set out in Art. 15 to 20 within a period of three months from the date the issuer's securities are first admitted to trading.

2) In the absence of a disclosure by the issuer of its home Member State in accordance with (1), the Member State where the issuer's securities are admitted to trading shall be considered as the home Member State. Where the issuer's securities are admitted to trading in more than one Member

18 Art. 10 (1) c) amended by LGBl. 2016 no. 149.
19 Art. 10 (3) amended by LGBl. 2012 no. 176.
20 Art. 10a inserted by LGBl. 2016 no. 149.

State, those Member States shall be the home Member States until a subsequent choice of a single home Member State has been made and disclosed.

C. Additional information

Art. 11

Change in shareholders' rights

An issuer of shares shall publish any change in the rights attaching to various classes of shares, including the rights attaching to derivative securities issued by the issuer itself and granting access to the shares of that issuer, without delay.

Art. 12

Change in other rights

An issuer of securities other than shares shall publish any change in the rights of the holders of these securities without delay, including changes to the terms and conditions of the securities which could indirectly affect investors' rights, resulting in particular from a change in lending terms or interest rates.

Art. 13

Changes in voting rights

An issuer of shares shall publish the total number of voting rights and the total capital at the end of each calendar month in which an increase or reduction in voting rights or capital has occurred.

Art. 14[21]

Repealed

21 Art. 14 repealed by LGBl. 2016 no. 149.

D. Distribution and filing of regulated information

Art. 15

Distribution of regulated information

1) Regulated information is to be communicated in a form that guarantees speedy access to it in a non-discriminatory manner. The issuer shall use media that may reasonably be relied upon to effectively communicate the information to the public throughout the EEA.

2) Regulated information shall be distributed within three trading days.

3) An issuer is not permitted to charge investors any fees for access to regulated information.

4) The regulated information shall be communicated to the media in a way that makes clear that the information is regulated information and clearly identifies the relevant issuer, the subject matter of the regulated information and the time and date on which the information was communicated by the issuer.

5) The regulated information shall be communicated to the media in a way that guarantees secure communication and data security.

6) Subject to Art. 18 the regulated information is to be passed to the media in unedited full text.

7) If the securities of an issuer for whom Liechtenstein is the home Member State are only admitted to trading on a regulated market in a host Member State, the issuer shall meet the obligations referred to in (1) to (5) in that state.

7a) Whenever the issuer discloses regulated information, it shall at the same time file that information with the competent authority of its home Member State.[22]

8) The Government shall provide more specific regulations concerning the distribution of regulated information by ordinance.

22 Art. 15 (7a) inserted by LGBl. 2016 no. 149.

Art. 16

Notices

1) Without prejudice to the obligations stated in Art. 15, an issuer of shares shall publish the following information in the Liechtenstein national newspapers without delay or, if it has no registered office in Liechtenstein, in accordance with the applicable law at the registered office of the regulated market at which the shares are admitted to trading:[23]

a) the convocation of the General Meeting of Shareholders, including the agenda, the total number of shares and voting rights at the time of convening the General Meeting and the rights of shareholders to participate in the General Meeting; and

b) notices concerning the distribution and payment of dividends, the issue of new shares and the agreement or exercise of conversion, purchase, retirement and subscription rights and the ensuing rights of shareholders.

2) The notice referred to in (1) does not need to be given, if:

a) the exercise of voting rights is dependent on the entry in the share register; and

b) the share register also includes the details required for the delivery of the information.

3) Without prejudice to the obligations stated in Art. 15, an issuer of debt securities shall publish the following information in the Liechtenstein national newspapers without delay or, if it has no registered office in Liechtenstein, in accordance with the applicable law at the registered office of the regulated market at which the debt securities are admitted to trading:[24]

a) the convocation of the meeting of creditors, including the agenda and the rights of the holders of debt securities to participate in the meeting of creditors; and

b) notices concerning the agreement or exercise of conversion, exchange, subscription, cancellation, redemption and termination rights, as well as interest payments and the resulting rights of the holders of debt securities.

4) Insofar as the publication of the information in question is also required under other statutory regulations, it is only necessary to publish the information once.

23 Art. 16 (1) introductory sentence amended by LGBl. 2016 no. 404.
24 Art. 16 (3) introductory sentence amended by LGBl. 2016 no. 404.

5) As an alternative to publication in the manner referred to in (1) and (3) an issuer may transmit the notices to shareholders or holders of debt securities via electronic means as referred to in Art. 17.

Art. 17

Notices by electronic means

1) An issuer of shares may employ electronic means in order to communicate notices to shareholders, if:

a) the statutes of the issuer permit notices to be given in this form and the General Meeting of Shareholders has passed a decision to that effect;

b) the issuer takes measures to ensure the identity of recipients is effectively checked, so that the shareholders or the private individuals or legal entities who are entitled to exercise voting rights or give instructions for the exercise of voting rights actually receive the notices;

c) the use of electronic means is in no way dependent upon the registered office or domicile of the shareholder or the persons referred to in Art. 26 (1) a) to h);

d) the shareholders or the persons referred to in Art. 26 (1) a) to h) who are entitled to acquire, dispose of or exercise voting rights, are requested in writing to consent to the communication of information electronically; their consent shall be deemed to have been given, if they do not express their disagreement within a reasonable time and they are given the right to request that the information be conveyed in writing at any time; and

e) any costs associated with the communication of notices in this form will be determined by the issuer on the basis of the principle of equal treatment.

2) Issuers of debt securities may employ electronic means in order to communicate notices to holders of debt securities, if:

a) the meeting of creditors has taken a decision to that effect;

b) the issuer takes appropriate measures to check the identity so that the holders of debt securities actually receive the notices;

c) the use of electronic means is in no way dependent upon the registered office or domicile of the holders of debt securities;

d) the holders of debt securities are requested in writing to consent to the communication of information electronically, with their consent being deemed to have been given, if they do not express their disagreement

within a reasonable time and they are given the right to request that the information be conveyed in writing at any time; and

e) any costs associated with the communication of notices in this form will be determined by the issuer on the basis of the principle of equal treatment.

