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Law of 2 May 2007 on disclosure of major holdings in issuers whose shares are admitted to trading on a regulated market and laying down miscellaneous provisions

(Unofficial consolidated text)

Last update: Law of 17 July 2013 (Belgian Official Gazette - 6 August 2013)

TITLE II

DISCLOSURE OF MAJOR HOLDINGS

Chapter I – Definitions

Article 3. § 1. For the purposes of Title II of this Law and of its implementing decrees, the following definitions shall apply:

1° "issuer": without prejudice to the application of Article 5, paragraph 2, any legal person governed by private or public law:

a) whose shares are admitted to trading on a regulated market; or

b) which is referred to in § 2;

2° "regulated market": any Belgian or foreign regulated market as defined in Article 2, 5° or 6°, of the Law of 2 August 2002;

3° "Belgian regulated market": any Belgian regulated market as defined in Article 2, 5°, of the Law of 2 August 2002;

4° "multilateral trading facility" or "MTF": a multilateral system governed by Belgian law, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with nondiscretionary rules – in such a way as to result in a contract;

5° "control": control within the meaning of Articles 5 and 7 of the Companies Code;

6° "controlled undertaking": an undertaking, irrespective of its legal status or the law by which it is governed, which is controlled by a natural or legal person;

7° "controlling natural or legal person": the natural or legal person who controls an undertaking, irrespective of its legal status or the law by which it is governed;

8° "parent undertaking": the undertaking which controls another undertaking, irrespective of the legal status of the latter or of the law by which it is governed;

9° “management company”: a company managing undertakings for collective investment as defined in Article 138 of the Law of 20 July 2004 on certain forms of collective management of investment portfolios, as well as any other company as defined in Article 1a(2) of Directive 85/611/EEC;

10° “market maker”: a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him;

11° “undertakings for collective investment other than of the closed-ended type”: undertakings constituted under the law of contract (common investment funds managed by a management company), as a unit trust or under articles of association (investment company);

a) the object of which is the collective investment of financial resources provided by the public, and which operate on the principle of risk spreading; and

b) the units of which are, at the request of the holders of such units, repurchased or redeemed, directly or indirectly, out of the assets of those undertakings. Any action taken by such undertakings to ensure that the value of their units which are admitted to trading, whether or not on a regulated market, does not vary significantly from their net asset value, shall be regarded as equivalent to such repurchase or redemption;

12° “units of an undertaking for collective investment”: the securities issued by an undertaking for collective investment and representing rights of the participants in such an undertaking over its assets;

13° « persons acting in concert »:

a) the natural or legal persons acting in concert within the meaning of Article 3, § 1, 5°, a), of the Law of 1 April 2007 on takeover bids;

b) the natural or legal persons who have concluded an agreement to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the issuer in question;

c) the natural or legal persons who have concluded an agreement to hold, acquire or dispose of securities to which voting rights are attached (hereafter: “voting securities”);

14° “agreement to act in concert”: an agreement as defined under 13°, a), b) or c);

15° “by electronic means”: by means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means;

16° “person subject to a notification requirement”: a natural or legal person who must make a notification pursuant to Title II of this Law;

17° “holder of voting securities or voting rights”: a natural or moral person who holds or has held, directly or indirectly, voting securities or voting rights in an issuer referred to in Article 5 or in Article 19;

18° “credit institution”: an undertaking within the meaning of Article 4(1) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions;

19° “FSMA”: the Banking, Finance and Insurance Commission (“Commission bancaire, financière et des assurances”/ “Commissie voor het Bank-, Financie- en Assurantiewezen”/“Kommission für das Bank-, Finanz- und Versicherungswesen”);

20° “Directive 85/611/EEC”: Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS);

21° “Directive 93/6/CEE”: Council Directive 93/6/EEC of 15 March 1993 on the capital adequacy of investment firms and credit institutions;

22° “Directive 2004/39/EC”: Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;

23° “Directive 2004/109/EC”: 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;

24° “Companies Code”: the Companies Code introduced by the Law of 7 May 1999;

25° “Law of 2 August 2002”: the Law of 2 August 2002 on the supervision of the financial sector and on financial services;

26° “Law of 16 June 2006”: the Law of 16 June 2006 concerning public offers of investment instruments and admission of investment instruments to trading on a regulated market.