3) In addition to the notices referred to in (1) and (2) information must be communicated to the media as provided in Art. 15.

Art. 18

Publication of financial reports and interim statements

When publishing the financial reports referred to in Art. 4 and 5 or the interim statements referred to in Art. 6 an issuer may immediately:

a) publish the entire report in accordance with Art. 15; or

b) publish a notice in accordance with Art. 15. The notice shall make reference to the website where the relevant documents can be retrieved.

Art. 19

Filing of regulated information and notices

1) Regulated information shall also be filed with the FMA at a time that coincides with publication in accordance with Art. 15.

2) Repealed[25]

3) Issuers shall notify the FMA and the Office of Justice as soon as their securities are admitted to trading on a regulated market in the EEA.[26]

4) The FMA shall store the information filed with it and shall make it available to the public in accordance with Art. 35 (2).

5) The documents designated in (1) and (2) shall be submitted electronically using an advanced electronic signature in accordance with Regulation (EU) no. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market.[27]

25 Art. 19 (2) repealed by LGBl. 2016 no. 149.
26 Art. 19 (3) amended by LGBl. 2013 no. 6.
27 Art. 19 (5) amended by LGBl. 2019 no. 117.

Art. 20

Language rules

1) Regulated information concerning securities of an issuer for whom Liechtenstein is the home Member State, and which are only admitted to trading on a regulated market in Liechtenstein shall be published in German.

2) If securities are admitted to trading on both a regulated market in Liechtenstein as home Member State and a regulated market in one or more host Member State, the regulated information shall be published:

a) in German; and

b) in a language accepted by the competent authorities of the host Member States concerned or in a language commonly used in international finance, to be decided by the issuer.

3) If securities are admitted to trading on a regulated market in one or more host Member State, but not in the home Member State, the issuer may opt to publish the regulated information either:

a) in a language accepted by the competent authorities of the host Member States concerned; or

b) in a language commonly used in international finance.

3a) If an action concerning the content of regulated information is brought before a court or tribunal in a Member State, responsibility for the payment of costs incurred in the translation of that information for the purposes of the proceedings shall be decided in accordance with the law of that Member State.[28]

4) In derogation of (1) to (3) if the securities have a minimum denomination of EUR 100,000 or the equivalent amount in another currency as at the date of issue, the issuer may opt to publish the regulated information:[29]

a) either in a language accepted by the competent authorities of the home Member state and the host Member States; or

b) in a language commonly used in international finance.

5) The provisions of (4) shall also apply to outstanding debt securities with a minimum denomination of EUR 50,000 or the equivalent amount in

28 Art. 20 (3a) inserted by LGBl. 2016 no. 149.

29 Art. 20 (4) introductory sentence amended by LGBl. 2012 no. 176.

another currency as at the date of issue, that were admitted to trading on a regulated market in the EEA prior to 31 December 2010.[30]

E. Meeting reporting obligations in the host Member State

Art. 21

Issuers not having admission to trading in the home Member State

An issuer for whom Liechtenstein is the host Member State, and whose securities are admitted to trading on a regulated market in Liechtenstein, but not on a regulated market in its home Member State, shall be bound to meet the obligations of issuers under this Act in the same way as an issuer for whom Liechtenstein is the home Member State.

F. Delegation and liability

Art. 22

Delegation and liability

1) If an issuer assigns the drafting and publication of regulated information referred to in Art. 4 to 7 and the additional information referred to in Art. 11 to 13 to third parties, this shall not affect its liability.[31]

2) The liability of an issuer shall be governed by the provisions of the ABGB (Liechtenstein General Civil Code).

30 Art. 20 (5) inserted by LGBl. 2012 no. 176.
31 Art. 22 (1) amended by LGBl. 2016 no. 149.

G. Specific provisions with reference to third countries

Art. 23

Relief measures

1) The FMA may exempt an issuer having its registered office in a third country, for whom Liechtenstein is the home Member State, from meeting the obligations set out in Art. 4 to 13, 16, 17, 22, 30 and 34 (1), if:[32]

a) the law of this third country lays down requirements that are at least equivalent; or

b) the issuer meets the requirements of a third country which the FMA deems to be equivalent.

2) The information to be submitted in accordance with the regulations of the third country is to be distributed in accordance with Art. 15 and 20 and filed with the FMA in accordance with Art. 19.[33]

3) If an issuer in a third country issues further information of significance for investors, this shall also be distributed in accordance with Art. 15 and 20.[34]

3a) The FMA shall inform ESMA of the exemption granted.[35]

4) The Government may provide more specific details by ordinance.

Art. 24[36]

Exemptions to the aggregation of holdings

Management companies of undertakings for collective investment in transferable securities having their registered office in a third country that would require an authorisation in the EEA in accordance with Art. 5 (1) of Directive 2009/65/EC and asset management companies having their registered office in a third country that would require an authorisation in the EEA with reference to the management of portfolios under Section A no. 4 of Annex I of Directive 2014/65/EU, are exempt from the aggregation of holdings in accordance with Art. 28 if they:[37]

32 Art. 23 (1) introductory sentence amended by LGBl. 2016 no. 149.
33 Art. 23 (2) amended by LGBl. 2016 no. 149.
34 Art. 23 (3) amended by LGBl. 2016 no. 149.
35 Art. 23 (3a) inserted by LGBl. 2016 no. 149.
36 Art. 24 amended by LGBl. 2011 no. 303.
37 Art.24 introductory sentence amended by LGBl. 2017 no. 409.

a) are licensed to conduct their business in the state in which they are registered; and

b) meet equivalent requirements with regard to their independence.

III. Information about major holdings

Art. 25

Notification of the acquisition or disposal of major holdings

1) Any person whose proportion of the voting rights of an issuer reaches, exceeds or falls below 5 %, 10 %, 15 %, 20 %, 25 %, 33 %, 50 % or 66 % through acquisition, disposal or other means, shall notify the issuer and the FMA of the proportion of the voting rights he holds.

2) Any person who, at the time of the first admission of the shares to trading on a regulated market, is entitled to 5 % or more of the voting rights in an issuer, shall notify the issuer and the FMA of the proportion of the voting rights he holds.

3) In respect of certificates representing shares, the notification requirement only applies to the holder of the certificate.

4) The proportion of voting rights shall be calculated on the basis of all shares to which voting rights are attached, even if the exercise of voting rights has been suspended. Moreover this proportion shall also be stated in respect of all shares of one and the same class to which voting rights are attached.

Art. 26

Acquisition or disposal of major proportions of voting rights

1) The notification requirements defined in Art. 25 (1) and (2) shall also apply to a private individual or legal entity who is entitled to acquire, dispose of or exercise voting rights in one or more of the following cases:

a) voting rights held, acquired or disposed of by a third party in his own name for the account of this private individual or legal entity;

b) voting rights held, acquired or disposed of by an undertaking controlled by this private individual or legal entity or which may be exercised by the controlled undertaking in accordance with c) to f);

c) voting rights held by a third party with whom that private individual or third party has concluded an agreement that obliges both of them to adopt a common policy towards the management of the issuer in

question, on a long-term basis, by a concerted exercise of the voting rights;

d) voting rights held by a third party under an agreement concluded by that private individual or legal entity or one of their controlled undertakings providing for the temporary transfer of these voting rights against a consideration;

e) voting rights attaching to shares that are lodged as security with that private individual or legal entity, providing the person or entity holds the voting rights and declares its intention of exercising them;

f) voting rights attaching to shares in which that private individual or legal entity has a right of usufruct;

g) voting rights that the private individual or legal entity may exercise acting as a proxy, at its own discretion, in the absence of specific instructions from the shareholders;

h) voting rights attaching to shares that are lodged as security with that private individual or legal entity, which that person or entity may exercise at its own discretion in the absence of specific instructions from the shareholders.

2) The persons required to give notification pursuant to Art. 25 (1) and (2) are allocated the voting rights referred to in (1).

Art. 26a[38]

Aggregation

1) The notification requirements laid down in Art. 25 and 26 and in Art. 29 shall also apply when the number of voting rights held directly or indirectly by a natural person or legal entity under Art. 25 and 26 aggregated with the number of voting rights relating to financial instruments held directly or indirectly under Art. 29 reaches, exceeds or falls below the thresholds set out in Article 25 (1).

2) The notification required under (1) shall include a breakdown relating to financial instruments in accordance with Art. 25 and 26 on the one hand and Art. 29 on the other.

3) Voting rights relating to financial instruments that have already been notified in accordance with Art. 29 shall be notified again when the acquisition by a natural person or legal entity results in the total number

38 Art. 26a inserted by LGBl. 2016 no. 149.

of voting rights attached to shares issued by the same issuer reaching or exceeding the thresholds laid down by Art. 25 (1).

Art. 27

Exceptions to aggregation

1) There is no requirement to aggregate own holdings as referred to in Art. 25 and 26 with those of the subsidiary for:

a) the parent company of a management company for the holdings that are managed by the management company under the UCITSG, Directive 2009/65/EC or the equivalent regulations of a third country, provided that the management company exercises the voting rights attaching to these holdings independently; and[39]

b) the parent company of an asset management company under the Asset Management Act or an undertaking authorised in accordance with Directive 2014/65/EU or an undertaking organised in accordance with the equivalent regulations of a third country, authorised to provide portfolio management on a client-by-client basis, for the holdings managed by that subsidiary, in accordance with Directive 2014/65/EU, provided the subsidiary:[40]

   1. may only exercise the voting rights attaching to the shares by virtue of instructions given in writing or by electronic means, or ensures by appropriate organisational measures that the individual portfolio management services are conducted independently of other services and under conditions equivalent to those of Directive 85/611/EEC; and

   2. exercises its voting rights independently.

2) The exception referred to in (1) shall not however apply if the parent company or another controlled undertaking of the parent company:

a) holds units in holdings managed by the subsidiary; and

b) the subsidiary cannot exercise the voting rights attaching to these holdings at its own discretion, but only under direct or indirect instructions from the parent company or another controlled undertaking of the parent company.

3) The Government shall establish more specific regulations concerning the independence requirements to be observed by

39 Art. 27 (1) a) amended LGBl. 2011 no. 303.

40 Art. 27 (1) b) introductory sentence amended by LGBl. 2017 no. 409.

management companies of undertakings for collective investment in transferable securities and asset management companies by ordinance.[41]

Art. 28

Loss of rights

Voting rights attaching to shares belonging to a person subject to an obligation of notification, or on the basis of which he is allocated voting rights under Art. 26, shall not be valid for the period during which the obligation to notify referred to in Art. 25 and 26 is not met.

Art. 29

Notification of rights arising from other financial instruments

1) The notification requirements laid down in Art. 25 (1) and (2) shall also apply to a natural person or legal entity who holds, directly or indirectly:[42]

a) financial instruments that, on maturity, give the holder, under a formal agreement, either the unconditional right to acquire or the discretion as to the holder's right to acquire, shares to which voting rights are attached, already issued, of an issuer whose shares are admitted to trading on a regulated market; or

b) financial instruments which are not included in a) but which are referenced to shares with economic effect similar to that of financial instruments referred to in a), whether or not they confer a right to a physical settlement.

1a) The number of voting rights shall be calculated by reference to the full notional amount of shares underlying the financial instrument. Where the financial instrument provides exclusively for a cash settlement, the number of voting rights shall be calculated on a 'delta-adjusted' basis, by multiplying the notional amount of underlying shares by the delta of the instrument. Only long positions shall be taken into account for the calculation of voting rights. Long positions shall not be netted with short positions relating to the same underlying issuer. There shall be no aggregation with voting rights pursuant to Art. 25 and 26, unless this Act provides otherwise.[43]

41 Art. 27 (3) amended by LGBl. 2011 no. 303.
42 Art. 29 (1) amended by LGBl. 2016 no. 149.
43 Art. 29 (1a) inserted by LGBl. 2016 no. 149.