§ 2. For the purposes of Title II of this Law and of its implementing decrees, a legal person governed by private or public law who has issued shares shall also be considered an "issuer" if depository receipts representing these shares are admitted to trading on a regulated market, even if these depository receipts are issued by another person.

The provisions pertaining or referring to shares or voting securities shall also apply to the depository receipts admitted to trading on a regulated market which represent these shares or voting securities.

The holder of depository receipts admitted to trading on a regulated market and representing voting securities shall be considered, for the purposes of Title II of this Law and of its implementing decrees, as the holder of the underlying voting securities.

§ 3. The King shall determine, upon the recommendation of the FSMA, what is to be understood by trading day.

Chapter II. – Purpose

Article 4. Title II of this Law lays down rules for the disclosure of information on major holdings in issuers whose shares are admitted to trading on a regulated market.

However, Title II of this Law shall not apply to the holding, acquisition or disposal of units of undertakings for collective investment other than of the closed-ended type.

The King may, upon the recommendation of the FSMA, wholly or partially extend the application of Title II of this Law to, and ensure that certain provisions of the decrees implementing Title II of this Law wholly or partially apply to, major holdings in issuers whose shares are traded on, or admitted to trading on, an MTF. In particular, the King may adapt the rules laid down in Title II or in its implementing decrees to the specifics of the MTF in question.

When exercising the powers conferred upon him by this Article, the King may, where appropriate, lay down specific rules for certain types of issuer, for certain types of MTF and for individual MTFs which He indicates.

Chapter III. – Holdings in issuers whose home Member State is Belgium

Section I. – Issuers to whom this chapter applies

Article 5. [This chapter shall apply to holdings in issuers that have their registered office in Belgium, or to holdings in issuers that have their registered office outside the European Economic Area and have chosen Belgium as their home Member State pursuant to Article 7, § 1, paragraph 1, iii), of the Law of 16 June 2006.]

1st paragraph replaced by Article 50 of the Law of 17 July 2013 (Belgian Official Gazette - 6 August 2013)

The provisions of this chapter which pertain or refer to an issuer are meant to relate only to such issuers as referred to in paragraph 1.

Section II. – Obligations of holders of major holdings

Subsection I. – Notification requirement

Article 6. § 1. Any natural or legal person who directly or indirectly acquires voting securities in an issuer shall notify the issuer and the FSMA of the number and proportion of existing voting rights of the issuer he holds as a result of the acquisition, where the voting rights attached to the voting securities he holds reach 5% or more of the total existing voting rights.

A similar notification is required in the event of direct or indirect acquisition of voting securities where as a result of this acquisition, the proportion of voting rights held reaches or exceeds 10%, 15%, 20% and so on, by increments of 5%, of the total existing voting rights.

A similar notification is required in the event of direct or indirect disposal of voting securities where as a result of this disposal, the proportion of voting rights held falls below one of the thresholds referred to in paragraphs 1 and 2.

§ 2. Where shares of an issuer are first admitted to trading on a regulated market, a similar notification shall be made by any natural or legal person who, at that time, directly or indirectly holds voting securities of that issuer, where the voting rights attached to the voting securities represent 5% or more of the total existing voting rights.

§ 3. A similar notification is required where, as a result of events changing the breakdown of voting rights, the proportion of the voting rights attached to the directly or indirectly held voting securities reaches, exceeds or falls below the thresholds provided for in § 1, even if there has not been any acquisition or disposal.

The notification shall be made on the basis of the information disclosed by the issuer pursuant to Article 15.

§ 4. A similar notification is required where natural or legal persons conclude, modify or terminate an agreement to act in concert if, as a result, the proportion of the voting rights that are the subject of the agreement, or the proportion of the voting rights held by a party to the agreement, reaches, exceeds or falls below one of the thresholds provided for in § 1, even if there has not been any acquisition or disposal.

A similar notification is required where natural or legal persons modify an agreement to act in concert if, as a result, the nature of the agreement to act in concert is modified.

However, the notification to be made to the issuer need not include the name of a natural person where, not counting the voting securities held by the other parties to the agreement to act in concert, said natural person directly or indirectly holds voting rights which do not reach either the proportion referred to in § 1, paragraph 1, or a lower proportion in accordance with Article 18, § 1, paragraph 2, and said person's participating interest in the issuer in question amounts to less than 3% of the voting securities.