1b) The notification pursuant to (1) shall include a breakdown as follows:[44]

a) by financial instruments as referred to in (1) a) and b); and

b) by financial instruments with a right to a physical settlement and with a right to a cash settlement.

1c) For the purposes of (1), the following shall be considered to be financial instruments:[45]

a) transferable securities;

b) options;

c) futures;

d) swaps;

e) forward rate agreements;

f) contracts for differences; and

g) any other contracts or agreements with similar economic effects which may be settled physically or in cash.

2) If different financial instruments referred to in (1) refer to the same issuer, these are to be aggregated for the purposes of the notification referred to in (1).

3) Any person who has already given notice of acquisition, disposal or holding in accordance with Art. 26 (1) is not required to give further notification pursuant to (1) if the shares referred to in the notice have been acquired or are held for the purpose of meeting the claims arising from financial instruments as referred to in (1).

4) The exemptions laid down in Art. 27 (1) a), Art. 31 (2) and Art. 33 (1) shall apply mutatis mutandis.[46]

Art. 30

Acquisition or disposal of own shares

1) An issuer who through the acquisition or disposal of its own shares reaches, exceeds or falls below a threshold of 5 %, 10 % or 20 % of the voting rights of its own company, is obliged to publish the proportion of own shares held immediately, but no later than four trading days

44 Art. 29 (1b) inserted by LGBl. 2016 no. 149.
45 Art. 29 (1c) inserted by LGBl. 2016 no. 149.
46 Art. 29 (4) amended by LGBl. 2016 no. 149.

following the acquisition or disposal. The proportion shall be determined on the basis of the total number of shares that carry voting rights.

2) Art. 25 to 29 shall apply to the acquisition of own shares mutatis mutandis.

Art. 31

Exceptions to the obligation to notify

1) Art. 25 to 29 shall not apply to financial instruments that:

a) are held exclusively for the purpose of clearing and settlement of transactions within the usual short settlement period of no more than three trading days;

b) are held by custodians exclusively in their capacity as custodians, provided that the custodians can only exercise the voting rights attached to these shares under instructions given in writing or by electronic means;

c) are acquired or disposed of by a market maker, acting in its capacity as a market maker, thereby reaching, exceeding or falling below the threshold of 5 % and provided that the market maker:

   1. is officially authorised for these activities as a financial institution in Liechtenstein, in another Member State in accordance with Directive 2004/39/EU or in a third country, provided that in the latter case it is subject to oversight equivalent to the oversight in Liechtenstein; and[47]

   2. is not involved in the management of the issuer concerned and does not exert influence over it to purchase the shares in question or to support the share price.

   The Government shall establish more specific regulations concerning the obligations of market makers by ordinance;

d) are held by a financial institution as trading positions within the context of its securities trading, insofar as:[48]

   1. the associated voting rights do not exceed a threshold of 5 %; and

   2. procedures are in place to ensure that the relevant voting rights are not exercised or otherwise used in order to intervene in the management of the issuer;

47 Art. 31 (1) c) no. 1 amended by LGBl. 2016 no. 149.

48 Art. 31 (1) d) introductory sentence amended by LGBl. 2016 no. 149.

e) are made available to or provided by members of the European System of Central Banks (ESCB) in the performance of their functions as monetary authorities, as a pledge, under a repurchase agreement or a similar agreement against liquidity granted for the purposes of monetary policy or within a payment system; the transactions involved must be short-term and the voting rights attaching to the shares concerned may not be exercised.

f) were acquired for stabilisation purposes in accordance with Commission Regulation (EC) no. 2273/2003, provided the voting rights attached to those shares are not exercised to intervene in the management of the issuer.[49]

2) Any party under an obligation to notify shall be released from that obligation if it is being met in accordance with Art. 25 (1) and (2), Art. 26 (1) or Art. 29 (1) by its parent company, or if the latter is itself a controlled undertaking, by its own parent company.

3) If one or more voting proxy is granted the obligation to notify pursuant to Art. 25 (1) and (2), Art. 26 (1) or Art. 29 (1) may be met in the form of a single notification at the time when the proxy is established, insofar as the proxy is granted for one single general meeting of shareholders or meeting of creditors and it is clearly stated in the notification what the resulting situation in relation to voting rights will be if the proxy can no longer exercise the voting rights assigned to him.

Art. 32

Form and content of the notification

1) The notifications referred to in Art. 25 (1) and (2) and Art. 26 (1) to the issuer and the FMA shall contain the following information:

a) the number of voting rights after the acquisition or disposal;

b) the chain of controlled undertakings through which the voting rights are held, if applicable;

c) the date on which the threshold was reached or crossed;

d) the name of the shareholder, even if that shareholder is not entitled to exercise voting rights under the provisions of Art. 26; and

e) the names of private individuals or legal entities who are entitled to exercise the voting rights for the shareholder.

49 Art. 31 (1) f) inserted by LGBl. 2016 no. 149.

2) The notification referred to in Art. 29 (1) to the issuer and the FMA shall contain the following information:

a) the name of the issuer of the shares from which the financial instruments are derived;

b) the resulting situation, assuming acquisition rights will be performed and the relevant obligations will be met, with reference to the voting rights in percentage terms, based on the most recent publication of the total number of voting rights and the capital of the issuer;

c) the chain of controlled undertakings through which the voting rights are held, if applicable;

d) the date on which the threshold was reached or crossed;

e) in the case of financial instruments subject to a time limit for exercising rights, an indication of the validity period during which or the time at which the shares are acquired or may be acquired;

f) expiry date or maturity date of the financial instrument;

g) the name of the holder of the financial instruments, even if the holder is not entitled to exercise the voting rights under the conditions laid down in Art. 26; and

h) the names of the private individuals and legal entities who are entitled to exercise the voting rights for the holder of the financial instruments, if applicable.

3) If the duty to give a notification is incumbent upon more than one private individual, notification may be given by a single common notification. However the use of a single common notification may not be deemed to release the private individual concerned from his responsibility in relation to this notification.

4) Notifications pursuant to Art. 25 (1) and (2), Art. 26 (1) or Art. 29 (1) may be drafted either in German or in a language commonly used in international finance. The issuer is not obliged to arrange or publish a translation.

5) The Government shall provide more specific regulations concerning the form of the notification, in particular concerning the use of the standard forms to be used in all Member States, by ordinance.

Art. 33

Time of the notification

1) The notification to the issuer and the FMA pursuant to Art. 25 (1) and (2), Art. 26 (1) or Art. 29 (1) shall be effected promptly, but not later than

four trading days from the day after the date on which the shareholder or the private individual or legal entity as referred to in Art. 26 (1):[50]

a) learns of the acquisition or disposal or the possibility that voting rights may be exercised, or on which he or she, given the circumstances, should have learned of it, regardless of the date on which the acquisition, disposal or the possible exercise of the voting rights takes effect; or

b) is informed of an event that has changed the distribution of voting rights.

2) In the cases referred to in Art. 26 (1) c) notification is a collective obligation incumbent upon all persons who are party to the agreement; in the remaining cases it is the individual obligation of each person subject to an obligation to notify.

3) With reference to (1) it is presumed that the persons under an obligation to notify learn of the acquisition, disposal or the possibility of voting rights being exercised no later than two trading days from the conclusion of the relevant transaction.

Art. 34

Obligation of the issuer to provide information

1) An issuer who receives a notification pursuant to Art. 25 (1) and (2), Art. 26 (1) or Art. 29 (1), shall publish all information contained therein within three trading days from receipt.

2) If an issuer learns that a person acquiring or disposing of a significant holding in that issuer has not met his obligation to give notification, it shall notify the FMA.

3) An issuer who gives notification pursuant to (2) may not be held liable on account of this notification, unless the notification is falsely given, either deliberately or through gross negligence on its part.

50 Art. 33 (1) introductory sentence amended by LGBl. 2016 no. 149.

IV. Organisation and Implementation

A. Oversight

Art. 35

Competent authority

1) Subject to the competence of the courts and the prosecution authorities the FMA shall oversee enforcement of this Act and the ordinances issued in connection therewith. It shall exercise its powers directly or in cooperation with other authorities.[51]

2) The FMA shall store the filed information in a publicly accessible register for a period of five years.

Art. 36

Powers

1) The FMA holds all the powers required to enable it to perform its functions. It is empowered in particular to:

a) require persons regulated by this Act and their auditors to provide it with all required documents and information, as well as copies thereof;

b) conduct investigations on site;

c) stipulate that practices in violation of this Act are prohibited;

d) instruct issuers to publish regulated information, or if the issuer should refuse, to publish such information itself after due hearing of the issuer;

e) suspend trading in securities for a maximum of ten days;

f) prohibit trading on a regulated market;

g) adopt decisions and orders for action, prohibitive measures and declaratory rulings;

h) ask the Public Prosecution Service to propose measures to safeguard the decline of assets pursuant to the Code of Criminal Procedure.[52]

i) suspend the exercise of voting rights in the event of serious breaches as referred to in Art. 25, 26, 26a, 29 and 32.[53]

51 Art. 35 (1) amended by LGBl. 2016 no. 149.
52 Art. 36 (1) h) amended by LGBl. 2016 no. 161.
53 Art. 36 (1) i) inserted by LGBl. 2016 no. 149.

2) Provisions on professional secrecy existing under other laws shall not be affected by (1) insofar as these grant exemption from the obligation to testify before the courts.

3) Auditors who bring matters to the attention of the FMA in good faith, shall not thereby be in breach of any restrictions on disclosure of information imposed by law or contract. Compliance with the duty of disclosure shall not entail any adverse consequences for the auditors or the person who has disclosed the information.

4) The FMA may publicly announce measures or sanctions under this Act in accordance with Art. 51b.[54]

5) Repealed[55]

Art. 36a[56]

Processing of personal data

The FMA and the other competent domestic authorities may process personal data, including personal data concerning criminal convictions and offences of the persons subject to this Act or give instructions for such data to be processed, insofar as this is necessary for the performance of their duties under this Act.

Art. 37

Professional secrecy

1) Persons employed by the FMA and persons acting on the instructions of the FMA are obliged to observe professional secrecy in respect of facts of which they have become aware in the course of their employment, in particular commercial and company secrets as well as personal data, even if they are no longer employed by the FMA or they have ceased activity.

2) No breach of professional secrecy as described in (1) has occurred, if:

a) facts are disclosed to the Public Prosecution Service or the Princely Court of Justice in accordance with a legal provision;

54 Art. 36 (4) amended by LGBl. 2016 no. 149.
55 Art. 36 (5) repealed by LGBl. 2018 no. 314.
56 Art. 36a inserted by LGBl. 2018 no. 314.

b) facts are disclosed to the competent agencies of the Member States or of third countries or the European Securities and Markets Authority (ESMA) in connection with the cooperation referred to in Art. 39 to 46; or[57]

c) measures as referred to in Art. 36 (4) are announced to the public.

Art. 38

Supervisory charges and fees

Supervisory charges and fees are set by the legislation on the Financial Market Authority.

B. Administrative assistance

1. Cooperation with other domestic authorities

Art. 39

Basic principle

1) In the course of its supervisory function the FMA shall work together with other domestic authorities, insofar as this is necessary for the performance of its duties.

1a) The competent domestic authorities may exchange personal data, including personal data concerning criminal convictions and offences, insofar as this is necessary for the performance of their supervisory duties.[58]

2) The Office of Justice shall inform the FMA of all amendments to entries in the Commercial Register concerning persons subject to supervision under this Act. It is also obliged to grant the FMA access to the electronic version of the data held in the Commercial Register.[59]

57 Art. 37 (2) b) amended by LGBl. 2016 no. 149.
58 Art. 39 (1a) inserted by LGBl. 2018 no. 314.
59 Art. 39 (2) amended by LGBl. 2013 no. 6.