§ 5. For the purposes of this Article, a natural or legal person shall be deemed to indirectly acquire, dispose of or hold voting securities in an issuer where:

1° voting securities are acquired, disposed of or held by a third party who acts on behalf of this natural or legal person, regardless of whether or not this third party is acting in its own name;

2° voting securities are acquired, disposed of or held by an undertaking controlled by this natural or legal person; or

3° this natural or legal person acquires or disposes of the control of an undertaking that holds voting securities in an issuer.

For the purposes of paragraph 1, voting securities that are acquired, disposed of or held by a third party, by a controlled undertaking or by an undertaking whose control is acquired or disposed of shall include voting securities that are the subject of an agreement to act in concert concluded by them. However, the notification to be made to the issuer need not include the name of a natural person where, not counting the voting securities held by the other parties to the agreement to act in concert concluded by a third party or undertaking referred to in paragraph 1, said natural person directly or indirectly holds voting rights which

do not reach either the proportion referred to in § 1, paragraph 1, or a lower proportion, in accordance with Article 18, § 1, paragraph 2, and said person's participating interest in the issuer in question amounts to less than 3% of the voting securities.

Where a third party acts in its own name but on behalf of another natural or legal person, the notification requirement laid down in this Article shall also apply to said third party.

§ 6. Upon the recommendation of the FSMA, the King shall determine the contents of the notification requirement referred to in §§ 4 and 5.

§ 7. For the purposes of Title II of this Law, those financial instruments determined by the King upon the recommendation of the FSMA which result in an entitlement to acquire already issued voting securities shall, under the conditions laid down by the King upon the recommendation of the FSMA, be treated as voting securities.

Article 7. The notification requirements referred to in Article 6 shall also apply where a natural or legal person directly or indirectly - within the meaning of Article 6, § 5 - acquires or disposes of voting rights or is entitled to exercise these voting rights, in any of the following cases or a combination thereof:

1° an agreement providing for the temporary transfer for consideration of voting rights;

2° a pledge of voting securities as collateral, provided the pledgee controls the voting rights;

3° a life interest in voting securities, provided the natural or legal person who has the life interest in these voting securities controls the voting rights;

4° a deposit of voting securities, provided the custodian can exercise the voting rights at its discretion in the absence of specific instructions from the securities holders;

5° a proxy, provided the mandated proxy can exercise the voting rights at its discretion in the absence of specific instructions from the securities holders.

The same rules shall apply where the situations referred to in paragraph 1 are modified or terminated except, under the conditions laid down by the King upon the recommendation of the FSMA, in the event of termination of the situation referred to in paragraph 1, 5°.

The King shall determine, upon the recommendation of the FSMA, which persons are subject to a notification requirement in the situations referred to in paragraph 1 and in the case of securities held in common.

Subsection II. – Calculation of the proportions of voting rights

Article 8. The proportions of voting rights referred to in Article 6 are calculated as follows:

1° for the purposes of Article 6, § 1, or of Article 7, on the day of the acquisition or disposal;

2° for the purposes of Article 6, § 2, on the day of the admission to trading on a regulated market;

3° for the purposes of Article 6, § 3, on the day of the event changing the breakdown of voting rights;

4° for the purposes of Article 6, § 4, on the day of the conclusion, the modification or the termination of the agreement to act in concert.

Such calculation shall take into account the number of existing voting rights as evidenced by the information disclosed by the issuer pursuant to Article 15.

Article 9. § 1. For the calculation of the proportions of voting rights referred to in Article 6:

1° voting securities shall be taken into consideration in proportion to the number of existing voting rights to which they give entitlement; and

2° the voting rights attached to voting securities shall be taken into consideration notwithstanding the possibility that the exercise thereof is suspended.

§ 2. For the calculation of the proportions of voting rights referred to in Article 6, a natural or legal person shall aggregate his holdings referred to in Article 6 with his holdings referred to in Article 7.

§ 3. For the calculation of the proportions of voting rights referred to in Article 6:

1° the holdings, as referred to in Articles 6 and 7, of a third party acting on behalf of another person shall be aggregated with the holdings of said other person, regardless of whether or not this third party is acting in its own name;

2° the holdings, as referred to in Articles 6 and 7, of a controlling natural or legal person shall be aggregated with the holdings, as referred to in Articles 6 and 7, of the undertakings controlled by said natural or legal person; and

3° the persons acting in concert shall aggregate the voting rights that are the subject of their agreement.

For the purposes of paragraph 1, 1° and 2°, the holdings of a third party or of a controlled undertaking shall include the voting rights that are the subject of an agreement to act in concert concluded by said third party or controlled undertaking.

Subsection III. – Exemptions

Article 10. § 1. The notification requirement shall not concern voting securities acquired for the sole purpose of clearing and settling within three trading days following the transaction.

§ 2. The notification requirement shall not apply to custodians holding voting securities in their custodian capacity provided such custodians can only exercise the voting rights attached to such securities under instructions given in writing or by electronic means.

§ 3. The notification requirement shall not concern the holding, the acquisition or the disposal, by a market maker acting in its capacity of a market maker, of a holding reaching, exceeding

or falling below the 5% threshold or, where appropriate, a lower threshold provided for in the articles of association in accordance with the decrees implementing Article 18, provided that:

1° this market maker is authorized by its home Member State under Directive 2004/39/EC; and

2° this market maker neither intervenes in the management of the issuer nor exerts any influence on the issuer with a view to urging the issuer to buy such voting securities or to back their price.

Upon the recommendation of the FSMA, the King shall lay down the procedure to be followed by the market maker to benefit from the exemption referred to in paragraph 1 as well as the control mechanisms to which the market maker is subject.

§ 4. Voting rights held in the trading book, as defined in Article 3, § 1, 4°, of the Law of 22 March 1993 on the legal status and supervision of credit institutions, of a credit institution or investment firm shall not be taken into account in the calculation of the proportion of voting rights held, provided that:

1° the voting rights held in the trading book do not exceed 5%, and

2° the credit institution or investment firm ensures that the voting rights attached to voting securities held in the trading book are not exercised nor otherwise used to intervene in the management of the issuer.

§ 5. Articles 6 and 7, paragraph 1, 2°, shall not apply to voting securities provided to or by members of the European System of Central Banks (ESCB) in carrying out their functions as monetary authorities, including voting securities provided to or by members of the ESCB under a pledge or repurchase or similar agreement for liquidity granted for monetary policy purposes or within a payment system.

The exemption referred to in paragraph 1 shall apply to the above transactions lasting for a short period and provided that the voting rights attached to such voting securities are not exercised.

Article 11. § 1. A controlled undertaking shall be exempted from making the notification required by this Law if the notification is made by its parent undertaking or, where the parent undertaking is itself a controlled undertaking, by its own parent undertaking.

§ 2. The parent undertaking of a management company shall not be required to aggregate its holdings under Articles 6 and 7 with the holdings managed by the management company under the conditions laid down in Directive 85/611/EEC, provided such management company exercises its voting rights independently from the parent undertaking.

However, Article 9, § 3, paragraph 1, 2°, shall apply where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in holdings managed by such management company and the management company has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking.

§ 3. The parent undertaking of an investment firm authorized under Directive 2004/39/EC shall not be required to aggregate its holdings under Articles 6 and 7 with the holdings which such investment firm manages on a client-by-client basis within the meaning of Article 4(1), point 9, of Directive 2004/39/EC, provided that:

1° the investment firm is authorized to provide such portfolio management under point 4 of Section A of Annex I to Directive 2004/39/EC;

2° it may only exercise the voting rights attached to such voting securities under instructions given in writing or by electronic means or it ensures, by putting into place appropriate mechanisms, that individual portfolio management services are conducted independently of any other services under conditions equivalent to those provided for under Directive 85/611/EEC; and

3° the investment firm exercises its voting rights independently from the parent undertaking. However, Article 9, § 3, paragraph 1, 2°, shall apply where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in holdings managed by such investment firm and the investment firm has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking.

§ 4. Upon the recommendation of the FSMA, the King shall clarify the conditions of independence to be complied with by management companies and their parent undertakings or by investment firms and their parent undertakings for the purposes of §§ 2 and 3. Likewise, He shall lay down the procedure to be followed to benefit from this exemption and determine what is to be understood by direct or indirect instructions for the purposes of §§ 2 and 3.