2. Cooperation with the competent authorities of other Member States and ESMA[60]

Art. 40

Basic Principle

1) In the exercise of its investigative and sanctioning powers for the purpose of carrying out its duties, the FMA shall cooperate with the competent authorities of the other Member States and, in accordance with Regulation (EU) no. 1095/2010 and this Act, with ESMA, and it shall coordinate its action when dealing with cross-border cases.[61]

2) It shall grant the competent authorities of other Member States and ESMA administrative assistance and may request administrative assistance for its own purposes in return. In particular, the FMA may refer to ESMA situations where a request for cooperation has been rejected or has not been acted upon within a reasonable time.[62]

3) It shall report infringements to the competent authorities of other Member States and ESMA (Art. 42), exchange information with them without delay (Art. 43) and cooperate with them in on-site investigations (Art. 44).[63]

4) In other respects, subject to Art. 41 to 44 of this Act, Art. 26b (2) and (4) FMAG shall apply to cooperation with the competent authorities of the other Member States.[64]

Art. 41

Refusal to cooperate

1) If a request from the FMA under Art. 43 or 44 is not complied with within a reasonable period or if it is refused without good reason, the FMA may inform ESMA and the Committee of European Securities Regulators.[65]

60 Title preceding Art. 40 amended by LGBl. 2016 no. 149.
61 Art. 40 (1) amended by LGBl. 2016 no. 149.
62 Art. 40 (2) amended by LGBl. 2016 no. 149.
63 Art. 40 (3) amended by LGBl. 2016 no. 149.
64 Art. 40 (4) amended by LGBl. 2018 no. 314.
65 Art. 41 (1) amended by LGBl. 2016 no. 149.

2) The FMA may refuse a request from the competent authority of another Member State and ESMA under Art. 43 or 44 only if:[66]

a) the sovereignty, the security or the public order of Liechtenstein might thereby be compromised;

b) proceedings relating to the same matter are already pending against the private individuals or legal entities concerned before a court in Liechtenstein; or

c) a final judgement has already been delivered by a court in Liechtenstein against the private individuals or legal entities concerned for the same matter.

3) If the FMA refuses a request under Art. 43 or 44 on account of the provisions of (2), it shall immediately inform the requesting competent authority and present the reasons. If a request is refused under (2) b) or c) precise information must be provided on the court proceedings or the final judgement.

Art. 42

Reporting of infringements

1) If the FMA concludes that persons subject to this Act have committed irregularities or infringed their obligations, it shall inform the competent authority of the home Member State and ESMA.[67]

2) If, in spite of the measures imposed by the competent authority of the home Member State, or because the said measures are inadequate, persons subject to this Act continue to be in breach of the obligations of this Act, the FMA shall, after notifying the competent authority of the home Member State, take all necessary measures for the protection of investors. The EFTA Surveillance Authority and ESMA shall be informed immediately of the measures.[68]

3) If the FMA receives a similar notification from the competent authority of a host Member State, it shall take appropriate action against the persons subject to this Act. The FMA shall inform the notifying authority of the action taken.

66 Art. 41 (2) introductory sentence amended by LGBl. 2016 no. 149.
67 Art. 42 (1) amended by LGBl. 2016 no. 149.
68 Art. 42 (2) amended by LGBl. 2016 no. 149.

Art. 43

Exchange of information

1) The FMA may ask the competent authorities of the other Member States to communicate all information that it requires in order to perform its duties under this Act.

2) Subject to the provisions of Art. 41, the FMA shall disclose all information to the competent authorities of the other Member States that they require to perform their supervisory duties within the context of the requirement to provide information, at their request. If the FMA is not capable of supplying the requested information immediately, it shall inform the requesting competent authority of the reasons for this.

3) The information disclosed to the FMA by the competent authorities of the other Member States is subject to professional secrecy as set out in Art. 37.

4) Notwithstanding its obligations in respect of pending criminal proceedings, the FMA is permitted to use the information received from the competent authorities of other Member States exclusively for the enforcement of disclosure requirements and their associated administrative and judicial proceedings. If however the competent authority that has provided the information gives its consent, the FMA may use it for other purposes in performance of its mandate of supervision of the financial markets or pass it to the competent authorities of other states for the same purposes. This shall apply mutatis mutandis to information provided by the FMA to the competent authorities of other Member States; the FMA's consent is granted in the form of a decree.

4a) The FMA shall without delay exchange all information necessary to carry out duties under Regulation (EU) no. 1095/2010 and this Act, in accordance with Art. 35 of that Regulation.[69]

5) The Government may establish more detailed regulations by ordinance.

Art. 44

On-site investigations

1) The FMA may ask the competent authority of another Member State for permission to conduct investigations in the latter's sovereign

69 Art. 43 (4a) inserted by LGBl. 2016 no. 149.

territory. It may also request that its own staff should be permitted to accompany the staff of the competent authority of the other Member State during the investigations.

2) Subject to the provisions of Art. 41 the FMA shall comply with requests from the competent authorities of the other Member States in the spirit of the provisions laid down in (1).

3) In this context, the investigations will be fully monitored by the Member State in whose sovereign territory they take place.

4) The Government may establish more specific arrangements by ordinance.

3. Cooperation with the competent authorities of third countries

Art. 45

Exchange of information with third countries

1) The FMA may ask the competent authorities of third countries to disclose all information that it requires in order to perform its duties.

2) The FMA may disclose information to the competent authorities of third countries, at their request, if:

a) the information is required for the performance of supervisory duties within the context of the requirement to provide information; and

b) the employees and authorised agents of the competent authority of the third country are subject to an obligation of confidentiality equivalent to that set out in Art. 37, subject to provisions on the public nature of proceedings and the information to be provided to the public in respect of such proceedings.

3) The FMA may refuse a request made pursuant to (2), if:

a) the sovereignty, security or public order of Liechtenstein might thereby be compromised;

b) proceedings relating to the same matter are already pending against the private individual or legal entity concerned before a court in Liechtenstein; or

c) a final judgement has already been delivered by a court in Liechtenstein against the private individual or legal entity concerned for the same matter.

4) If the FMA is not capable of providing the requested information it shall inform the requesting competent authority of the reasons.