§ 5. Undertakings whose registered office is outside the European Economic Area which would have required an authorisation in accordance with Article 5(1) of Directive 85/611/EEC or, with regard to portfolio management, under point 4 of section A of Annex I to Directive 2004/39/EC if it had its registered office or, only in the case of an investment firm, its head office within the European Economic Area, shall also be exempted from aggregating its holdings with the holdings of its parent undertaking under the requirements laid down in §§ 2 and 3 provided that they comply with equivalent conditions of independence as management companies or investment firms.

Upon the recommendation of the FSMA, the King shall determine where a third country shall be deemed to set equivalent conditions of independence, and shall lay down the procedure to be followed to benefit from the exemption provided by paragraph 1.

Subsection IV. – Time, contents and form of the notification

Article 12. The notification shall be effected as soon as possible, and not later than four trading days, the first of which shall be the day after the date on which:

1° the person subject to the notification requirement learns of the acquisition or disposal or of the right to exercise voting rights, or on which, having regard to the circumstances, should have learned of it, regardless of the date on which the acquisition, disposal or right to exercise voting rights takes effect; or

2° in the case referred to in Article 6, § 2, the shares are first traded on the regulated market;

3° the person subject to the notification requirement is informed, in accordance with Article 15, about the event mentioned in Article 6, § 3;

4° in the case referred to in Article 6, § 4, the agreement is concluded, modified or terminated;

5° in respect of holdings acquired by inheritance, the inheritance is accepted, where appropriate under benefit of inventory.

Upon the recommendation of the FSMA, the King shall determine, having regard to the circumstances, the conditions in which a person shall be deemed to have learnt of an acquisition or disposal or of the right to exercise voting rights.

Article 13. The King shall determine, upon the recommendation of the FSMA, the content of the notifications to be made. He may also determine, upon the recommendation of the FSMA, the form of the notifications.

Upon the recommendation of the FSMA, the King shall equally lay down the specific rules for filing the notifications with the issuer and with the FSMA.

Section III. – Obligations of the issuers

Article 14. Without prejudice to the application of the legislation on the disclosure of inside information, the issuer that has received a notification shall, not later than three trading days thereafter, make public all the information contained therein.

By way of derogation from paragraph 1, the issuer that itself makes a notification of the holding, the acquisition or the disposal of own holdings as referred to in Articles 6 and 7 shall make this holding, acquisition or disposal public not later than four trading days following the event triggering the notification requirement.

Upon the recommendation of the FSMA, the King shall lay down the specific rules for the publication of the information as well as for the storage of the information made public.

The issuers governed by Belgian law shall indicate, in the notes to their annual financial statements relating to the capital, their shareholder structure at the date of the closure of accounts, as evidenced by the notifications received.

Article 15. § 1. Without prejudice to the application of the legislation on the disclosure of inside information, the issuer shall disclose the total capital, the total number of voting securities and voting rights as well as the number of voting securities and voting rights by category, at the latest at the end of each calendar month during which an increase or decrease of one of such total numbers has occurred.

Furthermore, whenever it discloses information in accordance with paragraph 1, the issuer states, where appropriate, the total number of bonds convertible into voting securities and of rights – whether or not represented by securities – to subscribe for voting securities still to be

issued, the total number of voting rights which can be acquired when exercising these conversion or subscription rights, and the total number of shares without voting rights.

When disclosing the information referred to in paragraphs 1 and 2, the issuer shall at the same time file it with the FSMA.

§ 2. Where shares of an issuer are first admitted to trading on a regulated market, a similar disclosure to the public and filing of information with the FSMA shall be made on the day on which the shares are first traded on the regulated market.

§ 3. Upon the recommendation of the FSMA, the King shall lay down the specific rules on how this information is to be disclosed, stored, and filed with the FSMA.

Article 16. The FSMA may exempt issuers whose registered office is outside the European Economic Area from the requirements under Articles 14 and 15 as well as from the requirement to notify the holding, the acquisition or the disposal of own holdings referred to in Articles 6 and 7 where the number of voting rights held reaches, exceeds or falls under defined proportions, provided that the law of the third country in question lays down equivalent obligations.

[The FSMA shall subsequently inform ESMA of the exemption granted.]

2nd paragraph inserted by Article 51 of the Law of 17 July 2013 (Belgian Official Gazette - 6 August 2013)

However, such exemption must not concern the rules on how the information is to be disclosed, stored, or filed with the FSMA.

Where an issuer is exempted from the requirement under Article 15, persons subject to a notification requirement shall nevertheless not be exempt from their own obligations, in particular under Articles 6, § 3, 8 and 12.

Upon the recommendation of the FSMA, the King shall determine the conditions under which the law of a third country shall be deemed to lay down equivalent obligations.

Section IV. – Language requirements

Article 17. The person subject to a notification requirement shall draw up the notification in Dutch, in French or in a language customary in the sphere of international finance.

Where its shares are admitted to trading on a Belgian regulated market, the issuer shall disclose all the information contained in the notification, as well as the information referred to in Article 15, in Dutch or in French in accordance with any applicable rules of Belgian law or, if these rules are not applicable, in Dutch, in French or in a language customary in the sphere of international finance.

By way of derogation from the preceding paragraph, the issuer receiving a notification in a language customary in the sphere of international finance may always disclose all the information contained in the notification in that same language.

Where none of the issuer's shares is admitted to trading on a Belgian regulated market, the issuer shall disclose all the information contained in the notification, as well as the information referred to in Article 15, in Dutch, in French or in a language customary in the sphere of international finance.

Section V. – Rules contained in the articles of association

Article 18. § 1. The articles of association of an issuer governed by Belgian law may stipulate that the provisions of Articles 6 to 17 of this Law also apply to smaller proportions than those laid down in Article 6, § 1, paragraph 1, or to proportions that are intermediate in relation to those laid down in Article 6, § 1, paragraphs 1 and 2.

The articles of association may only provide for the proportions of 1%, 2%, 3%, 4% and 7.5%.

An issuer that makes use of the above-mentioned possibility shall disclose the proportions provided for in the articles of association and, at the same time, notify the FSMA of said proportions.

Upon the recommendation of the FSMA, the King shall lay down the specific rules on how this information is to be disclosed, stored, and filed with the FSMA.

Articles 23 to 24 shall apply in this respect.

§ 2. Where the articles of association provide for proportions as referred to in § 1, the holders of the voting securities or voting rights referred to in Articles 6 and 7 shall make a notification of these holdings in accordance with the provisions of Title II of this Law and of its implementing decrees where the proportion of voting rights they hold reaches or exceeds the proportions provided for in the articles of association at the moment of their introduction. These holders shall make such notification not later than ten trading days following the disclosure, by the issuer, of the proportions provided for in the articles of association, whether or not there has been an acquisition or disposal.

Chapter IV – Holdings in issuers whose shares are admitted to trading on a Belgian regulated market but whose home Member State is not Belgium

Section I. – Issuers to whom this chapter applies

Article 19. This chapter shall apply to holdings in issuers not referred to in Article 5 and whose shares are admitted to trading exclusively or not on a Belgian regulated market.

Section II. – Language requirements

Article 20. In Belgium, all the information contained in the notification shall be made public in Dutch, in French or in a language customary in the sphere of international finance, according to the choice made by the person who makes the notification public.

In Belgium, the information referred to in the applicable national law adopted pursuant to Article 15 of Directive 2004/109/EC shall be disclosed in Dutch, in French or in a language customary in the sphere of international finance.

Section III. – Precautionary measures

Article 21. Where the FSMA finds that a holder of voting securities or voting rights in an issuer referred to in Article 19, or an issuer proper as referred to in Article 19, has committed irregularities or infringed its obligations under Directive 2004/109/EC, it shall refer its findings to the competent authority of the home Member State referred to in Directive 2004/109/EC.

If, despite the measures taken by the home Member State's competent authority as referred to in Directive 2004/109/EC, or because such measures prove inadequate, the holder of voting securities or voting rights in an issuer referred to in Article 19, or an issuer proper as referred to in Article 19 persists in infringing the relevant legal or regulatory provisions, the FSMA may, after informing the competent authority of the home Member State and, save in cases of urgency, after permitting the holder or issuer in question to provide its comments in the manner and within the time period determined by the FSMA, take all the appropriate measures in order to protect investors. In particular, the FSMA may take the measures specified in Articles 23 and 24, it being understood that it may take these measures where an issuer fails to comply with the home Member State's legal or regulatory provisions. The FSMA shall inform the European Commission [and ESMA] of such measures at the earliest opportunity.