5) The information disclosed to the FMA by the competent authorities of third countries is subject to professional secrecy as set out in Art. 37.

6) Notwithstanding its obligations in respect of pending criminal proceedings, the FMA is permitted to use the information received from the competent authorities of third countries exclusively for the enforcement of disclosure requirements and their associated administrative and judicial proceedings. If however the competent authority that has provided the information gives its consent, the FMA may use it for other purposes in performance of its mandate of supervision of the financial markets or pass it to the competent authorities of other states for the same purposes. This shall apply mutatis mutandis to information provided by the FMA to the competent authorities of third countries; the FMA's consent is granted in the form of a decree.

7) In other respects, subject to Art. 46 of this Act, Art. 26b (3) and (4) FMAG shall apply to cooperation with the competent authorities of third countries.[70]

8) The Government may establish more specific regulations by ordinance.

Art. 46[71]

Cooperation agreements

The FMA may, within the confines of this Act, conclude cooperation agreements concerning the exchange of information with the competent authorities and agencies of third countries. The FMA shall notify ESMA when it concludes such cooperation agreements.

70 Art. 45 (7) amended by LGBl. 2018 no. 314.
71 Art. 46 amended by LGBl. 2016 no. 149.

C. Publication of Statistics

Art. 47

Basic Principle

Public bodies shall proceed objectively and in full transparency in the publication of statistics that might have a significant effect on the financial markets. In this connection it must be guaranteed in particular that this does not create any advantages in terms of information for third parties.

V. Legal remedies and proceedings

Legal remedies

Art. 48

a) In general

1) An appeal may be lodged against decisions and orders of the FMA with the FMA Complaints Commission within 14 days from delivery, subject to the provisions of Art. 49.

2) An appeal may be lodged against decisions and orders of the FMA Complaints Commission with the Administrative Court within 14 days from delivery.

Art. 49

b) In connection with administrative assistance

1) An appeal may be lodged with the Administrative Court against decisions and orders of the FMA in connection with administrative assistance to Member States and third countries within 14 days from delivery.

2) An appeal is only permissible with regard to transmission procedures in connection with administrative assistance.

3) Proceedings based on an appeal pursuant to (1) shall be expedited.

4) Applications for granting a suspensive effect or the issue of precautionary measures are not permissible in individual appeals to the Constitutional Court against decisions of the Administrative Court.

Art. 50

Proceedings

Unless this Act provides otherwise, the proceedings shall be subject to the provisions of the National Administration Act.

VI. Penal provisions

Art. 51

Administrative contraventions

1) The FMA shall punish with a fine of up to CHF 100,000 for a contravention any person who:

a) contrary to Art. 4 fails to draw up and publish an annual financial report, or if the report is inaccurate, incomplete or published after the deadline;

b) contrary to Art. 5 fails to draw up and publish a half-yearly financial report, or if the report is inaccurate, incomplete or published after the deadline;

c) Repealed[72]

d) Repealed[73]

e) fails to comply with the duty of disclosure pursuant to Art. 6, 9, 10, 10a or 13, or does not comply with it properly or within the time limit, or complies incompletely or fails to remedy the situation subsequently;[74]

f) fails to distribute regulated information pursuant to Art. 15 or such information is inaccurate, incomplete or distributed after the deadline;

g) fails to publish the notice referred to in Art. 16 or 17 or if the notices are inaccurate, incomplete or published after the deadline;

72 Art. 51 (1) c) repealed by LGBl. 2016 no. 149.
73 Art. 51 (1) d) repealed by LGBl. 2016 no. 149.
74 Art. 51 (1) e) amended by LGBl. 2016 no. 149.

h) fails to publish the notice referred to in Art. 18 or if the notice is inaccurate, incomplete or published after the deadline;

i) fails to file information in accordance with Art. 19 (1) or files inaccurate or incomplete information or files it after the deadline, or fails to remedy the situation subsequently;

k) Repealed[75]

l) fails to give the notification referred to in Art. 19 (3) or the notification is inaccurate, incomplete or not given by the deadline, or fails to remedy the situation subsequently;

m) Repealed[76]

n) fails to publish the information referred to in Art. 30 or if the information is inaccurate, incomplete or published after the deadline;

o) fails to give the notification referred to in Art. 34 (2);

p) fails to comply with a request to restore compliance with the law or another order from the FMA.

2) The FMA shall punish with a fine as referred to in (3) for a contravention any person who:[77]

a) makes a false statement in the declaration referred to in Art. 4 (2) c) or Art. 5 (2) c);

b) fails to comply with the duty of disclosure pursuant to Art. 11 or 12, or does not comply with it properly or within the time limit, or complies incompletely or fails to remedy the situation subsequently;

c) fails to give a notification as referred to in Art. 25 (1) and (2), Art. 26 (1), Art. 26a (2) and (3) or Art. 29 (1) or the notification is inaccurate, incomplete or not given by the deadline.

3) The fine as referred to in (2) shall be:[78]

a) in the case of legal entities:

1. up to CHF 12,000,000 or up to 5 % of the total annual turnover according to the last available annual accounts approved by the management body; where the legal entity is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated financial accounts pursuant to Directive 2013/34/EU, the relevant total turnover shall be the total annual turnover or the corresponding type of income pursuant to the relevant EEA

75 Art. 51 (1) k) repealed by LGBl. 2016 no. 149.
76 Art. 51 (1) m) repealed by LGBl. 2016 no. 149.
77 Art. 51 (2) amended by LGBl. 2016 no. 149.
78 Art. 51 (3) amended by LGBl. 2016 no. 149.

accounting legislation according to the last available consolidated annual accounts approved by the management body of the ultimate parent undertaking; or

2. up to twice the amount of the profits gained or losses avoided because of the breach, where those can be determined and exceed the amount set out in no. 1;

b) in the case of natural persons:

1. up to CHF 2,400,000; or
2. up to twice the amount of the profits gained or losses avoided because of the breach, where those can be determined and exceed the amount set out in no. 1.