2nd paragraph amended by Article 52 of the Law of 17 July 2013 (Belgian Official Gazette - 6 August 2013)

Section IV. – Obligations of issuers whose shares are admitted to trading exclusively on a Belgian regulated market

Article 22. The issuers referred to in Article 19 whose shares are admitted to trading exclusively on a Belgian regulated market shall disclose the notifications that they receive or are required to make under the applicable national law adopted pursuant to Directive 2004/109/EC, as well as the information that they are required to disclose under the applicable national law adopted pursuant to Article 15 of Directive 2004/109/EC, in accordance with specific rules to be laid down by the King upon the recommendation of the FSMA.

These issuers shall at the same time file such notifications and information with the FSMA in accordance with specific rules to be laid down by the King upon the recommendation of the FSMA.

Chapter V. – Powers of the FSMA

Article 23. § 1. The FSMA is responsible for supervising compliance with Title II of this Law and with its implementing decrees.

§ 2. For the purposes of its supervision task referred to in § 1, the FSMA is empowered to:

1° require an issuer, the senior management of such issuer, or the persons that control or are controlled by such issuer, to submit the information to be provided or disclosed under Title II of this Law or its implementing decrees and, if necessary, to provide further information and documents;

2° require an issuer to disclose the information required under 1° to the public in the manner and within the time period determined by the FSMA;

3° require the holder of voting securities or voting rights, the senior management of such holder, or the persons that control or are controlled by such holder, to submit the information required under Title II of this Law or its implementing decrees and, if necessary, to provide further information and documents;

4° require a person subject to a notification requirement to make this notification in accordance with Title II of this Law and its implementing decrees;

5° carry out on-site inspections and expert appraisals within the Belgian territory, take cognizance of and copy, on site, any document, file and recording, and have access to any IT system in order to verify compliance with the provisions of Title II of this Law and of its implementing decrees;

6° require the market operators of the regulated markets, the financial intermediaries as defined in Article 2, 9°, of the Law of 2 August 2002 and their principals to provide it with all information, documents and items it considers necessary to fulfil its task. The persons intervening successively in the transmission of the orders or in the execution of the transactions concerned, as well as their principals, shall be subject to the same obligation;

7° suspend trading on a Belgian regulated market for a maximum of ten days at a time, by means of a request thereto to the relevant market operator, if it has reasonable grounds for suspecting that the provisions of Title II of this Law or of its implementing decrees have been infringed by the issuer;

8° prohibit trading on a Belgian regulated market, by means of a request thereto to the relevant market operator, if it finds, or has reasonable grounds for suspecting, that the provisions of Title II of this Law or of its implementing decrees have been infringed;

§ 3. The financial intermediaries referred to in § 2, 6°, shall give advance notice to the person at whose request or on whose behalf they are acting that their action is subject to their being authorized to disclose to the FSMA the identity of the final beneficiary of the transaction.

Where the provisions of the preceding paragraph are not complied with, the intermediary shall not execute the transactions.

§ 4. When applying § 2, 2°, the FSMA may request the issuer to provide its comments, if any, in particular about its reasons for not disclosing the information, within the time period the FSMA determines. After the end of this time period, the FSMA may, at the issuer’s expense, proceed to the publication of that information.

§ 5. To any person who fails to comply, within the time period it has determined, to an order addressed to him under the terms of § 2, the FSMA may impose the payment of a penalty which shall not be more than 50 000 euro per calendar day nor more than 2 500 000 euro for a failure to comply with one specific order.

Article 24. § 1. The FSMA may make public the fact that an issuer or a person subject to a notification requirement is failing to comply with one or more of its obligations under Title II of this Law or its implementing decrees.

§ 2. In particular, the FSMA shall notify its opinion to the person subject to a notification requirement or to the issuer concerned and request said person or issuer to provide its comments within the time period determined by the FSMA, where it is of the opinion that:

1° a notification should have been made ;

2° a notification which it has received is not in compliance with one of the provisions of Title II of this Law or of its implementing decrees;

3° a notification is likely to mislead the public; or

4° an issuer fails to comply with its obligations under Title II of this Law or its implementing decrees.

After the end of this time period, the FSMA may, according to the method it determines, publish a warning at the expense of the person subject to the notification requirement or of the issuer. Where the FSMA deems it appropriate, that warning may, in order to take account of said person or issuer's comments, be at variance with the FSMA's initial standpoint.

Chapter VI. – Cooperation between authorities

Article 25. § 1. Whenever necessary for the purpose of carrying out their duties and making use of their powers, whether set out in Directive 2004/109/EC or in national law adopted pursuant to this Directive, the FSMA shall cooperate with those authorities of the other Member States of the European Economic Area which are competent for the application of the provisions laid down under Directive 2004/109/EC.

§ 2. For the purposes of § 1, the FSMA may, in respect of the substantive points indicated in the request from the foreign authority:

1° require the persons referred to in Article 23 as well as the persons indicated in the request from the foreign authority to provide information and documents;

2° carry out on-site inspections and expert appraisals on the issuer's premises within the Belgian territory, take cognizance of and copy, on site, any document, file, and recording, and have access to any IT system.

The persons concerned shall provide the information and documents referred to in paragraph 1 within the time period and in the manner determined by the FSMA.

Article 23, § 5, shall apply in this respect.

§ 3. For the purposes of § 1, the FSMA may, upon a duly justified request from the foreign authority:

1° suspend trading on a Belgian regulated market for a maximum of ten days at a time, by means of a request thereto to the relevant market operator, if the foreign authority has reasonable grounds for suspecting that the provisions of the legislation of the country concerned have been infringed;

2° prohibit trading on a Belgian regulated market, by means of a request thereto to the relevant market operator, if the foreign authority finds, or has reasonable grounds for suspecting, that the provisions of the legislation of the country concerned have been infringed.

Chapter VII. – Penal provisions and administrative fines

Article 26. The following are liable to a term of imprisonment of between one month and one year, and to a fine 50 EUR to 10 000 EUR or to one of these penalties alone:

1° those who knowingly fail to make the notifications which are required of them in accordance with the provisions of Title II of this Law or who knowingly make an inaccurate or incomplete notification; and

2° those who refuse to provide the FSMA with the information that is required from them pursuant to Article 23 or who knowingly provide inaccurate or incomplete information.

The provisions of Book I of the Penal Code, shall, without exception of Chapter VII and Article 85, apply to the offences referred to in Title II of this Law.

Article 27. Without prejudice to other measures laid down by this Law, the FSMA may, where it establishes an infringement of the provisions of Title II of this Law or of its implementing decrees, impose on the infringer an administrative fine that shall not be less than 2500 euro nor, for the same offence or same totality of offences, more than 2 500 000 euro.

Article 28. The penalties and fines imposed in application of Articles 23, § 5, and 27 shall be recovered in favour of the Treasury by the Land Registry, Public Records and Crown Lands Office.

Chapter VIII. – Transitional provisions

Article 29. § 1. Natural or legal persons who, at the date of the entry into force of Title II of this Law, directly or indirectly hold voting securities or voting rights referred to in Articles 6 and 7 in an issuer referred to in Article 5 that represent 5% or more of the total existing voting rights shall notify this in accordance with the provisions of Title II of this Law and of its implementing decrees, at the latest two months after the entry into force of Title II of this Law.

The issuers referred to in Article 5 shall disclose the information referred to in Article 15 not later than ten trading days following the entry into force of Title II of this Law and disclose the information contained in the notifications they have received in accordance with paragraph 1 not later than three trading days following receipt, in accordance with the provisions of Title II of this Law and of its implementing decrees.

§ 2. If, at the date of the entry into force of Title II of this Law, the articles of association of an issuer governed by Belgian law referred to in Article 5 provide for smaller proportions than those laid down in Article 6, § 1, paragraph 1, or proportions that are intermediate in relation to those laid down in, or pursuant to, Article 6, § 1, paragraphs 1 and 2, § 1 shall apply mutatis mutandis, provided that the proportions provided for in the articles of association are in compliance with Article 18, § 1, paragraph 2.

The issuers referred to in paragraph 1 shall disclose the proportions provided for in the articles of association which conform to Article 18, § 1, paragraph 2. They shall do so in accordance with the provisions of Title II of this Law and of its implementing decrees, not later than ten trading days following the entry into force of Title II of this Law.

The provisions of Articles 6 to 17 and 18, § 1, paragraph 5, shall apply to the proportions thus disclosed.

Upon the recommendation of the FSMA, the King may set a deadline by which the issuers referred in paragraph 1 shall adapt their articles of association in order to bring these into line with Article 18. Article 18, § 1, paragraph 3, shall apply to such adaptation.