4) The FMA shall impose the fines referred to in (3) a) if the contraventions referred to in (2) are committed in the exercise of the business activities of the legal entity (underlying offences) by persons, either acting alone or as a member of the board of directors, the general management, the management board or supervisory board of the legal entity or on the basis of another management position within the legal entity or on the basis of rights of representation or contractual authority, on the basis of which they:[79]

a) are authorised to represent the legal entity externally;

b) exercise powers of control in a leading position; or

c) otherwise exercise material influence over the management of the legal entity.

5) The legal entity referred to in (2) shall be punishable only if it failed to take the necessary and reasonable action to prevent such underlying offences via members of the board of directors, the general management, the management board or supervisory board or on the basis of another management position within the legal entity or on the basis of rights of representation or contractual authority.[80]

6) The responsibility of the legal entity for the underlying offence referred to in (2) and the punishability of the persons referred to in (4) for the same offence are not mutually exclusive. The FMA may refrain from punishing a natural person if a fine has already been imposed on the legal entity for the same infringement and there are no special circumstances to exclude a waiver of the punishment.[81]

79 Art. 51 (4) inserted by LGBl. 2016 no. 149.
80 Art. 51 (5) inserted by LGBl. 2016 no. 149.
81 Art. 51 (6) inserted by LGBl. 2016 no. 149.

7) Where the offence is committed negligently, the maximum penalties set out in (2) shall be reduced by half.[82]

Art. 51a[83]

Proportionality and efficiency requirement

1) When imposing penalties as referred to in Art. 51, the FMA shall take the following into account:

a) with reference to the breach, in particular:
   1. its gravity and duration;
   2. the importance of profits gained or losses avoided, in so far as they can be determined;
   3. the losses sustained by third parties, in so far as they can be determined;

b) with reference to the natural persons or legal entities responsible for the breach, in particular:
   1. the degree of responsibility;
   2. financial strength;
   3. willingness to cooperate;
   4. previous breaches and the danger of repetition.

2) The General Part of the Criminal Code shall apply mutatis mutandis.

Art. 51b[84]

Publication of penal decisions

1) On its website, the FMA shall publish all decisions on penalties imposed for breaches referred to in Art. 51 without delay, including at least:

a) information on the type and nature of the breach; and

b) the identity of natural persons or legal entities responsible for it.

82 Art. 51 (7) inserted by LGBl. 2016 no. 149.
83 Art. 51a inserted by LGBl. 2016 no. 149.
84 Art. 51b inserted by LGBl. 2016 no. 149.

2) The FMA may publish a decision referred to in (1) on an anonymous basis where publication of personal data:

a) would be disproportionate for a natural person concerned;

b) would jeopardise the stability of the financial markets or ongoing criminal investigations; or

c) would cause disproportionately high damage to those involved, in so far as the damage can be determined.

3) If an appeal is submitted against the decisions to be published under (1), the FMA shall either include information to that effect at the time of the publication or amend the publication if the appeal is submitted after the initial publication.

VII. Transitional and final provisions

Art. 52

Implementing ordinances

The Government shall issue the ordinances required for the implementation of this Act.

Art. 53

Repeal of current law

The following are repealed:

a) Act of 30 October 1996 on the disclosure of significant holdings in a stock-exchange listed company (Disclosure Act), LGBl. 1997 no. 21;

b) Act of 18 June 2004 amending the Disclosure Act, LGBl. 2004 no. 180.

Art. 54

Transitional provisions

1) Private individuals and legal entities holding 5 % or more of the voting rights in an issuer, as referred to in Art. 25 (1) and (2) or 26 (1), have a maximum of two months from the entry into force of this Act to inform the issuer and the FMA of the proportion of voting rights they hold.

2) Private individuals and legal entities holding other financial instruments in the manner referred to in Art. 29 (1), have a maximum of two months from the entry into force of this Act to inform the issuer and the FMA of the financial instruments they hold.

3) Issuers have a maximum of two months from the entry into force of this Act to publish the proportions of voting rights that reach or exceed 5 %.

4) Issuers are released from the obligations of this Act, with the exception of the obligations set out in (3) and Art. 19 (3), until 1 March 2009.

Art. 55

Entry into force

Subject to expiry of the referendum period without a referendum being called this Act shall enter into force on 1 January 2009, otherwise on the date of its promulgation.

By proxy for the Prince of Liechtenstein:
signed *Alois*
Hereditary Prince

signed *Otmar Hasler*
Head of the Princely
Government

Transitional provisions and entry into force

954.1 Disclosure Act (OffG)

Liechtenstein Law Gazette
2016 no. 149 issued on 28 April 2016

Act
of 2 March 2016
amending the Disclosure Act

. . .

II.
Transitional provisions

1) Natural persons and legal entities holding 5 % or more of the voting rights of an issuer pursuant to Art. 25 (1) and (2) or Art. 26 (1) shall, no later than two months after entry into force of this Act,[85] inform the issuer and the FMA of the voting rights held by them.

2) Natural persons and legal entities holding financial instruments shall, no later than two months after entry into force of this Act, inform the issuer and the FMA of the financial instruments held by them. The financial instruments shall be broken down in accordance with Art. 26a (2).

3) Issuers shall, no later than two months after entry into force of this Act, disclose the voting rights that reach or exceed 5 %.

4) The thresholds and the voting rights as referred to in (1) to (3) shall be determined in accordance with Art. 26a.

85 Entered into force on: 1 September 2022.

IV.

Entry into force

This Act shall enter into force at the same time as the EEA Joint Committee Decision incorporating Directives 2010/78/EU and 2013/50/EU or the EEA Joint Committee Decision incorporating Regulation (EU) no. 1095/2010, whichever is later.[86]

. . .

86 Entered into force on: 1 September 2022 (LGBl. 2022 no. 257).

Liechtenstein Law Gazette
2019 no. 117 issued on 29 April 2019

Act
of 27 February 2019
amending the Disclosure Act

. . .

II.
Entry into force

This Act shall enter into force at the same time as the Signature and Trust Services Act of 27 February 2019.[87]

. . .

87 Entered into force on: 1 July 2019 (LGBl. 2019 no. 114).